

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 165

9 JANUARY 2014

PAGES 18967 TO 19171



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1 [PROCEEDINGS ON 9 JANUARY 2014]
 2 [09:09] CHAIRPERSON: The Commission resumes. Mr
 3 Semenya, I understand you want to say something, but
 4 perhaps you can introduce the topic now and we can revert
 5 to it in due course, but –
 6 MR SEMENYA SC: Yes, Chair. Perhaps,
 7 Chair, let me raise this matter immediately after Mr
 8 Chaskalson's cross-examination comes to an end, but it
 9 concerns the utterances by Mr Bizos on Tuesday relating to
 10 my conduct.
 11 CHAIRPERSON: Yes. We'll do that then
 12 when Mr Chaskalson's finished. Adv Hemraj, I understand
 13 you wish to say something.
 14 COMMISSIONER HEMRAJ: Thank you, Mr
 15 Chairman. I'd just like to place something on record
 16 because I think this issue is going to raise its head later
 17 on in these proceedings, for sure at argument and at the
 18 conclusion of these hearings and perhaps thereafter. So
 19 I'd like to place the following on record. At a meeting of
 20 the Commissioners, evidence leaders and counsel for the
 21 police on Tuesday, the 7th of January, I expressed my
 22 difficulty with following the cross-examination insofar as
 23 it related to timelines and triangulation of videos which
 24 lead to certain facts being established, and I'd like to
 25 think I'm not the only one who labours under this

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1 difficulty, and I think that with talks with my
 2 Commissioners some of them do. I indicated that I did not
 3 recall those points on the videos that were referred to and
 4 it was conveyed to me that one has to look at magnified
 5 versions of certain frames to be able to note these points,
 6 and I subsequently discussed with the Chairman and Adv
 7 Tokota whether it might not be prudent to have a report
 8 drawn up by an expert perhaps, explaining these various
 9 triangulations so that we might at any given time after the
 10 evidence has been led as well have a document to refer to
 11 which makes these issues very clear.
 12 The Chairman conveyed this request to the
 13 evidence leaders who respond that these are not matters
 14 that require any expert opinion, as such an expert opinion
 15 cannot add to the conclusions that have been reached by the
 16 evidence leaders themselves, this apart from issues of cost
 17 and time, and we have been referred to exhibit JJJ37 which
 18 I'm informed and accept has been widely circulated and
 19 accepted by everyone concerned as being correct. When I
 20 look at exhibit JJJ37 I'm unable to follow the
 21 triangulation of the videos.
 22 The evidence leaders offered to make the same
 23 presentation to us as was made to all the parties,
 24 explaining the process involved and also offered to make
 25 available to us a PowerPoint presentation demonstrating

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1 this, and I appreciate that. My concern is that the cross-
 2 examination should in my view be able to be followed by
 3 anyone concerned, let alone the Commissioners, quite easily
 4 by reference to something on the record and not have to
 5 rely on an explanation made to us not on record. I was
 6 perhaps envisaging some sort of a report that explained how
 7 a conclusion was reached, for example that a vehicle was
 8 stationary for seven and a half minutes, and then perhaps
 9 that has attached to it the stills, the magnified stills of
 10 the frames of the videos. The reason for my raising the
 11 issue of an expert report is that it would obviate the
 12 impression that might at some stage be created that it was
 13 counsel who were testifying about the conclusions that are
 14 reached as a result of looking at the various videos.
 15 These are my difficulties with this and I wish to
 16 place them on record. I cannot insist that any report is
 17 provided, but I do wish to place on record my difficulty
 18 with following these cross-examinations, and I do wish to
 19 be able to understand every facet of the cross-examination.
 20 The fact that all the parties have accepted it as correct,
 21 and I accept that, doesn't really assist and resolve my
 22 difficulty. Thank you very much, Mr Chairman.
 23 COMMISSIONER TOKOTA: And I just want to
 24 say that I also associate myself with Adv Hemraj. I've
 25 also discussed it with him and I have pointed out to the

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1 Judge and the impression I got was that exactly what she
 2 says that it may create an impression that counsel is
 3 giving evidence about these facts, because he was in fact
 4 relating to the objective evidence which he had worked out
 5 and manipulated, some timelines of which we were not aware.
 6 So in those circumstances I'm also having some difficulties
 7 in the way in which the cross-examination is conducted in
 8 this regard, and also that the witness might have some
 9 problems, but I think the problem would have been
 10 alleviated after we adjourned yesterday, but I –
 11 CHAIRPERSON: On Tuesday.
 12 COMMISSIONER TOKOTA: I'm sorry, on
 13 Tuesday.
 14 CHAIRPERSON: Yes, perhaps the evidence
 15 leaders can consider what's been said and respond in due
 16 course in some way or other. I don't think we should spend
 17 time on it now. One of the points that concerns me is that
 18 – I speak for myself, I think I do understand how it works,
 19 but I may be mistaken in that regard, but if these timeline
 20 readings are used for the basis of important findings at
 21 the end, it may well be that there will be people who will
 22 wish to attack the Commission report either immediately or
 23 subsequently. Even possibly historians and people of that
 24 kind will study the workings of this Commission, our
 25 findings and the evidence will be gone over again and

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1 again, and I would like it to be clear to those who wish to
 2 interrogate, as it were, the findings of the Commission,
 3 it's clear to them how these results have been arrived at,
 4 and so the way to do it may well be to have some kind of
 5 document - whether it has to be by an expert or not is a
 6 matter that can be considered – some kind of document which
 7 is before the Commission, part of the record of the
 8 Commission. Those who wish to interrogate our findings
 9 later or question them, investigate them, will then be able
 10 to satisfy themselves that the timelines indeed are
 11 correct. But anyway, perhaps we shouldn't spend further
 12 time on it now, unless you wish to say something at this
 13 point, either Mr Budlender or Mr Chaskalson, but I think
 14 I'd like to carry on with the cross-examination, speaking
 15 for myself.

16 MR CHASKALSON SC: Well, I do need to say
 17 something, Chairperson, because I need to know where I
 18 stand because if I'm now going to be put into a position
 19 where despite the fact that all of the parties have agreed
 20 JJJ37, each time I refer to a photograph and say this in
 21 converted eTV time according to the agreed time difference
 22 on JJJ37 is such and such, and that's not going to be
 23 accepted, well then it has massive implications for my
 24 cross-examination. So either we proceed on the basis at
 25 present that JJJ37 is an accepted document, subject later

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1 to a presentation to the Commissioners so that you can
 2 satisfy yourselves of its correctness, or we must adjourn
 3 now and we must give that presentation to you now so that
 4 you can be satisfied that those time differences are
 5 correct because after the time differences, what remains is
 6 a purely mechanical exercise of looking at the time on a
 7 particular photograph and adding or subtracting the agreed
 8 time difference.

9 CHAIRPERSON: Yes. No, I understand
 10 that. I thought I made another point clear. I'm not sure
 11 that a private presentation to the Commissioners is enough
 12 to address the concern I raised. I would like to ensure
 13 that everyone who reads our report when we produce it will
 14 know how the timelines were reached and know that they are
 15 – one hopes – beyond controversy, so that findings made on
 16 the basis thereof cannot be challenged. It's all very well
 17 to say you've told us privately and you told the parties
 18 privately, but that won't necessarily satisfy those
 19 critics. That's the first point I want to make.

20 Secondly, if you proceed with your cross-
 21 examination today, I don't know how many of these timeline
 22 entries are relevant and I would imagine not a vast number,
 23 and it should be possible – I take it you've got to show
 24 us, you showed the parties and the witness on Tuesday but
 25 you've got to show us briefly the video clips upon which

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1 you rely, unless the witness is going to give a short
 2 answer on the point. So there's got to be some kind of a
 3 demonstration on the record of the points that you were
 4 making, but –

5 COMMISSIONER HEMRAJ: Can I just explain,
 6 Mr Chaskalson; we don't have a quarrel with the correctness
 7 or otherwise of the timeline. We simply do not know. It
 8 is when you say in answer to a question what do we rely on
 9 to show that the vehicle was stationary for seven and a
 10 half minutes and you say it's the triangulation of the
 11 videos. I'm unable to follow that because I don't have
 12 before me those frames that are magnified in respect of
 13 each of those videos that you rely on to come to that fact.
 14 That is my difficulty in following that.

15 MR CHASKALSON SC: Commissioner Hemraj,
 16 one doesn't need any magnification. If at any stage there
 17 is a lack of clarity as to what I rely on, I will give you
 18 precise references and we can if needs be call up the
 19 videos where with the naked eye, for instance in the case
 20 of the three that I was referring to for the formation of
 21 the reorganisation line, the reorganisation line is big so
 22 you see it from the sky and one doesn't need to get down to
 23 detail. One can see it clearly on the Protea Coin chopper,
 24 one can see it clearly on Lieutenant-Colonel Botha's video.
 25 Magnification becomes an issue where you have to follow the

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1 movement of one vehicle on the Lonmin, on the Protea Coin
 2 video, or where you have to zoom in on a photograph to
 3 identify the call sign on the roof of the vehicle. But if
 4 at any stage the underlying references to a proposition
 5 that I'm putting need to be clarified, I'm happy to do
 6 that; I have them all, and if it's not immediately clear or
 7 in cases where I know that it requires magnification I'm
 8 happy to call them up and have the magnification done
 9 publicly, but the real concern is JJJ37 because all of the
 10 conversions are based on JJJ37 and if JJJ37 is not accepted
 11 then the attempt to turn everything into one standard eTV
 12 time doesn't work, and so if I can't cross-examine on the
 13 basis that JJJ37 time differences have been accepted by the
 14 parties before that presentation has been made publicly in
 15 the Commission, then that must happen before cross-
 16 examination proceeds.

17 COMMISSIONER HEMRAJ: I don't think we
 18 have a difficulty with the manner in which the various
 19 videos and their times are compared against the eTV time.
 20 I don't have a difficulty understanding that. It's what
 21 happens as a result of that that I have difficulty
 22 understanding. But Mr Chairman, we've placed our
 23 difficulties on record. It's for you to decide how to
 24 proceed –

25 CHAIRPERSON: I think we should proceed

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1 at this stage and if there's a difficulty in respect of a
 2 particular point that Mr Chaskalson is making, those who
 3 have a difficulty can raise the point and Mr Chaskalson
 4 will be given an opportunity to deal with it. I think we
 5 must proceed now. Ms Le Roux, you've turned your light on.
 6 MS LE ROUX: Yes, Chair, not to expand
 7 the issue beyond JJJ37 but obviously the Human Rights
 8 Commission and CALS have prepared a lot of analysis of
 9 objective evidence that has been placed before the
 10 Commission, and on the record I'd like to tender a proposal
 11 that has been made to the evidence leaders by the Human
 12 Rights Commission team, which is if it's helpful to go
 13 through those analysis documents in some sort of
 14 presentation rather than having those only presented during
 15 cross-examination when the conclusions are used, if it
 16 would be helpful to go slide by slide through that analysis
 17 of the difference objective sources of evidence that are
 18 analysed in those documents, you know, the Human Rights
 19 Commission team would be happy to do that obviously
 20 possibly on days when the Commission doesn't sit hearing
 21 evidence. I just wanted to put that proposal on the table
 22 since it may be related to this concern.
 23 CHAIRPERSON: Ja, well let's not – well,
 24 your tender is on record and we'll consider it. My own
 25 immediate response to that is that clearly if anything

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1 happens by way of explanation for the reason I gave
 2 earlier, it's got to find its way onto the record in some
 3 way. I don't want people later on, whether they do it
 4 immediately after the report comes out, that's if we rely
 5 on these things and we don't - but if we do, I don't want
 6 people either immediately after the report comes out or
 7 even in years to come challenging the findings of the
 8 Commission and saying that we made grievous errors by
 9 relying on a timeline that wasn't properly proved, and so
 10 forth, because it's most important for the work of this
 11 Commission that we are here to ascertain the truth and we
 12 want to do it in a way which satisfies all reasonable
 13 people that we have used our best endeavours to find the
 14 truth and what we found may indeed be accepted as such, and
 15 I have to constantly think of what will happen when the
 16 report comes out and thereafter, not just immediately
 17 thereafter, because I fear what happened in Marikana is
 18 going to reverberate down the years in the history of this
 19 country and be looked at again and again, so we've got to
 20 do things properly. So anyway, but thank you for your
 21 tender; we'll bear it in mind. Can we now proceed, Mr
 22 Chaskalson? You're still under oath, Brigadier.
 23 ADRIAAN MARTHINUS CALITZ: Dankie,
 24 Kommissaris.
 25 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):

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1 Brigadier, this may assist in relation to the issue that
 2 Adv Semanya wants to address later, but it seems to me at
 3 the outset we need to satisfy everyone hear that the
 4 process that we followed earlier in the week was a – well,
 5 not that it was a regular process, but that it has not in
 6 any way tainted the quality of your evidence. So I'd like
 7 you just to tell the Commission, before we get to any
 8 questions, who have you spoken to about the issues that we
 9 discussed on Tuesday since we adjourned on Tuesday? Who
 10 have you discussed them with from –
 11 CHAIRPERSON: That assumes he discussed –
 12 he may not have discussed it with anyone.
 13 MR CHASKALSON SC: Ja, did you discuss
 14 them with anyone beyond, when we left this hall on Tuesday?
 15 BRIGADIER CALITZ: Mnr die Voorsitter,
 16 ja, dankie. Ek dink dit was net hier gewees waar ek sekere
 17 vrae gestel het. Ek was nie seker of ek die tyd kan vra
 18 nie en ek het vir mnr Chaskalson die – hy het die tyd in
 19 die video in verduidelik, sê maar 34 minute, so, so, en my
 20 vrae aan hom was slegs op die tyd van die 16, u weet, dat
 21 ons op die eTV tyd kan kom. Na dit het ons net gaan sit
 22 saam met mnr Lubbe omdat die "footage" wat hy vir ons gewys
 23 het op die video, ek het nie die fasiliteite om in te zoom
 24 op die voertuig om te sien die roete nie. So ek het net
 25 gevra dat ons dan – ons het, ek dink ons kan dit bekend

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1 maak, ek het net vier foto's wat mnr Chaskalson na verwys
 2 het, die Vermaak foto van waar die "body" is, ek dink ons
 3 het mnr die Voorsitter dalk onder 'n wanindruk –
 4 VOORSITTER: Liggaam C wat u van praat?
 5 BRIGADIER CALITZ: Liggaam C, mnr
 6 Mpumza –
 7 VOORSITTER: Eintlik lyk C wat u van
 8 praat.
 9 BRIGADIER CALITZ: - onder dalk 'n
 10 verkeerde indruk gebring van waar hy mag wees. Met die
 11 hulp van dan die in zoom waarvan ons gepraat het, het ons
 12 dan wel gesien waar hy is. Dit is nie bekend gewees voor
 13 die tyd nie, ook nie Dinsdag nie. So dit het gehelp. Dan
 14 die video wat u vir my gewys het rondom die Casspir se
 15 beweging het ons in gezoom en dan vanaf die "body," met
 16 ander woorde dit is die volgende foto, ek dink ons kan
 17 hierdie inhandig, die afstand wat hy was, en dan die ander
 18 enetjie is wat ons self dan uit die Ryland video uit waar
 19 die "movement" en my voertuig wat direk na koppie 3 toe
 20 beweeg het, wat ek nie betwis nie nou nie, maar ons sal
 21 daarby kom, en ook dan die afstand van my na "body" C toe
 22 wat dan ook "ge-magnify" is. So dit is die enigste vier
 23 dinge wat ek gesien het op die video en versoek het dat die
 24 vergroting net op 'n foto geplaas moet word.
 25 CHAIRPERSON: Okay, so what you're

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1 telling us is that you asked Mr Lubbe, who is an expert
 2 employed by the police, to assist you to identify certain
 3 clips as it were, effectively to extract certain stills – I
 4 think that’s the correct word – from the video clips.
 5 BRIGADIER CALITZ: Slegs dit wat mnr
 6 Chaskalson vir ons gewys het.
 7 CHAIRPERSON: Yes, and you then produced
 8 four, which I take it in due course you will hand in as
 9 exhibits. So you asked him to do that, Mr Lubbe, after the
 10 presentation session, or after we adjourned on Tuesday, and
 11 he helped you to do that.
 12 BRIGADIER CALITZ: Dit is korrek.
 13 CHAIRPERSON: And the question was have
 14 you discussed these matters with anybody else since then?
 15 BRIGADIER CALITZ: Nee, mnr die
 16 Voorsitter.
 17 CHAIRPERSON: So that satisfies you, Mr
 18 Chaskalson?
 19 MR CHASKALSON SC: That wasn’t for my
 20 satisfaction; it was for everyone present. I am. I am
 21 perfectly happy with that arrangement. I’ve always been
 22 happy with the arrangement, but there are other people in
 23 the room. I haven’t seen these four stills that you want
 24 to introduce. Maybe at the appropriate point in the
 25 evidence you can just refer to them and then we can put

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1 them up and if you want to respond to any of the questions
 2 with reference to them you’ll do that. But possibly it’s
 3 best at the outset to establish what is still in dispute
 4 and what is no longer in dispute. So can I –
 5 CHAIRPERSON: Can I suggest you summarise
 6 briefly the points, the main points you put to ascertain
 7 what’s in dispute and what’s no longer in dispute, if
 8 things are no longer in dispute?
 9 MR CHASKALSON SC: Well, I want to put
 10 each point, each factual point to Brigadier Calitz and then
 11 we’ll identify whether it’s accepted or disputed.
 12 [09:29] BRIGADIER CALITZ: Mnr die Voorsitter,
 13 okay, dan ek het dit net anders verstaan ek het gedog ons
 14 gaan dan van die transkripsie af wat dan beskikbaar is u
 15 punte daarop, dis hoe ek my voorbereiding gedoen het, maar
 16 dit maak nie saak nie, ek glo dit gaan dieselfde wees. Ek
 17 het uit die transkripsie uit wat u genoem het dan het ek
 18 gekry nege punte en daarop kan ek net sê wat ons betwis en
 19 wat ek saam met u stem. Miskien, mnr die Voorsitter, as
 20 ons dit so doen en dan as daar iets anderste is dan kan u
 21 vir my sê.
 22 MR CHASKALSON SC: Well maybe if you run
 23 through your nine points, if I have a different number of
 24 points that I’ll require your -
 25 BRIGADIER CALITZ: Ja.

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1 MR CHASKALSON SC: Clarification on. So
 2 let’s take your nine but bear in mind that I’m no longer on
 3 the same page as you. So if you can go slowly with them.
 4 So if you can give me your nine points one by one saying
 5 whether you accept or dispute.
 6 BRIGADIER CALITZ: Okay, mnr die
 7 Voorsitter, ek dink dit kan dalk net ‘n tydjie vat want ek
 8 gaan verwys na die transkripsie so ek weet nie of Mnr
 9 Chaskalson die transkripsie het van eer gister.
 10 CHAIRPERSON: I think if you can give him
 11 the page number he may be able to find it on his computer.
 12 BRIGADIER CALITZ: Die eerste enetjie
 13 waar ons begin het met die dispute was op 18933. Mnr die
 14 Voorsitter, dit gaan miskien nou weer terug kom, gaan klink
 15 na ‘n herhaling maar dit gaan miskien weer terug kom na die
 16 tydlyn toe. Daar was net ‘n onsekerheid. So as ek miskien
 17 bietjie tyd vat op dit.
 18 CHAIRPERSON: May I interpose a point
 19 about the timeline at this stage. My understanding of the
 20 state of play in regard to the time line is the following.
 21 The time line was accepted after a presentation in
 22 Rustenburg to the parties, not in the presence of the
 23 Commissioners, and then, but subsequently the police
 24 indicated that if they had problems, I think it was JJJ37
 25 they indicated that if they had problems in respect of

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1 particular matters they would revert. So I understand they
 2 haven’t reverted anything up to now but that invitation was
 3 extended to them and they themselves of it, if there was
 4 anything they would raise it. Is that correct, Mr
 5 Chaskalson?
 6 MR CHASKALSON SC: Chairperson, I think
 7 there may be some conflation of two separate documents.
 8 There is the agreed table of time differences which is
 9 JJJ37, it isn’t a time line. It’s just a table which says
 10 to go from Brigadier Vermaak’s blackberry to ETV time you
 11 add so many minutes or subtract.
 12 CHAIRPERSON: It’s a conversion table.
 13 MR CHASKALSON SC: It’s a conversion
 14 table.
 15 CHAIRPERSON: It’s clearly a conversion
 16 table.
 17 MR CHASKALSON SC: Now that is JJJ37 and
 18 that was a document, that was what was presented in
 19 Rustenburg with an invitation to the parties to revert with
 20 any difference - any issues that they had with the table
 21 there were a number of arithmetical corrections which were
 22 drawn to our attention by some of the parties, those were
 23 effected and JJJ37 reflects the corrected arithmetic. In
 24 terms of substance no one has ever reverted with any issues
 25 and right at the outset of his cross-examination Colonel

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1 Scott who I understood to be the party principally involved
 2 at SAPS with investigating that table confirmed that he
 3 accepted the correctness of the conversion, of the
 4 conversions in that table. That's JJJ37. The time line is
 5 a separate document. The time line is a document which the
 6 evidence leaders produced giving a very bare narrative of
 7 certain important events in the course of the 16th with
 8 their ETV times on them. Now I don't know if that document
 9 is even an exhibit but that is the document which SAPS
 10 accepted subject to the reservation of rights in relation
 11 to any particular point on that issue.
 12 CHAIRPERSON: Mr Semenya nods his head.
 13 MR SEMENYA SC: I confirm that is the
 14 case, Chair.
 15 CHAIRPERSON: At some stage, perhaps
 16 after the process that was, will be taken forward in
 17 consequences of the exchanges between you and my colleagues
 18 this morning, once that aspect's been sorted out I would
 19 assume that the timeline will have to become an exhibit but
 20 perhaps it would be premature to do that at this stage
 21 until the points that have been raised have been dealt
 22 with.
 23 MR CHASKALSON SC: Indeed, Chairperson,
 24 but there's another issue which is that the timeline
 25 reflects a selection of issues that were recognised as

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1 being significant by the evidence leaders at a certain
 2 point in time. There are a whole range of other episodes
 3 which ought to be included in an expanded timeline and at a
 4 later stage what I would suggest is that we prepare a full
 5 timeline which we circulate to the parties or a fuller
 6 timeline identifying what we now see as all of the
 7 important issues and the parties can revert with any
 8 disputes on that.
 9 CHAIRPERSON: Yes and of course the
 10 parties may also wish to suggest other issues which should
 11 be timed as it were or the times of which should be
 12 determined and entered onto the timeline which you haven't
 13 included, but anyway these are all matters I take it don't
 14 have to be dealt with here in the commission chamber, they
 15 can be dealt with away from the chambers. Ja. Advocate
 16 Hemraj raises the point that this document should be before
 17 us to help us to understand what's going on. I'm a bit
 18 reluctant to have material before us that's not before us
 19 as commissioners, which is not exhibits because criticisms
 20 and points may be raised in future about that. One, well
 21 any way let's discuss it out of the commission but one way
 22 forward might be to put it in as a provisional exhibit in
 23 its present form and then possibly subject to subsequent
 24 revisions if the parties are happy with that. I see Mr
 25 Semenya is nodding his head to that. But that would

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1 obviate the difficulty that we are looking at things which
 2 aren't as it were properly before us which might cause
 3 distress, alarm and despondency in certain quarters. But
 4 any way let's discuss that further. I think we've done
 5 enough housekeeping for the morning, can we now carry on
 6 with the cross-examination.
 7 BRIGADIER CALITZ: Dankie, mnr die
 8 Voorsitter. Kan ek voortgaan of is daar nog -
 9 CHAIRPERSON: You're on the -
 10 BRIGADIER CALITZ: Ja ek het dit gesien,
 11 sal ek u geantwoord, ek het gedog -
 12 CHAIRPERSON: You were going to deal with
 13 the transcription, you gave Mr Chaskalson the relevant
 14 page.
 15 BRIGADIER CALITZ: Dis reg.
 16 CHAIRPERSON: So he can follow and you're
 17 going to address your nine points and we'll listen with
 18 eager anticipation to what you have to say.
 19 BRIGADIER CALITZ: The first point, is
 20 two points in one. So it might add up to 10 but I will
 21 deal with it. Ek vra maar net geduld. Ek gaan dit net
 22 bietjie rond blaai in die transkripsie maar ek sal elke
 23 keer verwys -
 24 CHAIRPERSON: I tried to show, I tried to
 25 show patience ever since this commission began and I still

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1 have a little bit left -
 2 BRIGADIER CALITZ: Dankie.
 3 CHAIRPERSON: In the cupboard so carry
 4 on.
 5 BRIGADIER CALITZ: Dankie, mnr die
 6 Voorsitter. Advokaat, die eerste enetjie is dan op bladsy
 7 18933 lyn nommer 8. Communication with Lieutenant Colonel
 8 Vermaak was to mention 30:48 on the transcript to the
 9 Protea Coin chopper which was ETV time 16:11:18. Ek dink
 10 hoe ons daar by gekom en dan later as jy onthou twee
 11 lyntjies af it was more then eight and a half minutes later
 12 Mr Mpumza was killed 16:19:47. Nou ek dink net op die
 13 vorige bladsy hoe ons by die punt uitgekom het, u sal
 14 onthou daar was 'n gesprek van, ek het gepraat van twee
 15 tot drie minute en toe sê u vir my twee tot drie minute
 16 maar daar was in fact agt tot so minute as u kan, want dit
 17 staan op die vorige, as ek u net kan verwys die vorige
 18 bladsy 18929 die laaste sin lyn 11 which victim C happened
 19 more or less the same time maybe not exactly the same time
 20 do you recall that. Dit was die vraag aan my. Ek het
 21 vanaf lyn 13 tot 20 as ek dit net vinnig kan lees vir u
 22 verwys ja ek het verwys na die transkripsie, ek het gesê as
 23 ons gaan kyk na die tyd waar ek verwys het na hier staan
 24 11:25 tot na die tyd wat ons verwys 13:28 in die gesprek
 25 dit was 13 sekondes 28 in die video in waarna ek die

<p style="text-align: right;">Page 18987</p> <p>1 heelyd probeer verwys het wat Kolonel Vermaak vir ons laat 2 weet het, aangedui dat die persone is encircle. So dit was 3 tussen waar ons was, waar ons was het ek bedoel waar ons 4 dan die arrestasies besig was 11:25 in die transkripsie in. 5 As u na die transkripsie gaan kyk sal u sien - 6 MR CHASKALSON SC: Sorry, Brigadier, can 7 you slow down because I need to understand what's in 8 dispute. 9 BRIGADIER CALITZ: Okay, I'll go slow. 10 Het ek na die transkripsie – 11 VOORSITTER: As jy dit stadiger doen sal 12 die tolke dit ook waardeer. 13 BRIGADIER CALITZ: As ek? 14 VOORSITTER: As u in Afrikaans praat sal 15 die tolke ook waardeer as u stadiger praat. 16 BRIGADIER CALITZ: Oh, oh. Verwys na die 17 transkripsie waar ek dan verwys het die tyd wat u na verwys 18 het is 13 of ek na verwys het is 13:28 in die gesprek in, 19 in die transkripsie tyd. Die transkripsie waarna ek 20 verwys, mnr die Voorsitter, is die enigste transkripsie wat 21 ek het is bewysstuk JJJ35 bo aan die opskrif SAHC CALS 22 transcript of Lonmin chopper. Ek dink dit was 'n bewysstuk 23 gewees en dit was ook die enigste transkripsie wat tot my 24 beskikking was wat ek dan vanaf my, kan ek sê die 25 verklaring en die afleidings en al die kon maak. Nou 13:28</p>	<p style="text-align: right;">Page 18989</p> <p>1 van Macintosh se uitspring gepraat nie. So ek wil net daai 2 puntjie, dit is op die ETV tyd. Maar op dieselfde punt 3 bladsy 18933 die ETV tyd ek weet nie of u dit dalk miskien 4 net kan aanteken dit is in die transkripsie die, mnr die 5 Voorsitter het aan u 'n vraag gestel op die volgende bladsy 6 18936 onthou nadat ons dalk deurmekaar geraak met die tye, 7 of nie ons nie, ek deurmekaar geraak het met die tye het 8 mnr die Voorsitter gesê as hy kan weet wat is die presiese 9 tyd wat Nong die eerste foto geneem het. As u kan onthou 10 die tweede een was waar Vermaak die opdrag gegee het oor 11 die encirclement en dan my response daarna en ek dink die 12 derde een was die dood, oh nee mnr die Voorsitter wou 13 geweet het oor die opdrag aan Nong om terug te kom, u het 14 gesê daar was niks en die laaste een was dan die dood van 15 body C Mnr Mpumza. 16 So as ek kan begin by die eerste een. Die ETV 17 tyd wat u vir meneer, ag die voorsitter gegee het, dit is 18 op bladsy 18936 lyn nommer 4 Chairperson and, "what time 19 was that" en Mnr Chaskalson het geantwoord, "that is ETV 20 time 16:12:20," dit is die tyd wat u vir die voorsitter 21 gegee het as die eerste foto van Mnr Nong, dit is op 22 rekord. Van rekord af, ek het nou nie 'n bewys daarvoor 23 nie behalwe my notas en ek glo mnr Chaskalson sin en almal 24 wat daardie dag teenwoordig was wat notas gemaak het as dit 25 betwis word het u gesê dat mnr Nong se eerste foto was</p>
<p style="text-align: right;">Page 18988</p> <p>1 in die transkripsie in, u sal sien dis die naaste tyd aan 2 die transkripsie, net daarna het Kolonel Vermaak vir ons 3 vertel van die encirclement. So wat ek verwys het in my 4 vorige, en u het gesê 13:48 ek het net verwys 13:28 dis die 5 naaste tyd op die transkripsie. So die transkripsie het 6 nie sekondes vir sekondes by gehad nie. So ek aanvaar 7 daardie dat u sê 13:48 was dan 11, ag 16:11:18 maar waarna 8 ek verwys het van waar ons was as jy in lyn 18 lees op 9 bladsy 18929, so dit is tussen waar ons was 11:25 in die 10 gesprek na 13:28, met ander woorde 11:25 in die 11 transkripsie op GGG35 daar kan u sien het die chopper vir 12 my gevra, "Brigadier can we help you with the Canters" en 13 dit is waar ek dan die rapport gemaak het van die 14 arrestasies waarmee ons besig was op daardie stadium. So 15 die naaste tyd wat ek gehad het om aan te werk was die 16 11:25 en ek het dan verwys dat die gesprek met Kolonel 17 Vermaak moes dan gewees het tussen die 11:25 en dan die 18 13:28 en dis as ek sê 11:25 tot 13:28 dit is twee minute 19 iets sekondes in die video in en u het daarna gepraat van 20 nie twee tot drie minute maar agt minute, agt en 'n half 21 minute. Ek dink dit as net waar die misverstand was, ek 22 het verwys van waar ek op die toneel was en waar die oproep 23 deur gekom het na die encirclement toe en nie waar ek op 24 die toneel was, die oproep deurgekom het en later na Mnr 25 Mpumza se body. So ek op hierdie stadium het ek nog nie</p>	<p style="text-align: right;">Page 18990</p> <p>1 geneem om 16:17:10 so dit is 'n hele - 2 MR CHASKALSON SC: Sorry, Brigadier, we 3 were at cross purposes. The 16:17:10 is the, wasn't the 4 first photograph taken by Warrant Officer Nong it was the 5 first of the photographs that took place after the killing 6 of Mr Mpumza. So he had taken maybe 10 or 15 already but 7 that is the first one after the death of Mr Mpumza. 8 BRIGADIER CALITZ: Ek dink ons sal daar 9 kom. Nong took a photo of the arrested persons after, ek 10 dink daardie tyd het u deurgegee as 16:20 en dan later weer 11 16:21 wat ons ook dan het. Maar ek aanvaar dit so. Ek wil 12 net vir myself daardie tyd uitgeklaar het. 13 MR CHASKALSON SC: Can I just give you 14 the reference to the or give the Commissioners the 15 reference to the first photograph of Warrant Officer Nong. 16 It is on record already but it would be nice to have all of 17 these references consolidated in one place for a later 18 stage. It's JJJ6 36.3674, JJJ3674 – 19 CHAIRPERSON: And can we perhaps see 20 that just for a moment. I don't propose we do that with 21 every single photograph hereafter but can we see that one 22 just so that we can get our bearings. Is it possible for 23 that to be shown to us? 24 MR CHASKALSON SC: JJJ6, if we can call 25 up JJJ6, photograph 3674 –</p>

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1 COMMISSIONER HEMRAJ: That's the
 2 photograph of the arrested person.
 3 MR CHASKALSON SC: It's in fact a
 4 photograph of a SAPS member pulling some of the arrested
 5 persons into line on the ground north of, in Brigadier
 6 Calitz's, close to Brigadier Calitz's position north west
 7 of the koppie and that was the first photograph that
 8 Warrant Officer Nong took in that position. So that can be
 9 used to time –
 10 CHAIRPERSON: That's what I wanted to
 11 see. Are we going to see it now? Is it going to be
 12 enlarged for us.
 13 MR CHASKALSON SC: Sorry JJJ, it will be
 14 JJJ8 not JJJ6, these are Captain Nel's photos we're looking
 15 for Colonel Mere's photos. 3674.
 16 CHAIRPERSON: We've got 3604 we want
 17 3674. There we go, what's the time on that?
 18 MR CHASKALSON SC: Can you right click
 19 this camera and show the properties. Actually you've got a
 20 MAC so can you get the time properties of that. That says
 21 16 August 2012 1:57am and then if one goes to JJJ37 you'll
 22 see that, like many of us Lieutenant Colonel Mere hadn't
 23 set the time on his camera and so the, it started off at 12
 24 o'clock at a certain point. So if we go to the Mere camera
 25 and go down a page to be able to convert it into ETV time

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1 or go right over to the end to get the ETV correlation,
 2 sorry go back to the left so that we can see how many from
 3 the bottom. It's four from the bottom. Go over to the
 4 right that's 15 hours 59:33, no that looks wrong because
 5 they're all saying 15:59:33, come up a bit. That's the
 6 Botha Venter camera, we got to go over to ETV. Go even
 7 further over to ETV, to the right or lower down. Ja slow
 8 down. It is 14:14:40.
 9 CHAIRPERSON: 14:14:40?
 10 MR CHASKALSON SC: 14 hours 14 minutes
 11 and 40 seconds have to be added to the Lieutenant Colonel
 12 Mere's camera time which was, can we go back to that
 13 previous, I can tell you from here it was 1:57:40.
 14 CHAIRPERSON: So in other words that's
 15 the conversion table. You've got to add –
 16 MR CHASKALSON SC: That's the conversion.
 17 CHAIRPERSON: You've got to add that
 18 figure to Mere's time.
 19 MR CHASKALSON SC: Indeed.
 20 CHAIRPERSON: To get the correct time of
 21 the photograph that he took, is that's how it works.
 22 MR CHASKALSON SC: Yes, and what you'll
 23 get if you add 14:14:40 to 1:57:40 is 16:12:20.
 24 CHAIRPERSON: Are you and Mr Chaskalson
 25 now on the same page, on the same place on the same page?

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1 BRIGADIER CALITZ: Mnr die Voorsitter, as
 2 ek net kan vra weereens bietjie geduld. Ek het, die vraag
 3 net wat ek gevra het toe die Voorsitter vir u gevra het die
 4 tyd wat u gegee het, as u kan dan op bladsy 18935 u
 5 antwoord vanaf bladsy 20 af, the first photograph taken by
 6 Warrant Officer Nong JJJ is not the first photograph taken
 7 by him but the first photograph taken by him at the scene
 8 of the north-west west of the koppie where the strikers had
 9 been arrested, so is dit –
 10 [09:49] MR CHASKALSON SC: So will you confirm
 11 that that photograph which you see is at that scene?
 12 BRIGADIER CALITZ: Ja, ja, dit moet op
 13 die toneel wees. Dit is 16:12:20. Die tyd wat u vir ons
 14 gegee het wat ek nou net na verwys, wat van die rekord af
 15 is wat ek sê almal het net notas gemaak, was 16:17:10. Toe
 16 sê u, en ons kan weer na die transcript gaan kyk van vandag
 17 af, na die tape luister – toe sê u nee, dit is die foto
 18 waarna u verwys het na die skietvoorval van meneer, Body C.
 19 MR CHASKALSON SC: That's the earliest
 20 photograph that Warrant Officer Nong took after the
 21 shooting episode. Remember I put to you –
 22 BRIGADIER CALITZ: My enigste –
 23 CHAIRPERSON: I'm sorry, Mr Chaskalson –
 24 BRIGADIER CALITZ: My enigste probleem –
 25 CHAIRPERSON: Sorry, sorry, what the

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1 Brigadier says is, what you said was that was the first
 2 photograph he took. It sounds as if you meant to say,
 3 unless I'm misunderstanding, you meant to say this is the
 4 first photograph he took after the death of the striker, in
 5 which case if that's correct then the Brigadier will
 6 understand and then the apparent difference he's referring
 7 to will fall away, but am I correct in thinking that's what
 8 you meant but you actually didn't say that, that that was
 9 the first photograph taken after the death of the striker
 10 and not the first photograph taken on the scene by Warrant
 11 Officer Nong?
 12 MR CHASKALSON SC: I'm not sure what I
 13 said at the time –
 14 CHAIRPERSON: The transcript shows what
 15 you said at the time.
 16 BRIGADIER CALITZ: Bladsy 18935 lyn 20
 17 tot 24. Ek kan dit miskien lees as dit nie voor u is nie.
 18 "The first photograph taken by Warrant Officer Nong is JJJ,
 19 not the first photograph taken by him but the first
 20 photograph taken by him at the scene of the north-west of
 21 the koppie where the strikers are being arrested." Toe sê
 22 die Chairperson, "Yes." U het verwys na JJJ63674 – 63674,
 23 ek weet nie of dit dieselfde, ek dink dis dieselfde waarna
 24 ons nou verwys het alhoewel dit agt is en nie ses nie, maar
 25 dit is nie 'n probleem nie. "The ETV time 16:12." Ek het

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1 nie 'n probleem met die tyd, mnr die Voorsitter, die 16:12
 2 dit was wanneer die eerste foto, die arrestasies. Ek het
 3 net met die tweede stelling wat ons in, na die breek gedoen
 4 het, 16:17:10 het u nou net gesê dit was die eerste foto
 5 wat geneem is na die voorval met Body C. Die enigste
 6 probleem wat ek daarmee het is dat Body C het eers
 7 plaasgevind om 16:19:47. So hierdie tyd wat u hier gegee
 8 het is twee minute voor Body C, so dit is my enigste
 9 difficulty hoekom ek gesê het daar is 'n –
 10 MR CHASKALSON SC: Can you just take me
 11 to that reference so I can follow what you're saying?
 12 BRIGADIER CALITZ: Die een van 16:17:10?
 13 MR CHASKALSON SC: Please.
 14 BRIGADIER CALITZ: Dit is die een wat ek
 15 nou net vir u gesê het dit is nie op die rekord nie. Dit
 16 is toe ons hier in die chamber gesit het en u die tye vir
 17 ons deurgegee het. Ek het dan gesê die mense wat notas
 18 gevat het, ek het vir u gevra wat is die J tyd van die
 19 eerste foto en u het gesê 16:17:10 en nie 16:12 nie en nou
 20 toe ek u vra 16:17, het u gesê nee, 16:17 was die eerste
 21 foto wat geneem is na die skietvoorval. So dit was nou op
 22 transcript u eie woorde gewees. So ek sê net Body C was
 23 eers om 16:19. So miskien is hierdie tydlyn so bietjie
 24 deurmekaar maar u het nou - die foto is dan geneem twee
 25 minute voor Body C geskiet is, wat dan ook nie kan wees

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1 nie.
 2 MR CHASKALSON SC: No, no, sorry. That's
 3 not the first, 16:17:10 is JJJ83675. Can we go to
 4 JJJ83675?
 5 BRIGADIER CALITZ: Mnr die Voorsitter,
 6 hierdie is miskien nie op rekord nie. Ek het maar net, dit
 7 was net vir my – my notas en my, die op die transkripsie
 8 het verskil. So miskien kan ons more weer kyk na die
 9 transkripsie wat mnr Chaskalson nou gesê het. Dit was net
 10 my enigste difficulty.
 11 CHAIRPERSON: I'd like to sort the
 12 problem out now if we can, and not have to wait till
 13 tomorrow's transcript.
 14 BRIGADIER CALITZ: Maar ek aanvaar die
 15 tyd 16:12. Ek wou net seker gemaak het dat my tye reg is
 16 voor ek antwoord.
 17 MR CHASKALSON SC: So that was 3675,
 18 which was taken at 16:17:10 and that is the first mug shot
 19 that Warrant Officer Nong takes north of the koppie. This
 20 is still before the shooting of Mr Mpumza.
 21 BRIGADIER CALITZ: Mnr die Voorsitter,
 22 okay dankie. As u dit nou reggestel het – dis maar net u
 23 het voorheen gesê dit was die eerste foto na die
 24 skietvoorval, dis wat vir my deurmekaar gemaak het.
 25 CHAIRPERSON: You're no longer

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1 deurmekaar.
 2 BRIGADIER CALITZ: Dankie vir daardie –
 3 CHAIRPERSON: Is that right?
 4 BRIGADIER CALITZ: Ek aanvaar dit –
 5 CHAIRPERSON: No, I say it was unkind of
 6 me to ask the question like that. You're no longer
 7 confused on this point.
 8 BRIGADIER CALITZ: Ek het hom nou. Ek
 9 aanvaar daar is teen 16:12, dis toe ons op die toneel was.
 10 Mnr die Voorsitter het dan verder gegaan op daardie selfde
 11 bladsy 18936 en vir u gevra oor die tyd van Lieutenant-
 12 Kolonel Vermaak se eerste rapport aan my asook my antwoord
 13 terug aan hom. U het gesê op bladsy 18936 lyn nommer 17 –
 14 miskien kan ek net voor dit, om vir u, dat u tyd kry om die
 15 plek te kry. Die Chairperson het gesê, "Now we come to the
 16 next point. The next point is the report from Lieutenant-
 17 Colonel Vermaak followed on the instruction given by the
 18 witness, which is the first two sentences, in fact the two
 19 sentences" – paragraaf so-so-so, waarna hy verwys het, dit
 20 is nou waar hy vir my gesê het die mense is encircled en
 21 wat ek dan die opdrag gegee het vir die persone in the
 22 Nyalas. U het gesê, "Lieutenant-Colonel Vermaak is
 23 16:31:21." Dit is wat u – toe sê die Chairperson,
 24 "16:13:21, in other words a minute after the first
 25 photograph," wat daar toe nou op ooreengestem is. As ek

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1 dan nou net kan teruggaan na bladsy 18933 waar u vir my –
 2 "Brigadier Calitz: Dis korrek, mnr die
 3 Voorsitter." Toe het u gesê dit is die aanvanklike, my
 4 eerste nota wat ek gemaak het oor u wat gesê het dit was
 5 misleidend, "Your communication with Colonel Vermaak was,
 6 as you mentioned, 13:48. On the transcript of the Protea
 7 Coin chopper ETV time 16:11:18."
 8 MR CHASKALSON SC: I must confess you are
 9 correct. I've given the wrong time there. I was reading
 10 the wrong time on my table. I was reading the conversion
 11 time to Colonel Botha's camera, 16 – the time is 16:11:18
 12 and I see where 16:13:21 comes from. It's the next column
 13 which is Colonel Botha, I apologise for that.
 14 BRIGADIER CALITZ: Dit was – my
 15 verskoning, ek was, net oor daardie twee minute, twee en 'n
 16 half minute, ek sien dit maak 'n groot verskil van die
 17 beweging. Die derde enetjie is, as ek nou net weer my plek
 18 kan kry gou. Mnr die Voorsitter, ek verstaan daar sal dalk
 19 nou 'n verskil wees op die ander enetjie ook maar ek kry
 20 hom nou nie dadelik hier voor my nie. Ek kan dalk terugkom
 21 na hom toe. Dit is die antwoord op die eerste een waar
 22 Kolonel Vermaak die – ek wou eintlik maar net geantwoord
 23 het op die agt en 'n half minute en hoe ek aanvanklik op
 24 die twee tot drie minute getuig het en nie op die agt en 'n
 25 half minute gekom het. So my getuienis was nie om enige

<p style="text-align: right;">Page 18999</p> <p>1 iemand te mislei nie. Ek het van die begin van my 2 transkripsie af getuig op die tyd van 13:48, so miskien as 3 die tyd 16-iets bygevoeg was en ons het die tydlyn miskien 4 soos nou ook versoek was, gekry, sou my getuienis dan die 5 heelyd gewees het om 16:11 wat ons dan ook weet mnr Mpumza 6 is om 16:19. So dit was nie om enige iemand te mislei nie, 7 ek het die heelyd in my getuienis verwys, om 13:48 in die 8 video in het Kolonel Vermaak my verwys. Mnr die Voorsitter 9 en dan – 10 CHAIRPERSON: Sorry, before you move to 11 the next point I just want to make sure I'm keeping up 12 because I haven't got these documents in front of me. Do I 13 understand the position to be this – if I've misunderstood 14 you must please correct me – that the first communication 15 from Lieutenant-Colonel Vermaak in the helicopter was 16:11 16 and Mr Mpumza, that's body C, was killed at 16:19. Is that 17 correct? 18 BRIGADIER CALITZ: Dit is – 19 CHAIRPERSON: Eight minutes thereafter. 20 BRIGADIER CALITZ: Dit is korrek. 21 CHAIRPERSON: So you received the report 22 from Vermaak in the sky eight minutes, is that right, eight 23 minutes before Mr Mpumza died, was killed? 24 BRIGADIER CALITZ: Dit is korrek, ja. Ek 25 wou net die 16 –</p>	<p style="text-align: right;">Page 19001</p> <p>1 BRIGADIER CALITZ: Dit is korrek, mnr die 2 Voorsitter. 3 CHAIRPERSON: Alright. 4 BRIGADIER CALITZ: Net soos dit daar – 5 die twee paragrawe moet dan net omruil, dan is die tydlyn 6 soos ons dit verstaan het, korrek. So ek stem saam met u 7 op daardie punt. Die tweede punt wat ek gekry het wat ek 8 vir u gesê het daar's 'n inaccuracy, waaroor u 'n concern 9 gehad het, was op bladsy 18939. Dit is lyn 11 tot 24 maar 10 ek dink die groot sinnetjie waarop ons kan gaan, dit is 11 rondom die sin in u lyn 14. Ek kan miskien net lees van 12 die begin af, "Brigadier, I said it was wrong. Set out the 13 inaccuracies so that you could hear what my concerns were 14 before I ask you to respond to them, so here they are. The 15 first inaccuracy" – maar die ander een het u, u weet, voor 16 die tyd al genoem, so dis hoekom ek net na hom toe gegaan 17 het alhoewel hierdie een die eerste een is wat u na verwys 18 het – "is that your team did not respond immediately to the 19 death, to the departure of Colonel McIntosh." So wat ek 20 gelees het daarin en wat my antwoord nou net daarop kan 21 wees is op u eie getuienis op die volgende bladsy, daardie 22 18940 wat u dan gewys het en wat ons met die benefit van 23 hindsight met die Casspir nou gesien het dat om 16:20:31 24 het die Casspir reeds soontoe beweeg. Ons moenie vergeet 25 dat Kolonel McIntosh uitgespring het nie, wat 'n luitenant-</p>
<p style="text-align: right;">Page 19000</p> <p>1 CHAIRPERSON: I've got that right, I've 2 got that one right. 3 BRIGADIER CALITZ: Dit is korrek. 4 CHAIRPERSON: Now you want to move on to 5 the next point. 6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 dan net miskien na u punt toe. U het gister die paragrawe 8 in my verklaring wat ons gesê het change paragraaf 124 met 9 125, dit moet actually net andersom wees. Met ander woorde 10 my paragraaf dan, as ek 'n regstelling kan maak nou op 11 rekord, paragraaf 124 moet dan net bo paragraaf 123 wees. 12 Met ander woorde dit sal wees, as ek vinnig daarna kan 13 verwys, die gesprek met Kolonel Vermaak sal dan wees net bo 14 paragraaf 123 waar Kolonel McIntosh reageer. So die ander 15 paragrawe is in sequence alhoewel ek – 16 CHAIRPERSON: Let's again make sure that 17 I'm following you correctly. I understood you to say on 18 Tuesday, was I right, it's common cause that 124 is in the 19 wrong place. 20 BRIGADIER CALITZ: Dit is – 21 CHAIRPERSON: The question is what is the 22 right place? My understanding was on Tuesday you said to 23 us it should have been after 125, in other words now you 24 say no, no, that's not correct, it should have been after 25 122, before 123. Am I understanding you correctly?</p>	<p style="text-align: right;">Page 19002</p> <p>1 kolonel in my span is, die Casspir het soontoe gereageer 2 asook papa5. So in kort, as ek dit so kort as moontlik kan 3 hou, you said "The first inaccuracy, that your team did not 4 respond immediately to the death, the departure of Colonel 5 McIntosh" – 6 CHAIRPERSON: So your answer to that is, 7 Lieutenant-Colonel McIntosh was in your Nyala – 8 BRIGADIER CALITZ: Dit is korrek. 9 CHAIRPERSON: And then the Casspir went 10 and another Nyala went and they were all part of your team, 11 they were under your control, command. 12 BRIGADIER CALITZ: Dit is korrek. 13 CHAIRPERSON: That's your point, okay. 14 BRIGADIER CALITZ: Ja. Daar was ander 15 rondom, het ek hulle gesien maar ek dink ons sal by daardie 16 punt kom. Kan ek voortgaan met die, ek wil nou net nie – 17 CHAIRPERSON: Mr Chaskalson, he is - 18 mindful of his many years giving evidence in magistrate's 19 courts, he is waiting for the magistrate to keep up. He's 20 looking at you to see your pen and he only wants to carry 21 on when you've finished writing, so bear that in mind. Am 22 I right, Brigadier, that was passing through your mind? 23 Alright, are you with us now, Mr Chaskalson? 24 MR CHASKALSON SC: I am – 25 CHAIRPERSON: Do we have your permission</p>

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1 to carry on?

2 MR CHASKALSON SC: Yes and going forward,

3 you have my permission to carry on unless I say can you

4 wait a minute for me.

5 BRIGADIER CALITZ: Okay dankie.

6 CHAIRPERSON: Some of the magistrates

7 before whom I used to appear used to put their left hand

8 up, if they were right-handed, to indicate that you must

9 please wait till the left hand goes down before you carry

10 on with your evidence but anyway, enough frivolity, let's

11 carry on with the evidence.

12 BRIGADIER CALITZ: Dankie, mnr die

13 Voorsitter. Op die volgende bladsy of die volgende bladsy

14 – maar ek kan die page number, dis 18943, dit was die

15 concern van u gewees dat ek moes geweet het van die bodies.

16 U het voorheen vir my getuig, ons kan die references

17 daarnatoe kry, dat ek moes seer sekerlik geweet het bodies

18 beteken, ek dink die woord was oorledenes.

19 CHAIRPERSON: Lyke.

20 BRIGADIER CALITZ: Lyke.

21 CHAIRPERSON: Lyke, nie net liggame nie.

22 BRIGADIER CALITZ: So ek wil miskien net

23 u woorde lees op bladsy 18943 vanaf lyn nommer 2 of miskien

24 bietjie vroeër, lyn nommer 1. "Lieutenant-Colonel Vermaak

25 reported to the JOC that there were two bodies at the small

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1 koppie. One of those two bodies that appears at that time

2 was victim N. The other body was the body of a man who was

3 still alive and survived." So ek wil nou net miskien uit

4 hierdie woorde uit wys dat u het self hier verwys na twee

5 bodies. Body N is die een wat weggeval het. Ek het

6 ongelukkig nie die naam van Body N nie, en dan die ander

7 body "of a man who was still alive and survived." So ek

8 wil miskien net op rekord plaas dat dit was ook my

9 verstandhouding dat u kannie sê, die afleiding maak, bodies

10 is lyke nie. Miskien het u hierdie term hier dan self ook

11 so gebruik. Die vierde probleem of –

12 MR CHASKALSON SC: Sorry Brigadier, can I

13 ask you to confine yourself to where we set out because if

14 you're going to use the opportunity to sort of respond

15 generally to comments that I've made then I'd like to take

16 charge of the cross-examination again. So confine yourself

17 to the inaccuracies that I said, I put to you and whether

18 you accept them or reject them.

19 CHAIRPERSON: And then you'll get an

20 opportunity though, you must obviously be given an

21 opportunity to deal with these others points but he would

22 like to do that in the course of a discussion with you

23 rather than just your discussion of the particular points

24 that were put and you say there may be inaccuracy. I think

25 that's a fair request. Anyway we won't be unfair to you

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1 either but -

2 BRIGADIER CALITZ: Nee, ek stem 100%

3 saam, mnr die Voorsitter. Hoekom ek gesê het dit is die

4 derde point, as ons dan met respek kan opgaan, bladsy 18942

5 waar u begin het. "You see my concern about these

6 misleading statements, inaccuracies, I'm worried it was

7 deliberate." En dan het u verder gegaan en u het dan ge-

8 mention van Body D. So ek het aangeneem dat inaccuracies

9 en deliberate het ook verwys hierna. As u nie hierna

10 verwys het nie dan –

11 CHAIRPERSON: We can move on. We can

12 come back to that point later.

13 BRIGADIER CALITZ: Ek is, ek is –

14 CHAIRPERSON: Let's concentrate on the

15 readings and the times and so on at this stage.

16 BRIGADIER CALITZ: Dan die vierde punt,

17 as ek korrek is, wat u oor concerned was, was net af van

18 lyn 11, "Without your knowledge, an operation where you

19 were supposed to be commanding, that is clear is what

20 happened without any attempt on your part to control the

21 process, actually led to the deaths of the victims." U het

22 die concern gehad dat my nalatingskap om beheer te vat oor

23 – ekskuus tog, bladsy 18943 lyn nommer 13. Daar is voor

24 ook gesê maar die grootste crux is in lyn 13 tot lyn 15.

25 Ek sal dit net weer lees. "What is clear is what happened

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1 without any apparent attempt on your part to control the

2 process that actually led to the death of the victims." Ek

3 wil net sê "the death of the victims" hier waarna u verwys

4 is seer sekerlik die in koppie 3. Ek het

5 groepbevelvoerders gehad, my antwoord net kort daarop is

6 dat daar was 'n behoorlike voorligting gegee, ek het

7 groepbevelvoerders gehad en ek het die heelyd met die POP

8 Nyalas gepraat wat dan voortgegaan het met die dispersion

9 action. As u gaan na die transcript GGG35 sal u hoor ek

10 praat die heelyd net met die Nyalas, die waterkanon, selfs

11 die helikopter, het net na hulle verwys. Ek was onder geen

12 stadium, net my antwoord kort, bewus van die TRT, die

13 Canine wat onder Generaal Naidoo of die NIU se in beweging

14 na daardie toneel toe nie. So dit is miskien net my

15 antwoord dat ek het bevelvoerders gehad van openbare orde

16 polisiëring en dit was vir my 'n gewone dispersion action.

17 So ek – dit is die antwoord daar. Dan –

18 CHAIRPERSON: At the risk of offending Mr

19 Chaskalson, may I ask this question? Those people who were

20 killed in that area that's been talked about, strikers,

21 were they killed by people brought there by General Naidoo

22 and Captain Kidd, as far as we know – because you weren't

23 aware that General Naidoo had brought his forces there.

24 BRIGADIER CALITZ: No.

25 CHAIRPERSON: Right, and the order you

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1 gave, the instruction you gave was not directed to them.
 2 BRIGADIER CALITZ: No.
 3 CHAIRPERSON: It was directed to the
 4 people of whose presence you were aware and who were
 5 participating directly under your command, is that correct?
 6 BRIGADIER CALITZ: Dit is korrek, ja.
 7 CHAIRPERSON: And so you say – I'd like
 8 to know whether they were responsible for, as far as we
 9 know, some of them, the killing of the strikers at that
 10 spot or whether it was people who, members of the police
 11 service of whose presence you were unaware and to whom you
 12 had not issued any instructions. Can you answer that or is
 13 that something that we don't know the answer to?
 14 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 15 sal nie kan sê hoe die persone of – is daar, ekskuus.
 16 MR SEMENYA SC: No Chair, I was going to
 17 say the objective evidence which is the ballistic reports,
 18 are not able to have an answer to the question you posed to
 19 the witness.
 20 CHAIRPERSON: I thought that was going to
 21 be the answer but the point is that therefore criticism
 22 directed against him that his people did things and he
 23 wasn't exercising supervision over them, may not be valid
 24 if these things were done, they will have been done by
 25 other people of whose presence he was not aware. That's

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1 the point I was making. It was intended to clarify. Mr
 2 Chaskalson, I suppose we must let the witness continue.
 3 [10:09] BRIGADIER CALITZ: Dankie, mnr die
 4 Voorsitter, dan die volgende punt, punt 5 miskien as ek net
 5 kan sê op punt 4, ek sien op die volgende bladsy het ek 'n
 6 nota gemaak. Dit was dieselfde aksie, met ander woorde,
 7 dit was dieselfde dispersion action as wat ons gehad het in
 8 die noordwestelike gedeelte, wat dan aansluit by die
 9 volgende punt, punt 5 op bladsy 18944 het u gesê, line
 10 nommer 19, "You've been informed that these members were
 11 armed. Some of them with firearms, others with traditional
 12 weapons. You knew that the terrain at the koppie was
 13 difficult terrain and there had been lots of places,
 14 militant strikers to conceal themselves." Weereens rondom
 15 dat ons niks daaraan gedoen het. My kort antwoord wat ek
 16 net daar wil gee is dieselfde as wat ek gesê het, dit was
 17 'n dispersion action, wat ek afgesien speel het voor my.
 18 Ek dink, mnr die Voorsitter, u het my die vraag gevra dat
 19 is dit die vreedsame groep wat in noordwestelike rigting
 20 was, en ek het vir u gesê dat daardie groep kon ook van die
 21 militante groep mense ingehad het. Vanwaar my posisie by
 22 nommer 2 was, kon ons nie presies sien wie het watter
 23 wapens, of watter goed in hulle hande gehad nie. So dit
 24 was die call gewees wat ons gemaak het en die opdrag laat
 25 die waterkanonne juis na die koppie gedeelte gaan waar

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1 hulle dan uiteengedryf word, en waar die groter oop
 2 gedeelte is, die noordwestelike kant, waar die meerderheid
 3 persone was, dit is waarnatoe ek myself geposisioneer het.
 4 As dit daai vraag antwoord?
 5 En dan net die volgende bladsy, 18945, "it was a
 6 highly risky operation – lyn nommer 3, ekskuus, 18945, lyn
 7 nommer 3, "A highly risky operation for the POPS members."
 8 Dan miskien 'n kort antwoord op daai een, enige dispersion
 9 action, maak nie saak of dit op die linkerkant, regterkant
 10 is, dit was 'n dispersion action na altwee kante toe van
 11 dieselfde groepe.
 12 Dan gaan aan by lyn 5, "He also knew that some of
 13 the members needed to be controlled on the use of force,
 14 because – ek lees nou van lyn 6 af, op bladsy 18945 –
 15 because after the dispersion of the line at the koppie 1,
 16 they'd been shooting rubber bullets at strikers from inside
 17 the Nyalas in circumstances where it was not justified.
 18 Dit was 'n stelling wat u gemaak het wat gesê het dit was
 19 nie justified nie, dan het u my aangehaal, "That was your
 20 testimony," bladsy 154, at page 17345.
 21 Ek wonder dan net – as ek gou dan – ekskuus - Mnr
 22 die Voorsitter, ekskuus, ek dink ek het die bladsye
 23 uitgehaal maar ek sien ek het nie. Op bladsy 17345.
 24 CHAIRPERSON: Have you got it in your
 25 file, otherwise they can put it on the screen –

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1 BRIGADIER CALITZ: Ek het dit, mnr die
 2 Voorsitter. Eers miskien net laat ek dit kan lees. On day
 3 154, dit was die 25ste November 2013, on page 17345 –
 4 CHAIRPERSON: Is it a long passage,
 5 perhaps we can have it shown on the screen?
 6 BRIGADIER CALITZ: Ek probeer net gou die
 7 gedeelte kry. Miskien, dit is 'n redelike –
 8 CHAIRPERSON: What page are you quoting?
 9 BRIGADIER CALITZ: 17345.
 10 CHAIRPERSON: Yes, 17345, line?
 11 BRIGADIER CALITZ: Van lyn 3 af, my
 12 antwoord. Dit het gegaan oor die persone wat dan die
 13 uiteendryfaksie - toe ons begin het, langs koppie 2, en
 14 die uiteendryf aksie begin het. Dit het gegaan oor my
 15 opdrag wat ek gegee het, u sal kan –
 16 CHAIRPERSON: Perhaps I can read that out
 17 in English, so that everyone here can follow. Some of the
 18 people here have difficulty with Afrikaans. It begins, "Mr
 19 Chairman, I think it can clearly be heard on the video or
 20 the helicopter's transcript, if I'm correct, which I
 21 believe has already been played in the Commission. It's a
 22 conversation between myself and Colonel Vermaak, which is
 23 what there recorded. The public order policing vehicles
 24 had moved at that stage next to koppie 2 in a line, they
 25 moved forward next to koppie 2 in a line and as they move

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1 forward shots were fired out of the Nyalas and that was
 2 pertinently my – and it was pertinently my instruction to
 3 the public order police members that they must not fire
 4 from the vehicles, because there's no purpose in that.
 5 Because we are in an armoured vehicle and the people are
 6 running away, I said to them do not shoot at the people,
 7 unless in such a case where we would move out and then
 8 there was a confrontation between the people." Is that a
 9 correct translation of what you said?
 10 BRIGADIER CALITZ: Yes.
 11 CHAIRPERSON: "I think in the transcript
 12 those were my exact words. I know I was very wrongly
 13 quoted in reports where I had said shoot the target, shoot
 14 the target, where, for the sake of convenience, the word
 15 not was left out, but it was pertinently, do not shoot
 16 unless the target engages you. The target referring to the
 17 person who was rushing towards you with a weapon or a panga
 18 or a dangerous weapon, and that person would then become a
 19 target at which you aimed in order to disperse him. That
 20 was the meaning around the words." Is that a reasonable
 21 translation of what you said?
 22 BRIGADIER CALITZ: Dis 100%.
 23 CHAIRPERSON: It's the best that I could
 24 do in the circumstances.
 25 BRIGADIER CALITZ: Die groot ding is, wat

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1 u aangehaal het, in circumstances which were not justified
 2 and the members need to be controlled under the use of
 3 force. My antwoord hierop is dat al die openbare orde
 4 polisiëringslede is opgelei. Die bevelvoerders het die
 5 nodige ondervinding. Ek dink die meeste van hierdie lede
 6 het jare se ondervinding. So waarna ek hier verwys het is,
 7 ek het die lede nie tereg gewys nie. Dit was 'n
 8 operasionele opdrag gewees. As operasionele bevelvoerder,
 9 wanneer ons vorentoe gaan, onthou ons was staties gewees.
 10 So toe ons weer daardie uiteendryfaksie begin, met ander
 11 woorde, waar die voertuie vorentoe gaan en u van die
 12 haelgeweer gebruik maak om die persone uiteen te dryf, dan
 13 het ek 'n operasionele opdrag gegee, sodat as die voertuie
 14 vorentoe wil gaan en die lede in die voertuie is, dat daar
 15 nie uit die voertuie uit geskiet moet word, terwyl die
 16 mense hardloop. So dit was nie actually 'n teregwysing van
 17 iemand wat ek gesien het wat dit gedoen het, maar net 'n
 18 operasionele opdrag wat ek gegee het.
 19 Dit in kort. As ek dan na die volgende op
 20 dieselfde bladsy, 18945. Het u verwys na 'n tweede
 21 transcript van my, maar ek dink dit is aangehaal op hierdie
 22 bladsy. So ons hoef nie daarna te gaan.
 23 MR CHASKALSON SC: Sorry, before we leave
 24 that, can I just clarify one issue there in relation to
 25 17345. Can we go back to 17345? You say, line 7, "die

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1 openbare orde polisiëring voertuie het op daardie stadium
 2 langs koppie 2 in 'n linie vorentoe beweeg. En soos hulle
 3 vorentoe beweeg het, is uit die Nyalas uit dan gevuur. So
 4 you saying now that that didn't happen?
 5 CHAIRPERSON: No, no, I don't understand
 6 so, he's saying that he was misquoted in relation to the
 7 instruction he gave. What he said here, and I didn't
 8 understand him to depart from it, was that the public order
 9 vehicles were moving forward in a line next to koppie 2.
 10 As they were moved forward, they were firing out of their
 11 Nyalas and the point he then makes is that is contrary to
 12 his instruction, because his instruction had been they
 13 mustn't shoot from inside the vehicles, because there's no
 14 purpose in doing so, and then he went on to say that what
 15 he'd actually said was do not shoot, unless. And the word
 16 "not" had been left out in his report in the newspaper,
 17 that's the point he was making. Have I got it right,
 18 Brigadier?
 19 BRIGADIER CALITZ: Dit is korrek, Mnr die
 20 Voorsitter.
 21 CHAIRPERSON: So in other words, the
 22 point Mr Chaskalson was making to you was not wrong. The
 23 public order people had been firing from the vehicles and
 24 that was incorrect, that was contrary to the order that
 25 you'd given them.

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1 BRIGADIER CALITZ: Dit is korrek, Mnr die
 2 Voorsitter, ja. As ons dan na die volgende punt, nommer 7,
 3 op dieselfde bladsy, 18945, die volgende was onder cross-
 4 examination on day 158, 29 November, maar ek dink dit is in
 5 hierdie transcript, so ons hoef miskien op te roep nie. As
 6 ek dit miskien net kan lees. "When you were explaining why
 7 you moved from your position at scene 1, in the response to
 8 incident 2, and the reference is 18026, line 23. Can I
 9 ask, can you remember what you did that was moving away
 10 from your starting position." As ek miskien net Mnr die
 11 Voorsitter net kan herinner, dit was waar ek staties was –
 12 kom ons noem dit by die Mas paal, nog op daardie stadium.
 13 And you said, Mnr die Voorsitter, "ek het die opdrag gegee
 14 vir my openbare orde, die Papa Nyalas, om te gaan
 15 disperse." Dis die opdrag wat ek toe gegee het. Ek het
 16 doggehou –
 17 CHAIRPERSON: What line are you on?
 18 BRIGADIER CALITZ: Nommer 20, lyn 20, op
 19 bladsy 18945.
 20 CHAIRPERSON: You're showing the wrong
 21 page on the screen, that's why we couldn't find it.
 22 BRIGADIER CALITZ: Oh sorry, sorry.
 23 CHAIRPERSON: What's the number again?
 24 BRIGADIER CALITZ: I'm on the transcript
 25 of yesterday, but we can call it up. It was read out by Mr

<p style="text-align: right;">Page 19015</p> <p>1 Chaskalson, so I believe that was the correct words. 2 CHAIRPERSON: Get the relevant page for 3 yesterday's – not yesterday, Tuesday's transcript, so we 4 can all follow it easily. 5 BRIGADIER CALITZ: Tuesday's transcript 6 was 18945 from line number 20, 19 actually. 18945 of 7 Tuesday, 7th of January, line number – you can go from 18. 8 CHAIRPERSON: Can he get the page shown 9 to us? Mr Wesley's and spoken to somebody at the machine 10 that's being used. Where are we on the nine points, 11 Brigadier? 12 BRIGADIER CALITZ: Ons is nou op punt 13 nommer 7, mnr die Voorsitter. 14 CHAIRPERSON: We near the end. We'll 15 finish the nine points and then we'll take the tea 16 adjournment. Now that's an inducement to you to move on, 17 but let's wait for the page first. He's been given a 18 memory stick with the thing. Give me the page number 19 again? 189? 20 BRIGADIER CALITZ: 18945. 21 CHAIRPERSON: Line 20, we've got that, 22 line 20? 23 BRIGADIER CALITZ: Miskien, mnr die 24 Voorsitter, as by lyn 14. 25 CHAIRPERSON: Alright, we'll begin with</p>	<p style="text-align: right;">Page 19017</p> <p>1 That's the passage. 2 BRIGADIER CALITZ: Dit was die deel 3 waarna ek verwys het. Mnr die Voorsitter, ek wil miskien 4 net antwoord daai. Die antwoord wat ek nou wil gee in kort 5 sal dieselfde wees. Op daardie dag het ook nie na insident 6 2 toe gery, wat ons na verwys het as insident 2, om myself 7 te gaan vergewis is die – wat ons gepraat het – die gap 8 toegemaak, of presies wat het daar aangegaan. Ek het 9 gesien en dit was my getuienis dat 'n groter groep het om 10 beweeg aan die bokant en ek het dan verbygegaan aan die 11 regterkant, soos ek dink op baie videos gewys is, die 12 draad kar tot voor by die draad. U sal onthou dit is die 13 draad wat ek dan later opdrag gegee het om afgery te word 14 toe ons dispersion action doen. So dit was my posisie en 15 van daar af kon ek beter observe die groot groep. So die 16 bewering wat hier gemaak word, there's no way that I was 17 able to control what was happening there, na ek vir my Papa 18 Nyalas gesê het exit and engage en gaan maak arrestasies. 19 So die bewering is dat ek was op die noordwestelike kant, 20 so ek kon nie beheer gehad het daar nie. Weereens, die 21 voorligting was vir al my bevelvoerders daar gewees, en die 22 lede het die opleiding gehad en dit was 'n gewone 23 dispersion action. Dieselfde wat ons op die noordwestelike 24 kant gedoen het en die arrestasies daar gemaak het. So dit 25 is my antwoord.</p>
<p style="text-align: right;">Page 19016</p> <p>1 line 14. 2 BRIGADIER CALITZ: Die woorde daar, no 3 way of controlling what happened there. Dit is miskien – 4 CHAIRPERSON: Well, actually you've got 5 to start that sentence. From your position – we start at 6 line 10 – "from your position to the north or northwest, 7 you would have no way of seeing what happened when your 8 members got out of the armoured vehicles to engage the 9 strikers on the koppie and no way of controlling what 10 happened there. And before you respond, I want to refer 11 you to an answer you gave to me in cross-examination on day 12 158, 29 November, when you were explaining why you moved 13 from your position at scene 1 in response to incident 2. 14 The reference is 18026, line 23, I asked you, "Can you 15 remember what you did? Why you did that? That was moving 16 away from your starting position," and you said, and then 17 the Afrikaans answer is given. If I endeavour to 18 translate, "Mr Chairman, I gave the order to my public 19 order, the Papa Nyalas, to go and disperse. I observed at 20 that stage until I saw that the people on the koppie were 21 moving out and I saw that there's a point which is forming 22 towards me in the direction of the small kraal. When I 23 gave the order for the dispersion action and thereafter, as 24 any commander must then move nearer to go and see and to 25 acquaint myself personally with what was on the go."</p>	<p style="text-align: right;">Page 19018</p> <p>1 En dan die tweede laaste enetjie op die volgende 2 bladsy – 3 CHAIRPERSON: Number 8. 4 BRIGADIER CALITZ: Nommer 8, mnr die 5 Voorsitter. Dit is op bladsy 18949. Daar by lyn 10. "You 6 claim that your Nyala drove straight after – maybe it must 7 be there at, straight after Colonel McIntosh, but it 8 didn't, it drove straight to the koppie in scene 2 and it 9 reached the scene at approximately 23 minutes before you 10 called General Annandale." So die eerste deel is daar waar 11 ek dan getuig het en gesê het dat my Nyala het na victim C, 12 mnr Mpumza, toe gery en toe na koppie 3 toe. Ek dink ek is 13 ook voorheen in die cross-examination daarnatoe gevra. As 14 ek net kan verwys na dieselfde transkripsie, bladsy 18912. 15 CHAIRPERSON: No, no, the 18912? 16 BRIGADIER CALITZ: 18912. 17 CHAIRPERSON: That's far away from the 18 passage we're now seeing on the screen? 19 BRIGADIER CALITZ: Ja, ek wil net terug 20 gaan na – 21 CHAIRPERSON: Okay, I'm really commenting 22 on the operator so he can help us. 23 BRIGADIER CALITZ: Ekskuus. 24 CHAIRPERSON: There we are. Now we've 25 got 18912. Which line are you referring to?</p>

<p style="text-align: right;">Page 19019</p> <p>1 BRIGADIER CALITZ: Net onder hom, daar 2 het ek wel getuig, "ja, it was only my vehicle leaving – 3 CHAIRPERSON: Sorry, what line number? 4 21? 5 BRIGADIER CALITZ: 21. U sal sien, "Ja, 6 it was only my vehicle leaving. Die vraag was dan deur mnr 7 Chaskalson in die vorige, as ons net kan op gaan? Members 8 in the other vehicles who will remain behind was sufficient 9 to control the scene. Hoekom ek na daai sinnetjie verwys 10 het, as ons net kan af gaan na die volgende bladsy? 11 [10:28] CHAIRPERSON: I think in fairness to you, 12 the answer you're giving, sorry, could we get that again? 13 Just before the passage that we see on the screen at the 14 moment, just above that, yes. Yes, in fairness to the 15 point you're now making, you mustn't omit the sentence in 16 line 19. There wasn't a risk in leaving the scene. Your 17 point is you left the scene on your own, but you did so 18 because there were other vehicles behind, left behind, who 19 were sufficient to control the scene, and there wasn't a 20 risk in leaving the scene. That's really the answer you're 21 giving, so – 22 BRIGADIER CALITZ: Daar was nie 'n risiko 23 nie omdat die persone klaar gearrester was en – 24 CHAIRPERSON: Ja, all I'm saying is when 25 you're giving your answer referring to that –</p>	<p style="text-align: right;">Page 19021</p> <p>1 Casspir en Pappa5 inderdaad gee ons toe nou met "hindsight" 2 dat die video gesien is, dat hulle dan "gerespond" het 3 direk na Kolonel McIntosh toe. 4 Ek wil net egter sê dat as die bewering gemaak 5 word dat ek glad nie na Kolonel McIntosh toe was nie, dit 6 is nie korrek nie. My voertuig het gery direk tot by – dit 7 is goed as mens 'n video sien dan en mens sien die 8 "footage" en veral die foto's wat geneem is, dan kom baie 9 goed terug na 'n mens toe. Dis hoekom ek vir u gesê het op 10 daardie stadium na die beste van wat ek kon onthou het op 11 daardie stadium toe ek die verklaring gemaak het, maar 12 persone wat kan verklaar dat ek wel op daardie toneel was 13 is Kolonel McIntosh wat dan vir my gesê het die persoon is 14 oorlede. 15 Op daardie toneel was ook Konstabel Sibiyane wat 16 geskiet het. Hoekom ek hom spesifiek onthou, hy was erg 17 getraumatiseerd. As ek sê erg, baie erg, en dit was my as 18 bevelvoerder se plig om met die lid te gesels. Hy het vir 19 my in kort verduidelik wat daar gebeur het. Die persoon 20 het op hom afgestorm en ek het hom vir 'n hele rukkie 21 probeer kalm kry en vir hom gesê, "You have nothing to 22 worry about. If that's what you're telling me, it was 23 justified," u weet, dat ek net die persoon se gemoed kan 24 kalmeer. 25 Toe het Kaptein Kidd daar opgedaag en dit is waar</p>
<p style="text-align: right;">Page 19020</p> <p>1 BRIGADIER CALITZ: Ek stem saam met u, 2 mnr die Voorsitter. 3 CHAIRPERSON: - it mustn't be that I 4 didn't help you. I don't want to tell you what to say, but 5 that's what it says on the record. 6 BRIGADIER CALITZ: Dankie, mnr die 7 Voorsitter. As ons dan net kan afgaan, die bladsy 18913 8 gaan dalk nou net die deurmekaarheid opklaar. Lyn nommer 9 4, ek dink mnr Chaskalson het verder gegaan op die punt en 10 lyn nommer 4, "As far as I know it was my vehicle driving 11 off and later as I testified I think I was informed by 12 Colonel Pitsi." So ek wil net daardie nommer 4 en 5 wys, 13 "As far as I know it was my vehicle driving off." Ek het 14 vir u gesê na die beste wat ek kon onthou op daardie 15 stadium, en dan net bietjie ondertoe, lyn nommer 13, "That 16 is why I'm saying" – ek sien hier het ek in Engels getuig – 17 "That is why I'm saying I think he was left behind until 18 the strikers was in the Canter. I'm not sure, I didn't 19 observe their movements at that time." So dit is my 20 antwoord oor die onsekerheid toe ek het gesê het, "You 21 claim that your Nyala drove straight to Lieutenant-Colonel 22 McIntosh but it didn't," dat ek gesê het die ander persone 23 was dan agter gewees. Die persone wat wel agter was, was 24 dan die Canter persone wat die arrestasie "opgewrap" het 25 nadat Warrant-Officer Nong die foto's geneem het en dan die</p>	<p style="text-align: right;">Page 19022</p> <p>1 ek gesê het dat ek met Kaptein Kidd gepraat het. Dit was 2 die eerste keer wat ek die TRT lede sien, mnr die 3 Voorsitter. So ek was verbaas om hulle – en toe Kaptein 4 Kidd kom toe vra ek vir hom, "Is dit jou personeel?" waarop 5 hy my meegedeel het ja, en dan ek het dan ook spesifieke 6 take aan hom gegee om vas te stel hoe het hulle daar gekom, 7 wat het hier gebeur, en dit dan dadelik deur te gee na die 8 JOC. So dis waar ek hom dan in beheer geplaas het daar. 9 Op daardie stadium het Kolonel Pitsi na my toe 10 aangestap gekom ook daar, so Kolonel Pitsi is die volgende 11 persoon wat kan getuig dat ek daar was en vir my gesê het 12 daar is op sy Nyala geskiet. Ek het nie bewus gewees op 13 daardie stadium waar nie, so toe stap ons na sy Nyala toe. 14 Pappa5 het inteendeel, en ek dink u het vir my later gevra 15 het ek die voertuig gesien aankom en ek het gesê nee glad 16 nie, my aandag was by die "body" en by die takings en die 17 goed, maar inderdaad toe ons nou teruggaan na die video – 18 en dit moet ek toegee – het Pappa5 meters, enkele meters 19 van "body" C, mnr Mpumza af gestaan in 'n skuins – en dit 20 is op een van die foto's. Toe ons nou in zoom toe sien ek 21 dit, en so Kolonel Pitsi het dan vir my verduidelik oor die 22 skietvoerval van die Nyala en dan ook die persoon wat die 23 video gemaak het, Kaptein Ryland, het op 'n stadium daar 24 gekom, met ons gepraat en is weer terug koppie toe. So as 25 ek reg is het ek omtrent vyf persone wat definitief kan</p>

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1 getuig dat –

2 CHAIRPERSON: Okay, sorry to interrupt.

3 Is this now the end of your ninth point?

4 BRIGADIER CALITZ: No, no, ons is by 8.

5 Ek is –

6 CHAIRPERSON: Sorry?

7 BRIGADIER CALITZ: Dit was die agtste

8 punt.

9 CHAIRPERSON: So that's the eighth point,

10 I see. Sorry.

11 BRIGADIER CALITZ: Ja, ek is vinnig by

12 die –

13 CHAIRPERSON: Okay, alright.

14 BRIGADIER CALITZ: Ek sal probeer vinnig

15 maak met die –

16 CHAIRPERSON: I think we'll take the tea

17 adjournment now because you talked about a video and I

18 presume at some stage we'll have to look at the video. The

19 allegation was put to you, was you didn't go from the place

20 where the first arrests were made and Warrant-Officer Nong

21 was taking the photographs. You didn't go from there to

22 where body C was involved and the person concerned was

23 killed. You went straight to the koppie and the evidence

24 you gave on that point was not correct, but we will see

25 what the video shows. It will show us presumably what

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1 happened, and you referred to the video, but we'll do that

2 later. But perhaps can we – I think we did start just

3 after 9, so I suggest we take the tea adjournment now and

4 you then, refreshed by a cup of tea you will then take us

5 to your point 9. Is that in order?

6 BRIGADIER CALITZ: Mnr die Voorsitter,

7 daar was net een klein, ek wil net –

8 CHAIRPERSON: Alright, make your small

9 point first.

10 BRIGADIER CALITZ: Net 'n minuut. Net 'n

11 minuut, dan is ek klaar met 8. Die laaste punt wat ek wou

12 gemaak het is dat my Nyala se posisie, ek gee toe dat ek

13 nie met die Nyala direk na, nou in "hindsight" toe ons die

14 video sien, na "body" C toe gery het nie maar wel na koppie

15 3 toe direk. My Nyala se posisie was ongeveer, soos ek

16 skat op die video ongeveer 40 meter van die "body" af, en

17 as ek gaan kyk het na waar mnr Chaskalson verwys het op die

18 video, en u sal sien die video en ook Ryland se video waar

19 hy gesê het die Casspir stop by die "body," as ons dit

20 vergroot is dit volgens my, is my posisie dieselfde as die

21 Casspir s'n, as dit nie nader was nie. So –

22 CHAIRPERSON: Your position, you mean you

23 as a person?

24 BRIGADIER CALITZ: Waar ek gestop het met

25 die voertuig –

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1 CHAIRPERSON: I see. Okay, well we'll

2 see –

3 BRIGADIER CALITZ: - met my Nyala vanaf

4 "body" C. Dit was so 40 meter en dan sê ek ook, ek verwys

5 net dit is vir my dieselfde afstand as wat die "evidence

6 leaders" gewys het die Casspir, toe hulle gesê het die

7 Casspir het by die "body" gestop. Volgens my was ek

8 miskien nader gewees aan die "body" as die Casspir –

9 CHAIRPERSON: Alright, presumably you'll

10 show us those pictures in due course.

11 BRIGADIER CALITZ: Ek glo –

12 CHAIRPERSON: Part of your evidence.

13 Alright, have you now finished your eighth point?

14 BRIGADIER CALITZ: Ek is klaar, dankie

15 mnr die Voorsitter.

16 CHAIRPERSON: Can we have tea now? Adv

17 Hemraj would like to ask you a question first.

18 COMMISSIONER HEMRAJ: Are you saying that

19 what was seen on the video is that you drove your Nyala to

20 a certain point near the koppie, then alighted and went

21 towards where Colonel McIntosh was with the body of Mr

22 Mpumza? Is that what you're saying?

23 BRIGADIER CALITZ: Dit is korrek. Ek het

24 na hom toe gestap en dit is waar die gebeure gebeur het.

25 Ek was toe ek getuig het onder die indruk dat dit was met

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1 my voertuig, maar dit was inderdaad so –

2 CHAIRPERSON: Yes, yes, I understand.

3 What you're saying is you did go to the vicinity where body

4 C was, but you went on foot, not in your vehicle. Is that

5 what you're saying? So the video will show your vehicle

6 not going there -

7 BRIGADIER CALITZ: As u my toelaat –

8 CHAIRPERSON: Yes?

9 BRIGADIER CALITZ: As u my toelaat, as ek

10 net kan op dieselfde "transcript" gou wys, 18911, nou dat

11 Kommissaris Hemraj die vraag gevra het, ek wil net wys.

12 18911 –

13 CHAIRPERSON: Line?

14 BRIGADIER CALITZ: 18911.

15 CHAIRPERSON: What line?

16 BRIGADIER CALITZ: 18911.

17 CHAIRPERSON: We have the page, but what

18 line on the page?

19 BRIGADIER CALITZ: Ekskuus, mnr die

20 Voorsitter, ek blaai net. Ek is nou daar. Lyn nommer 19,

21 as u dalk my antwoord net daar weer –

22 CHAIRPERSON: Yes, yes, I see. What's

23 said there is "Did Warrant-Officer Nong respond immediately

24 to your call?" and your reply was, "Ja, he came to the

25 Nyala and then we drove to the direction of where Colonel,

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1 Lieutenant-Colonel McIntosh were," I take it you mean was –

2 BRIGADIER CALITZ: Ja.

3 CHAIRPERSON: And then Mr Chaskalson –

4 BRIGADIER CALITZ: Dit is net daardie

5 gedeelte op die –

6 CHAIRPERSON: Alright, we've got the

7 point. Okay.

8 BRIGADIER CALITZ: Dis in daardie – ja,

9 ek het vroeër getuig dit was in daardie rigting. Later toe

10 die woorde "Nyala" bygevoeg en ek het na die beste van my

11 gewete, dit was my eerste getuienis.

12 CHAIRPERSON: Is that point 8?

13 BRIGADIER CALITZ: Ek is klaar met –

14 CHAIRPERSON: So we can move to point 9

15 after we've taken the tea adjournment.

16 BRIGADIER CALITZ: Soos u wens, mnr die

17 Voorsitter.

18 CHAIRPERSON: Which we will now do.

19 MR BIZOS SC: Mr Chairman, may I make an

20 announcement? Somebody left their telephone on Tuesday.

21 We were among the last to leave and we thought we would

22 take it with us and if it belongs to someone and I see that

23 my learned friend is putting up his hand; I don't know if

24 it's in relation to this. Anyway, whoever it belongs to,

25 we thought for safety sake we would take it away.

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1 CHAIRPERSON: Alright, if there's more

2 than one applicant for the phone we'll have to ask the

3 person concerned the number of the phone and –

4 MR BIZOS SC: We trust our colleagues.

5 CHAIRPERSON: We'll deal with problems of

6 that kind if they arise. Perhaps we might call in the

7 assistance of the Brigadier to help us in that regard.

8 Anyway, we will now adjourn for tea.

9 [COMMISSION ADJOURNS COMMISSION RESUMES]

10 [11:08] CHAIRPERSON: The Commission resumes.

11 Brigadier you're still under oath. Then give us your ninth

12 point.

13 BRIGADIER CALITZ: Dankie, mnr die

14 Voorsitter, ek gaan net gou, dit sal op daardie selfde

15 bladsy wees waar ons geëindig het. Ek dink nie dis nodig

16 om op te maak nie. Dis maar net een sinnetjie bladsy

17 18949. Ek het dit reeds gelees in my vorige, dis 'n opvolg

18 van waar gesê is you claimed to have drove straight page

19 18949.

20 CHAIRPERSON: On the screen 189?

21 BRIGADIER CALITZ: 49.

22 CHAIRPERSON: 1849 line?

23 BRIGADIER CALITZ: 23.

24 CHAIRPERSON: - perhaps you can go back a

25 couple of lines before, a little bit up please. I just

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1 want to see where the sentence begins. Line 15, you knew

2 the death of the suspects, of suspects in an operation was

3 something that had to be reported to -

4 BRIGADIER CALITZ: Nee, nee -

5 CHAIRPERSON: And you're asking this

6 commission to accept your statement that despite your fact

7 that your Nyala was at scene 2 by 16:23:40, is that not the

8 passage?

9 BRIGADIER CALITZ: Nee, mnr die

10 Voorsitter, net die eerste twee woordjies in lyn 14. U sal

11 onthou die vorige punt het geëindig met die Nyala wat nie

12 gery het nie.

13 CHAIRPERSON: Yes.

14 BRIGADIER CALITZ: En dan lyn 13 at

15 approximately 23 minutes before you called Major General

16 Annandale so die enigste waarop ek wil antwoord is dan die

17 tydperk, daai 23 -

18 CHAIRPERSON: It's only the 23 minutes?

19 BRIGADIER CALITZ: Dis reg.

20 CHAIRPERSON: Okay, what do you want to

21 tell us about that?

22 BRIGADIER CALITZ: Mnr die Voorsitter, ja

23 my antwoord daarop sal wees dat ek moes myself net vergewis

24 het. Ek het nou met hindsight en die video en als gesien

25 ons het erken dat ons het reguit beweeg so dit sal dan die

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1 tyd wees wat verspul is waar ek myself vergewis het van die

2 koppie af, waar ek uitgeklim het, my waarneming daar na

3 Kolonel Macintosh toe gestap het, met hom gesels het. Die

4 body C, mnr Mpumza het hulle vir my verduidelik wat daar

5 was. Die TRT se gesprek met my. Die lid wat ek gesê het

6 was erg getraumatiseerd. So ek het met hom gesels.

7 Kaptein Kidd wat daar aangekom het en dan ook, hy wat vir

8 my dan sê dit is sy lede, die opdragte wat ek dan vir hom

9 gegee het wat hy moet rapporteer aan die JOC. Toe Kolonel

10 Pitsi wat na my toe gekom het. Ek is na sy Nyala toe om te

11 vergewis is dit net die Nyala of is dit lede wat beseer is

12 of iets. Toe ek al die feite het, ek dink dit sal omtrent

13 plus minus as ek kan getuig die tyd opmaak van daai 20

14 minute voor ek dan vir Generaal Annandale geskakel het.

15 CHAIRPERSON: So that's what you say

16 about the 20 minutes. It sounds as if you don't dispute

17 the 23 minutes as such.

18 BRIGADIER CALITZ: Glad nie.

19 CHAIRPERSON: But you say you were quite

20 busy during those 23 minutes and that's the reason you -

21 BRIGADIER CALITZ: Dit is -

22 CHAIRPERSON: For that delay, am I

23 understanding you correctly?

24 BRIGADIER CALITZ: Korrek, mnr die

25 Voorsitter.

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1 CHAIRPERSON: Alright, thank you.
 2 Alright. Those are the nine points that the witness wanted
 3 to deal with. We've been given some photographs
 4 presumably, well lets deal with them now, do you want to
 5 hand them in as exhibits at this stage and tell us briefly
 6 what they are? So as a housekeeping thing let's get them
 7 out of the way and then, you know on record duly marked and
 8 so forth, is that correct.
 9 BRIGADIER CALITZ: Korrek, mnr die
 10 Voorsitter.
 11 CHAIRPERSON: Are they in the correct
 12 order, the top one is Vermaak photo 4552, the second is
 13 Captain Ryland video exhibit I is it not. The third is
 14 video exhibit CC22 time 34:29 and the last one is video
 15 exhibit CC22 time 34:31. Now is that the correct order?
 16 BRIGADIER CALITZ: Dit is korrek.
 17 CHAIRPERSON: Right. What is the next
 18 exhibit?
 19 MR WESLEY: Chair, it's KKK17.
 20 CHAIRPERSON: So shall we call this
 21 KKK17 1 to 4?
 22 BRIGADIER CALITZ: Mnr die Voorsitter, as
 23 u praat van korrek order bedoel u soos ek getuig het? Ek
 24 wil nou nie -
 25 CHAIRPERSON: [inaudible, microphone

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1 off].
 2 BRIGADIER CALITZ: Ja.
 3 CHAIRPERSON: [inaudible] my microphone
 4 wasn't on. We've got a pile of four photographs which are
 5 stapled together now what I want to know is the top one,
 6 the first one you're going to refer to, the second one the
 7 second you're going to refer to and so on. In other words
 8 the, they are stapled in the correct order is that right?
 9 COMMISSIONER HEMRAJ: Perhaps you should
 10 tell us first what is it that you want, that you intend to
 11 share.
 12 BRIGADIER CALITZ: Nee, mnr die
 13 Voorsitter, ja ek wou net gesê het ek het eintlik oor
 14 bladsy 2 wat die wit Casspir is het ek dan eers gepraat
 15 voor ek oor die eerste foto gepraat het. Maar dit maak nie
 16 saak nie. Ek kan op die -
 17 CHAIRPERSON: We'll mark them as they are
 18 and then you can refer to them. So we'll call them
 19 KKK17.1, KKK17.2, KKK17.3 and KKK17.4, I'll just write that
 20 in my book. 1 is Vermaak photo 4552, point 2 is Ryland
 21 video exhibit I, is it, is that correct, 17.3 is video
 22 exhibit CC22 time 34.29 and 4 is the same video actually
 23 but a little bit later it's a still taken at 34.31 on the
 24 reading of the video. So those are the four videos right.
 25 You want to tell us about them before you carry on with

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1 your evidence.
 2 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 3 weet nie of daar, is dit op 'n stokkie, kan ons sien of kan
 4 ons net almal net voor hulle dat ons, ek weet nie -
 5 CHAIRPERSON: May be show it on the
 6 screen. So those in the auditorium and those watching on
 7 YouTube can understand what's going on. This picture on
 8 the screen now is exhibit KKK17.1 that's the Vermaak
 9 photograph taken by Colonel Vermaak from the helicopter.
 10 What we see there, there's also an inset section at the
 11 bottom right hand corner which I take it is an enlargement
 12 of a particular thing next to P1, P1 that's a Nyala isn't
 13 it and, is that right?
 14 BRIGADIER CALITZ: Korrek, mnr die
 15 Voorsitter.
 16 CHAIRPERSON: And next to P1 is the body
 17 of, what's known as body C and we have an enlargement of
 18 that. Is that correct?
 19 BRIGADIER CALITZ: Korrek, mnr die
 20 Voorsitter.
 21 MR CHASKALSON SC: Chairperson, if I can
 22 just intervene at this point. I'm not sure what the status
 23 of these documents is because they, the annotations have
 24 been put on not by Brigadier Calitz himself but I think by
 25 Mr Lubbe and some of them seem to be plainly wrong to me.

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1 So I'm not sure what weight, this one is correct 4552 but
 2 some of the others are not.
 3 CHAIRPERSON: Well let's deal with the
 4 problems as they arise.
 5 MR CHASKALSON SC: Can I suggest that -
 6 CHAIRPERSON: Sorry I made a mistake.
 7 Am I correct in thinking that body C is actually where that
 8 yellow circle is at the bottom of the page in the centre,
 9 is that correct?
 10 BRIGADIER CALITZ: Dit is korrek, mnr die
 11 Voorsitter. Die vergroting is dan die, dit lyk soos die
 12 bene en die voete van die persoon.
 13 CHAIRPERSON: Yes, but we have the
 14 enlargement on the right hand corner of the photograph but
 15 there's an arrow from the enlargement to a yellow circle -
 16 BRIGADIER CALITZ: Dit is -
 17 CHAIRPERSON: At the foot of the page, is
 18 that the area which has been zoomed in on and magnified?
 19 BRIGADIER CALITZ: Dit is die posisie van
 20 mnr Mpumza.
 21 CHAIRPERSON: Okay. You'll talk about
 22 that in a moment. Let's just get them right. Then the
 23 next one is 17.2 that's a Ryland video and is that the one
 24 that you've got a problem with, Mr Chaskalson?
 25 MR CHASKALSON SC: No, this is correct

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1 to.

2 CHAIRPERSON: Alright. So what we have

3 here is the Casspir and also body C taken by Captain

4 Ryland, this is obviously on the ground, he was there,

5 alright. The next one, oh there is also a zoom section

6 there as well, is that right? I don't know that I

7 understand the VLC zoom hide section in the left hand

8 corner but that can be explained presumably in due course.

9 The next one is 17.3. This is taken from a helicopter as

10 far as one can see. Is that the one you've got a problem

11 with?

12 MR CHASKALSON SC: Yes, Chairperson, the

13 marking of body C is incorrect here and that's clear from

14 the next photograph.

15 CHAIRPERSON: Alright.

16 MR CHASKALSON SC: Which is taken a few

17 seconds later and has body C in a different position.

18 CHAIRPERSON: Well let's look at the

19 next one then. The next one is KKK17.4 that's taken it

20 would appear two seconds later.

21 MR CHASKALSON SC: That's correct,

22 Chairperson.

23 CHAIRPERSON: Alright. Now you say and

24 by comparing the two one can see that body C is incorrectly

25 placed in 17.3 is that right, is it correctly placed in

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1 17.4 as far as –

2 MR CHASKALSON SC: Yes, 17.4 is correct

3 and shows body C relative to Papa5 but if you look at body

4 C relative to Papa5 on 34.29 it looks further away from

5 Papa5 and closer to Papa1.

6 CHAIRPERSON: Well subject to that

7 reservation there isn't a problem with the photographs.

8 Alright now these are the photographs that you put before

9 us. You want to say something about them before Mr

10 Chaskalson resumes his cross-examination as such.

11 BRIGADIER CALITZ: Mnr die Voorsitter,

12 nee baie dankie. Nee dit is net waarna ek verwys het in

13 van my antwoorde. Ek dink die eerste een het ons verwys

14 dat ons wil net 'n regstelling gemaak het omdat ons gister

15 die posisie van –

16 VOORSITTER: Nie gister nie, Dinsdag.

17 BRIGADIER CALITZ: Ag Dinsdag, ekskuus

18 tog my fout, waar ek gesê het dit is op die 6 uur en ek

19 dink die rooi kolletjie wat aangedui is was op 'n ander

20 plek. So hierdie is net om aan te dui die korrekte

21 posisie. Die tweede bladsy dit is net waar, op die Ryland

22 video waar Mnr, Adv Chaskalson gesê het die Casspir arrive

23 at body C, so dit is daardie gedeelte en dan wat ek wys uit

24 die, na die helikopter se footage die tweede bladsy is maar

25 net die afstand van my Papa1 voertuig na die body toe. Dit

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1 is die vier punte wat ek gemaak het waar ek reeds getuig

2 het dat ek gesê het dat ek dink my afstand is so 40 meter

3 en as ek kyk, onthou een is teen 'n hoek geneem en een is

4 platter. So as 'n mens teen die hoek op gaan die angles

5 verskil. Maar ek glo eksperts kan die afstande in detail

6 bepaal.

7 COMMISSIONER HEMRAJ: Well on 17.3 is

8 Papa1 the position where your vehicle is stationary close

9 to the koppie or is it still in motion or what is the

10 position?

11 BRIGADIER CALITZ: It remained there for

12 the whole period.

13 COMMISSIONER HEMRAJ: At koppie 3?

14 BRIGADIER CALITZ: Dit is korrek.

15 CHAIRPERSON: I take it Mr Chaskalson

16 will ask you, but any way so we've now got the photographs.

17 You've explained them satisfactorily as far as you're

18 concerned? Brigadier, are you happy with your description

19 so far of the photographs? It may be that Mr Chaskalson

20 will ask you about them further, but as far as you're

21 concerned you said what you want to say about them?

22 BRIGADIER CALITZ: Na die beste van my,

23 wat ek -

24 CHAIRPERSON: Alright.

25 BRIGADIER CALITZ: Ja.

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1 CHAIRPERSON: Mr Chaskalson, do you wish

2 to resume your cross-examination now?

3 MR CHASKALSON SC: Maybe we can start at

4 the end. If I understand the purpose of exhibit CC20,

5 sorry 17.4 and 17.3 it's to show the position of body C

6 relative to your Casspir and Papa5.

7 BRIGADIER CALITZ: My Nyala.

8 MR CHASKALSON SC: Sorry, your Nyala and

9 Papa5.

10 CHAIRPERSON: His Nyala.

11 MR CHASKALSON SC: There is in fact a

12 better photograph for doing that because one can actually

13 see body C on it and that is Captain Nel's 1285. So that

14 will be JJJ6 1285, JJJ6 1285.

15 CHAIRPERSON: Can we see that please.

16 MR CHASKALSON SC: And Brigadier, if I

17 can just use the marker. Can we zoom back a bit so that we

18 can see things in perspective on the koppie as a whole.

19 Would you confirm that I am marking now your Papa1 which is

20 the vehicle - Chairperson can I ask you to describe it for

21 the record.

22 CHAIRPERSON: It's more or less in the

23 centre of the page, it's the one that, in line with the

24 helicopter, if you look at the police helicopter and you

25 then proceed to the right, more or less in a line parallel

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1 to the foot of the page you, the line will go through a
2 vehicle and that's the vehicle that you indicated which is
3 more or less in the centre of the page. If you're happy
4 with that description we can move on.

5 MR CHASKALSON SC: Yes, and if I can just
6 give the ETV time of this, I am happy with that
7 description. The ETV time of this photograph for the
8 record will be 16:35:16. Now that would be Papa5 that I'm
9 marking now which is the Nyala just left of the tail of the
10 helicopter in the photograph and victim C if we zoom in
11 here will be where I'm marking now which is just underneath
12 Papa5, do you accept all of that?

13 BRIGADIER CALITZ: Ek stem saam met u,
14 Meneer.

15 MR CHASKALSON SC: Okay well then we
16 don't need to take this point –

17 CHAIRPERSON: We also, sorry we also see
18 the left if you look at the photograph are a number of
19 people, looks like seven or possibly eight, is that right,
20 people who are on the scene to the left, no I think the 8th
21 is a bush. There's 1, 2, 3, how many people would you say,
22 you're better at this sort of thing than I am, Brigadier.
23 How many people would you say are there to the left of the
24 body?

25 BRIGADIER CALITZ: Mnr die Voorsitter, ja

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1 ek wil amper sê dit is 'n, ek wat daar langs Kolonel
2 Macintosh staan. Daar is 1, 2, 3, 4, 5, 6, 7, 8 omtrent.

3 CHAIRPERSON: Can you show us, have you
4 got a, are you able to indicate to us where you are?

5 MR CHASKALSON SC: If I can point out
6 Colonel Macintosh who's unmissable. He's in the white top,
7 the big man in the white top.

8 BRIGADIER CALITZ: He was in the civilian
9 clothes.

10 MR CHASKALSON SC: Now where do you say
11 you are?

12 BRIGADIER CALITZ: No, no I was just
13 saying it's not that, if I can see myself, now I took only
14 the photographs, ek het net van die vier foto's het ek net
15 van dit gebruik gemaak wat u gister vir ons of in die breek
16 vir ons gewys het na Dinsdag, ek het nou nie na nuwe
17 materiaal toe gegaan nie maar die foto help beslis ja.
18 Daar kan ons sien ek, die ouens, ek neem aan dit sal van
19 die TRT lede wees, Kolonel Macintosh en ek neem aan Kolonel
20 Pitsi want dit was sy Nyala voertuig wat daar staan.

21 CHAIRPERSON: Do I understand you to say
22 you're not on this photograph?

23 BRIGADIER CALITZ: Ek kan nie see ek is
24 nie daar nie, mnr die Voorsitter. As ons eksperts kry wat
25 miskien dit kan in zoom en kan sien van hierdie afstand af

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1 dit kan moontlik wees. Ek was daar gewees, ek weet net nie
2 of die tydlyn van die het ek presies weg beweeg of was ek
3 nog steeds daar of, maar ek glo -

4 CHAIRPERSON: You may be, am I
5 summarising what you're saying correctly when I say, what
6 you say is you may be on the photograph because you were
7 there at some stage, you're not precisely sure of the time
8 that you were there, so you're not precisely sure that you
9 are on this photograph, is that a fair summary of what
10 you're saying?

11 BRIGADIER CALITZ: Die tyd match, die tyd
12 as ek reg, tussen 16:23 wat ek gestop het en wat ek
13 uitgevind het wat als gebeur het en 16:46 wat ek gebel het.
14 So die tyd is mooi in die middel van daardie tyd. So dit
15 is tyd wat ek daar spandeer het.

16 MR CHASKALSON SC: Well maybe we can try
17 to get this picture enhanced to see if you are there.

18 BRIGADIER CALITZ: Dit kan help, baie
19 dankie.

20 MR CHASKALSON SC: After, that aside, I
21 just want to get back to where we started today which is
22 you identifying what you do dispute and what you don't
23 dispute and I now want to go through everything that you
24 don't dispute just to clarify that I haven't misunderstood
25 your earlier evidence and so that we know what is now

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1 common cause.

2 [11:28] So the first thing that is common cause is that
3 there was eight and a half minutes between the exchange on
4 the radio with Lieutenant-Colonel Vermaak and the point at
5 which Mr Mpumza was killed. That's no longer in dispute,
6 if it ever was.

7 BRIGADIER CALITZ: Dit is korrek, mnr die
8 Voorsitter, nadat ons daardie tyd vasgestel het.

9 MR CHASKALSON SC: The second thing
10 that's no longer in dispute is that after the death of Mr
11 Mpumza, after the death of Mr Mpumza Warrant-Officer Nong
12 continued to photograph suspects and took another seven
13 separate mug shots.

14 BRIGADIER CALITZ: Ja, ek dink nie ek het
15 ooreengestem met die sewe nie, maar u het vir my gesê dat
16 daar was foto's geneem na die, en ek dink ons het na een
17 van die foto's gekyk. As u sê sewe vat ek u woord
18 daarvoor.

19 CHAIRPERSON: What we were shown I think
20 was the first one taken after the death, and then
21 presumably if one looks at the series of videos, stills –
22 not videos, sorry, photographs – one will be able to count
23 and see how many more were taken after that. That's the
24 number that Mr Chaskalson gives. If it's in dispute, it
25 can be – the answer can easily be found. It's not

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1 something which depends upon conflict of testimony at all.
 2 BRIGADIER CALITZ: As u miskien dalk net
 3 vir my eie notas, die tyd van die heel laaste foto wat hy
 4 geneem het, dan kan ek –
 5 MR CHASKALSON SC: Sorry, last where?
 6 Last before leaving –
 7 BRIGADIER CALITZ: Ja.
 8 MR CHASKALSON SC: - the position to the
 9 northwest?
 10 BRIGADIER CALITZ: Dit is korrek, ja.
 11 CHAIRPERSON: You mean the last mug shot
 12 or the last photograph generally?
 13 MR CHASKALSON SC: It will be the same
 14 because it was a mug shot.
 15 CHAIRPERSON: Last mug shot. He was only
 16 taking mug shots, so it's the last mug shots, time of the
 17 last mug shot.
 18 BRIGADIER CALITZ: Ja, van die –
 19 CHAIRPERSON: And then can we, if we know
 20 the first one we can work out how many he took because we
 21 can just count them.
 22 BRIGADIER CALITZ: Ja, ek glo hulle het
 23 darem ook die foto, mnr die Voorsitter. Dis net vir my eie
 24 notas as ek dan verder –
 25 MR CHASKALSON SC: Chairperson, I wonder

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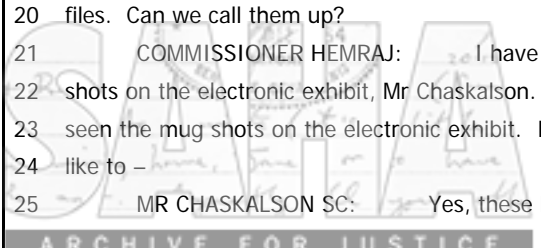
1 if it would help the Commissioners and indeed Brigadier
 2 Calitz if I distributed thumbnails of Warrant-Officer
 3 Nong's photographs and then we can refer to them and we can
 4 possibly fill in the times of the relevant ones.
 5 CHAIRPERSON: Let's call them KKK18, and
 6 how do we describe them? Thumbnails –
 7 MR CHASKALSON SC: Of Warrant-Officer
 8 Nong photographs.
 9 CHAIRPERSON: - of W/O Nong's
 10 photographs.
 11 MR CHASKALSON SC: And in fact what will
 12 be is –
 13 CHAIRPERSON: No, no, it's not just his
 14 photographs; it's photographs where, at the northwest
 15 corner of koppie 3.
 16 MR CHASKALSON SC: That's correct. It
 17 suddenly strikes me they may already be in as JJJ8. Can we
 18 just call up JJJ8 and see if all are included as
 19 thumbnails? JJJ8 itself, as opposed to the underlying
 20 files. Can we call them up?
 21 COMMISSIONER HEMRAJ: I have seen the mug
 22 shots on the electronic exhibit, Mr Chaskalson. I have
 23 seen the mug shots on the electronic exhibit. I'd just
 24 like to –
 25 MR CHASKALSON SC: Yes, these have got

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1 all of the photographs taken on Colonel Mere's camera,
 2 including Warrant-Officer Nong's mug shots. So let's –
 3 CHAIRPERSON: I think even if they are
 4 separately as part of a bundle of a whole lot of others it
 5 will it much easier for us if we have them separately, this
 6 group under a separate exhibit number, and so it's KKK18,
 7 thumbnails of Warrant-Officer Nong's photographs taken at
 8 northwest corner, or near actually, northwest corner of
 9 koppie 3.
 10 MR CHASKALSON SC: No, Chairperson,
 11 because it's both to the north, 150 metres odd, or 140
 12 metres to the northwest of koppie 3 and then inside koppie
 13 3.
 14 CHAIRPERSON: Okay, so taken near
 15 northwest corner of koppie 3 and inside koppie 3. Is that
 16 description correct?
 17 MR CHASKALSON SC: That description would
 18 be correct.
 19 CHAIRPERSON: And it's one page, so we'll
 20 mark it KKK18. Has the witness got a copy? Yes, he has.
 21 BRIGADIER CALITZ: Ja, dankie, mnr die
 22 Voorsitter.
 23 MR CHASKALSON SC: And maybe for the
 24 convenience of the witness and the Commissioners, if I can
 25 just quickly run through the times of the key ones that

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1 we've already discussed so that you can annotate them on
 2 this document. 3674 is the first photograph taken at the
 3 position to the northwest of the koppie.
 4 CHAIRPERSON: [Microphone off, inaudible]
 5 the arrested person being lifted off the ground, or moved
 6 along the ground. Is that right?
 7 MR CHASKALSON SC: And the eTV time of
 8 that photograph would be 16:12:20. 16:12:20.
 9 CHAIRPERSON: And is the last [microphone
 10 off, inaudible]?
 11 MR CHASKALSON SC: And the last north of
 12 the koppie. There are more inside the koppie that come
 13 other –
 14 CHAIRPERSON: Yes, yes, I see. There are
 15 mug shots in the koppie, but the people at the northwest
 16 corner, the last one is 3695. Is that right?
 17 MR CHASKALSON SC: That's correct.
 18 CHAIRPERSON: And that time was?
 19 MR CHASKALSON SC: 16:21:58.
 20 CHAIRPERSON: So what it means is that if
 21 those times are correct, that Warrant-Officer Nong spent
 22 nine and a half minutes taking photographs at the north-
 23 western corner of the arrested people. Is that correct?
 24 MR CHASKALSON SC: That is correct,
 25 Chairperson.



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1 CHAIRPERSON: Yes, okay.
 2 MR CHASKALSON SC: The other photograph
 3 that's of relevance here is 3689, which is the first mug
 4 shot taken after the death of Mr Mpumza.
 5 CHAIRPERSON: That time is? eTV time is?
 6 MR CHASKALSON SC: 16:20:14.
 7 CHAIRPERSON: So we're only looking
 8 really at a question of a minute and a half of photographs
 9 being taken after the death of Mpumza, Mr Mpumza.
 10 MR CHASKALSON SC: Well, it's more than
 11 two minutes because Mr Mpumza died at 16:19:47, which may
 12 be worth also annotating.
 13 CHAIRPERSON: [Microphone off, inaudible]
 14 MR CHASKALSON SC: M-P-U-M-Z-A.
 15 CHAIRPERSON: Died at?
 16 MR CHASKALSON SC: 16:19:47.
 17 CHAIRPERSON: [Microphone off, inaudible]
 18 MR CHASKALSON SC: 47, 4-7.
 19 COMMISSIONER HEMRAJ: And what are we
 20 relying on to establish that time, Mr Chaskalson, as you've
 21 told us –
 22 MR CHASKALSON SC: On the video of
 23 Captain Ryland, video 26, which I think is exhibit 12, at 1
 24 minute exactly into that video you hear gunshots ringing
 25 out from the position where Mr Mpumza's body is found and

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1 you see Captain Ryland and his men look up there and then
 2 start to move off there. The next time that would be of
 3 significance is 3696.
 4 CHAIRPERSON: What time is that?
 5 MR CHASKALSON SC: That's 16:25:24.
 6 CHAIRPERSON: And presumably the witness
 7 can help us, but I take it that's a picture taken at koppie
 8 3 of, is it "lyke of liggaam" on the ground?
 9 MR CHASKALSON SC: It's not "lyke."
 10 BRIGADIER CALITZ: Dit is –
 11 CHAIRPERSON: Arrested persons.
 12 BRIGADIER CALITZ: Ek wou gesê het
 13 "bodies," maar dis gearresteerdes, mnr die Voorsitter.
 14 CHAIRPERSON: Yes, arrested persons.
 15 BRIGADIER CALITZ: Arrested persons.
 16 CHAIRPERSON: Bodies, forms of arrested
 17 persons.
 18 BRIGADIER CALITZ: Bodies of arrested
 19 persons.
 20 CHAIRPERSON: And obviously we know
 21 Warrant-Officer Nong who was a passenger in your vehicle –
 22 BRIGADIER CALITZ: Driver.
 23 CHAIRPERSON: - had travelled, your
 24 vehicle had already arrived there because presumably
 25 Warrant-Officer Nong travelled in it, did he?

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1 BRIGADIER CALITZ: He was driving it. We
 2 arrived –
 3 CHAIRPERSON: Oh, okay.
 4 BRIGADIER CALITZ: - 16:23, so it's just
 5 after he got out and went into the -
 6 MR CHASKALSON SC: Then the next time
 7 that I would suggest is significant doesn't relate to a
 8 thumbnail that is on this page, but relates to the very
 9 next photograph which has been kept off the page for I
 10 suppose reasons of propriety, which is the first shot taken
 11 by Warrant-Officer Nong of a dead victim at scene 2. That
 12 would be 3729.
 13 CHAIRPERSON: Is that a picture which is
 14 perhaps in exhibit L? So if it's already in exhibit L we
 15 don't have to –
 16 MR CHASKALSON SC: No, it's not in
 17 exhibit L, but it will be JJJ3729. I can just give you the
 18 – JJJ8.3729, and the time of that is 16:37:50.
 19 CHAIRPERSON: [Microphone off, inaudible]
 20 3729.
 21 MR CHASKALSON SC: That's correct, which
 22 is there in the JJJ8 photographs.
 23 CHAIRPERSON: So the next picture
 24 immediately after those we can see on KKK18 is DSC3729.jpg.
 25 What's the exhibit number?

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1 MR CHASKALSON SC: JJJ8.3729.
 2 CHAIRPERSON: And the time of that, eTV
 3 time of that one?
 4 MR CHASKALSON SC: 16:37:50.
 5 CHAIRPERSON: Thank you.
 6 BRIGADIER CALITZ: Mnr die Voorsitter, as
 7 ons dalk net weet watter "body" – ek dink is dit die een
 8 wat u na verwys het Dinsdag as D?
 9 MR CHASKALSON SC: That's D. Maybe I can
 10 run through all of the –
 11 BRIGADIER CALITZ: No, no, it's fine. I
 12 just want –
 13 CHAIRPERSON: D or G?
 14 MR CHASKALSON SC: D for dog.
 15 BRIGADIER CALITZ: Delta.
 16 CHAIRPERSON: D for dog.
 17 MR CHASKALSON SC: In fact, Chairperson,
 18 if one goes to JJJ8 we'll see that Warrant-Officer Nong had
 19 photographed eight dead bodies at scene 2 before the
 20 Brigadier's call to Major-General Annandale at 16:47. The
 21 last of these eight – sorry, seven, not eight, I've
 22 miscounted – is victim A, who was photographed in JJJ8.3741
 23 at 16:43:52. 16:43:52.
 24 CHAIRPERSON: Is the witness able to
 25 confirm if that's correct? Have you looked at that, have

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1 you checked that, Brigadier? Are you happy with that
2 statement?

3 BRIGADIER CALITZ: Dit is nou nie op
4 die –

5 CHAIRPERSON: No, no, I know, that's why
6 I'm asking the question. It's not on the exhibit, but it's
7 on another exhibit to which we'd been referred and what Mr
8 Chaskalson says, he's given the time when that photograph
9 was taken, which of course is the time he says when you
10 phoned Major-General Annandale, and he says that was the
11 seventh –

12 BRIGADIER CALITZ: Ek het geskakel om
13 16:47, maar soos ek sê, ek was nie saam met Adjutant-
14 Offisier Nong nie, so ek weet nie hoe laat die laaste foto
15 geneem is nie.

16 MR CHASKALSON SC: Chairperson, if we can
17 quickly call those photos up, subject to a warning to
18 members in the auditorium, if that would be necessary.

19 CHAIRPERSON: I was hoping to avoid
20 having to do that, but if it's necessary – well, let's ask
21 the Brigadier. Brigadier, a proposition is being put to
22 you. If you're unhappy about it or you're not prepared to
23 accept it then we'll have to look at the actual photographs
24 and the timeframes, I mean the actual times stated on the
25 photographs, and then adjust them in terms of the

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1 conversion table, but if you don't dispute it then we don't
2 have to do it, but if you want me to do it I'll give the
3 usual warning and those who feel they would be distressed
4 by looking at the photographs will be given an opportunity
5 to leave.

6 BRIGADIER CALITZ: Mnr die Voorsitter,
7 persoonlik, dis nie vir my nodig om dit te sien nie. Dit
8 is nie iets waaroor ek getuig –

9 CHAIRPERSON: No, let's do it this way;
10 that we'll proceed on that basis but if you want to you can
11 look at them during the lunch adjournment and report back
12 after lunch to say you withdraw your consent, if you feel
13 that there is a mistake of some kind.

14 MR CHASKALSON SC: Then to get back to
15 what is no longer in dispute, your vehicle was the last
16 armoured vehicle to leave the scene of the arrests to the
17 north of the koppie.

18 BRIGADIER CALITZ: Dit is hoe ek getuig
19 het, ja.

20 MR CHASKALSON SC: It started moving from
21 that scene at eTV time 16:22:52.

22 CHAIRPERSON: [Microphone off, inaudible]
23 have had an opportunity on Tuesday to see these videos upon
24 which Mr Chaskalson is relying and I take it in view of the
25 fact that it wasn't one of your nine points we can assume

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1 that you have satisfied yourself that the point being put
2 to you is correct. Is that so?

3 BRIGADIER CALITZ: Dit is korrek, mnr die
4 Voorsitter. Ek dink dit was deel van punt 8 wat ek gesê
5 het wanneer ek weg is daar. Ek het net nie die tyd gemeld
6 nie, maar dit is korrek.

7 MR CHASKALSON SC: And that time was more
8 than three minutes after the death of victim C. Well, we
9 know what the death of victim C is, so we don't need you to
10 confirm that. In relation to the two vehicles that left
11 before you, the Casspir was already leaving when victim C
12 was killed. Do you accept that?

13 BRIGADIER CALITZ: When you say "accept
14 that," it's what I saw on the video in hindsight?

15 MR CHASKALSON SC: Yes.

16 BRIGADIER CALITZ: But my reasons for
17 that I've testified, so I don't know which one you –

18 MR CHASKALSON SC: Yes, but on the basis
19 of the video do you accept that the Casspir was already
20 leaving at the time of the shooting of victim C?

21 BRIGADIER CALITZ: Well, with the benefit
22 of hindsight of the video, yes.

23 MR CHASKALSON SC: And when victim C was
24 shot, it then started driving in the direction of Mr
25 Mpumza's body.

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1 BRIGADIER CALITZ: Ja, die video het
2 gewys, ek dink nie ons kan op die video gesien het waar die
3 "body" lê nie, maar u het gesê hy is in daardie rigting en
4 hy het gestop by die "body."

5 MR CHASKALSON SC: And at –

6 CHAIRPERSON: I'm sorry, Mr Chaskalson,
7 for the sake of satisfying everybody, perhaps you can just
8 give us the reference to the video. I don't think we
9 necessarily have to see it now, but if it's an exhibit
10 already then if anyone wants to look at it to check a point
11 then –

12 MR CHASKALSON SC: It's CC22, the Protea
13 Coin video. The death of Mr Mpumza is at eTV time
14 16:19:47, which translates to 22:17 on the Protea Coin
15 video. Now at that moment one doesn't see Brigadier
16 Calitz's vehicle and the Casspir and Papa5, but they come
17 into view a few seconds later and the Casspir is already
18 moving away and changing direction.

19 CHAIRPERSON: And anyone who wishes to
20 satisfy himself or herself about it can look at the video,
21 at that particular part of the video and see what you've
22 said. The witness has conceded the point, so I'm not sure
23 we need waste time looking at it here now.

24 MR CHASKALSON SC: And at 23:01 of that
25 video, which is eTV time 16:20:31, it stopped near the

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1 victim, where it stayed until 23:36 of the video, which is
 2 eTV time 16:21:06. So it stopped for 35 seconds –
 3 CHAIRPERSON: This is the Casspir?
 4 MR CHASKALSON SC: The Casspir near the
 5 victim.
 6 CHAIRPERSON: [Microphone off, inaudible]
 7 seen this video, is that correct?
 8 BRIGADIER CALITZ: Weereens, mnr die
 9 Voorsitter, ja, met die "benefit" van "hindsight," die
 10 video, dit is waar –
 11 CHAIRPERSON: No, okay. Well, we've got
 12 the reference so if anyone wants to check, it can be
 13 checked.
 14 BRIGADIER CALITZ: Dit is op die video –
 15 CHAIRPERSON: But you've seen it yourself
 16 and you're satisfied and so we don't have to see it
 17 ourselves now.
 18 BRIGADIER CALITZ: Net nie die "victim"
 19 nie, nee. Ek het net die Casspir gesien beweeg. Dis 'n
 20 baie ver afstand.
 21 CHAIRPERSON: Well, if it's got to be –
 22 [11:48] MR CHASKALSON SC: No, no, Brigadier, you
 23 forget that on Captain Ryland's video which is I2 at two
 24 minutes 15 seconds into that video, which is ETV time
 25 16:21:02, we can see Colonel McIntosh at the body already

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1 and behind Colonel McIntosh the Casspir is stationary.
 2 BRIGADIER CALITZ: Ja.
 3 MR CHASKALSON SC: Will you confirm that?
 4 BRIGADIER CALITZ: Ja, dit is nie dat ek
 5 vergeet het nie. Dit is net dat u tans verwys het na die
 6 Coin chopper video en dit is waar ek gesê het ons kon nie
 7 die body gesien het. Ons het nog nie gekom by die Ryland
 8 video nie maar ek stem saam met u, op die Ryland video het
 9 ek dit wel gesien.
 10 MR CHASKALSON SC: And at 02:19 on the
 11 Ryland video, which translates to ETV time 16:21:06
 12 independently corroborating the link between the Lonmin
 13 chopper and – sorry, the Protea Coin chopper and the
 14 Rylands video in terms of JJJ37, we see the Casspir moving
 15 off again just like we see it at the same point on the
 16 Protea Coin video. Do you confirm that?
 17 CHAIRPERSON: You've seen that.
 18 BRIGADIER CALITZ: Op die Coin chopper
 19 video wat u gesê het?
 20 CHAIRPERSON: No – no, he says if you
 21 look at Captain Ryland's video and you make the necessary
 22 time adjustments, regard being had to the fact that his
 23 closed was wrong, you can then see what he's just put to
 24 you. You can actually see the Casspir beginning to move
 25 off after having been stationary for, I think he said for

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1 about 35 seconds. Did I get it right, Mr –
 2 MR CHASKALSON SC: You see the Casspir
 3 stationary for 35 seconds on the Protea Coin video. You
 4 see the last three or four seconds of that stationary
 5 period on the Captain Ryland's video and you see it move
 6 off at 02:19 of the Captain Ryland's video, which is ETV
 7 time 16:21:06.
 8 BRIGADIER CALITZ: Ek het daardie video
 9 gesien, mnr die Voorsitter.
 10 MR CHASKALSON SC: And in relation to
 11 papa5, it moved off the scene north-west of the koppie at
 12 Protea Coin 24:19, which is ETV 16:21:49 which was a minute
 13 and a bit ahead of your Nyala, do you confirm that?
 14 BRIGADIER CALITZ: Dit is ook so, waaroor
 15 ek getuig het, ja.
 16 MR CHASKALSON SC: And it headed straight
 17 to the body of victim C, directly to the body of victim C
 18 where it stopped at 25:18 on the Protea Coin video, which
 19 is ETV 16:22:48.
 20 BRIGADIER CALITZ: Ek sal saam stem met
 21 die tyd. Ek het nie die tyd voor my nie maar ek het dit
 22 gesien op die video.
 23 MR CHASKALSON SC: And then it was
 24 stationary there for a lengthy period thereafter. In fact
 25 if we look at your exhibit KKK17.4 we'll see papa5 in the

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1 same position as where it first stopped. Will you confirm
 2 that?
 3 BRIGADIER CALITZ: Korrek, mnr die
 4 Voorsitter.
 5 CHAIRPERSON: I was going to ask you, can
 6 we convert the time given at the top of KKK17.4 into ETV
 7 time? In fact both times on 17.3 and 17.4.
 8 MR CHASKALSON SC: 17.4 is 16:31:57.
 9 CHAIRPERSON: 16?
 10 MR CHASKALSON SC: 31:57.
 11 CHAIRPERSON: Yes.
 12 MR CHASKALSON SC: So that's nine minutes
 13 after the papa5 arrived and 17 point –
 14 CHAIRPERSON: 17.3, we can do the
 15 arithmetic ourselves. It's a question of, it's only two
 16 seconds earlier.
 17 MR CHASKALSON SC: I think I may have
 18 numbered mine incorrectly because I have these two numbered
 19 as – the time that says 34:31 is 17.4 or –
 20 CHAIRPERSON: Yes, that's correct, that's
 21 correct.
 22 MR CHASKALSON SC: And that's 16:31:57 –
 23 CHAIRPERSON: That's right. So the
 24 previous one –
 25 MR CHASKALSON SC: The previous one is

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1 16:31:55.
 2 CHAIRPERSON: Yes, only two seconds
 3 earlier.
 4 MR CHASKALSON SC: And for completeness'
 5 sake, if we go to the Captain Ryland's clip at 17.2 which
 6 is at 139 of exhibit I2, that will be 16:20:26.
 7 CHAIRPERSON: Okay, while we're about it
 8 let's put the time on KKK17.1 just for the sake of
 9 completeness if we can.
 10 MR CHASKALSON SC: 16:53:58.
 11 CHAIRPERSON: 53?
 12 MR CHASKALSON SC: Five three 58.
 13 CHAIRPERSON: After he's made the phone
 14 call to, cell phone call I think it was, to Major-General
 15 Annandale.
 16 MR CHASKALSON SC: That's correct.
 17 CHAIRPERSON: So that indicates the
 18 position where the vehicle was when various things, when –
 19 I take it the firing at koppie 3 had ended by that time,
 20 people were being arrested and there were dead bodies on
 21 the ground, is that right?
 22 MR CHASKALSON SC: Yes, the firing had
 23 ended by the – well, actually I'll take that back.
 24 Certainly by 17.1 the firing had ended and in fact by 17.3
 25 and 17.4 the firing had ended because there were already

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1 paramedics on the scene at that stage.
 2 CHAIRPERSON: [Microphone off, inaudible]
 3 – photograph I take it shows us the whole of koppie 3, does
 4 it, as we see other –
 5 MR CHASKALSON SC: That is correct.
 6 CHAIRPERSON: - police vehicles on the
 7 other side of the photograph. We haven't got a compass
 8 point but that's something that we may or may not need if
 9 we're going to use this photograph further but –
 10 MR CHASKALSON SC: It's a very late
 11 afternoon photograph so we can use shadows to –
 12 CHAIRPERSON: Yes, the shadows behind the
 13 Canter I take it are pointing eastward.
 14 MR CHASKALSON SC: That's correct.
 15 CHAIRPERSON: So if one uses that then
 16 one can find north without too much difficulty. Is that
 17 right, Brigadier, you agree? Are you with us?
 18 BRIGADIER CALITZ: Ek het hom as die tyd,
 19 ek wou net gehoor het, ek het net gewag –
 20 CHAIRPERSON: I'm trying to work out
 21 where north is. What I'm saying in 17.1, you see, and what
 22 we've agreed is because it was late in the afternoon –
 23 BRIGADIER CALITZ: Dit was.
 24 CHAIRPERSON: - the shadows of the
 25 Canters are pointing northwards, point eastwards. So once

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1 we know where eastward is we can work out where north is,
 2 is that right?
 3 BRIGADIER CALITZ: Korrek, mnr die
 4 Voorsitter. Kan ek net weer daardie tyd kry? Ek het hom
 5 neergeskryf 16:53 –
 6 CHAIRPERSON: 16:53:58.
 7 BRIGADIER CALITZ: 58, dankie mnr die
 8 Voorsitter.
 9 MR CHASKALSON SC: You've already
 10 conceded that your vehicle didn't go to the body of victim
 11 C, it went straight to koppie 3. Do you accept, with the
 12 benefit of hindsight, that it started moving only at
 13 16:22:52 which we see on the Protea Coin video, 25:22?
 14 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 15 stem saam met die tyd wat hy beweeg het op die Coin. Ek
 16 het nou nie daardie tyd voor my nie, so as dit die,
 17 bevestig dit is die tydlyn, stem ek saam.
 18 CHAIRPERSON: Well, again we'll do it on
 19 the basis that you'll accept it provisionally, you check it
 20 if you want to over lunchtime and if it's wrong you'll come
 21 back and tell us. If we don't hear from you after lunch
 22 we'll know it's okay, is that right?
 23 BRIGADIER CALITZ: Ek neem aan dis nog
 24 steeds reg, dankie, mnr die Voorsitter.
 25 MR CHASKALSON SC: And do you accept that

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1 it reached koppie 3 and its final position at approximately
 2 Protea Coin 26:10, 26:10 which is ETV 16:23:40, 16:23:40 –
 3 not at approximately, at.
 4 BRIGADIER CALITZ: Kan u net weer daardie
 5 vraag herhaal? Wat, waarna verwys jy nou?
 6 MR CHASKALSON SC: The point at which
 7 your Nyala stopped in its final position at the koppie,
 8 Protea Coin 26:10 which is 16:23:40.
 9 CHAIRPERSON: 16:23:40, that's the time
 10 when P1 arrived in position on KKK17.1.
 11 MR CHASKALSON SC: That's correct. Do
 12 you accept that, Brigadier?
 13 CHAIRPERSON: The photograph is taken
 14 later but the time it arrived at the position depicted on
 15 the photograph is 16:23:40.
 16 BRIGADIER CALITZ: Mnr die Voorsitter ja,
 17 ek het getuig 16:23:27 sekondes maar daardie paar sekondes,
 18 dit is wat u voorheen vir my gesê het, so daar is nou maar
 19 net so 13 sekondes by, so ek aanvaar dit so.
 20 MR CHASKALSON SC: We've already been
 21 through the movements of Warrant Officer Nong and you
 22 accept that he was taking photographs in the koppie by
 23 16:25:24, which is the time of JJJ83696?
 24 BRIGADIER CALITZ: Sy foto spreek
 25 vanself, mnr die Voorsitter, ek stem saam.

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1 MR CHASKALSON SC: And we've dealt with
2 the first photograph of a dead body at 16:37:50, JJJ83729.
3 And do you accept that at the time of your exchange with
4 Lieutenant-Colonel Vermaak eight and a half minutes before
5 Mr Mpumza was killed, only one person had been killed at
6 scene 2, victim N?

7 BRIGADIER CALITZ: Nee, dit sal ek nie
8 kan bevestig nie. Daar was baie persone binne-in koppie 3,
9 so ek dra nie kennis wanneer wie gedood is nie, glad nie.

10 MR CHASKALSON SC: So you can't say there
11 was more than one person killed in the koppie?

12 BRIGADIER CALITZ: Selfs Body N waarna u
13 verwys het, het ek nie verwys na as dood nie. U het my
14 gevra die twee bodies wat hy vir my deurgegee het en ek het
15 hier getuig dit is volgens my dispersion action en dit was
16 beseerdes.

17 MR CHASKALSON SC: I'm talking now about
18 benefit of hindsight.

19 BRIGADIER CALITZ: Ek kan nog steeds nie
20 vir u sê. Ek het nie deur gegaan om te sien wanneer
21 presies die ander gedood is nie, nee.

22 MR CHASKALSON SC: Do you accept, with
23 the benefit of hindsight, that by the time victim C was
24 killed, all 14 victims at scene 2 had been killed?

25 BRIGADIER CALITZ: Ek dink van wat

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1 bespreek is, is dat mnr Mpumza wat body - liggaam, wat is
2 dit, C is, was die laaste persoon. Dit was die laaste
3 skietery volgens wat ek in hindsight verneem het. So dit
4 beteken 16:19:47 as ek reg is.

5 CHAIRPERSON: Sorry, just –

6 MR CHASKALSON SC: Well, I think –

7 CHAIRPERSON: Just for my benefit, Mr
8 Chaskalson. Your statement in relation to the time at
9 which the bodies, the persons concerned died on koppie 3,
10 that was prior to the death of Mpumza, what's that based
11 on? What's the evidential material which reveals those
12 times?

13 MR CHASKALSON SC: The shooting had
14 effectively stopped by the time Rylands reaches body C and
15 people are moving – there's no longer shooting into the
16 koppie from outside the koppie. People are moving, SAPS
17 members are moving into the koppie from all sides.

18 CHAIRPERSON: How do we know that? From
19 Captain Ryland's videos?

20 BRIGADIER CALITZ: From Captain Ryland's
21 video.

22 CHAIRPERSON: So Captain Ryland's video
23 therefore shows us when the firing stopped at koppie 3 and
24 that's prior to 16:19:47. What time is it?

25 MR CHASKALSON SC: Well no, there was,

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1 there was firing at 16:19:47 because it was those shots
2 that killed victim C but after –

3 CHAIRPERSON: No, but he wasn't killed in
4 koppie 3, was he?

5 MR CHASKALSON SC: He was killed just
6 outside koppie 3.

7 CHAIRPERSON: There was firing going on
8 in koppie 3 prior to that, a number of people died, right?

9 MR CHASKALSON SC: That's correct, 14
10 people died, another – well, 13 people apart from victim C
11 and another three more were fatally wounded and died later.

12 CHAIRPERSON: Victim C didn't die on
13 koppie 3, he died in the veld as it were, north-west of
14 koppie 3. It's not a very big distance but he wasn't one
15 of those who was in koppie 3 who was shot.

16 MR CHASKALSON SC: That's correct.

17 CHAIRPERSON: And you say he was shot
18 after all the others had been shot on koppie 3 and you say
19 that's based on Captain Ryland's video. When did the last
20 of those persons die?

21 MR CHASKALSON SC: Well, we don't –

22 CHAIRPERSON: According to Ryland's
23 video.

24 MR CHASKALSON SC: No, we don't know when
25 anybody died before –

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1 CHAIRPERSON: Sorry, the question would
2 show that I wasn't appreciating the point fully. It's the
3 last shot really, I suppose. Presumably the last shot
4 either killed the last person or the last person had
5 already died before that but we can't ascertain that with
6 any accuracy at all. The most we can say is get the time
7 of the last shot and say the last person must have died
8 either then or before that, is that correct?

9 MR CHASKALSON SC: That's the proposition
10 we're putting -

11 CHAIRPERSON: The last shot on Captain
12 Ryland's video is when?

13 MR CHASKALSON SC: Subject to correction,
14 we think it's the shots that killed victim C.

15 CHAIRPERSON: Sorry, then I've asked,
16 phrased the question incorrectly. Apart from the victim C
17 shot which you think was at 16:19:47 –

18 MR CHASKALSON SC: No, that we know was
19 at 16:19:47.

20 CHAIRPERSON: Alright, the last shot on
21 Captain Ryland's video, there's a clock on his video so we
22 know when it was. So when was it?

23 MR CHASKALSON SC: We haven't taken that
24 down but we can get, we can give you a time.

25 CHAIRPERSON: Obviously we're going to

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1 need it because to establish the correctness of the points
 2 you're putting, that victim C was the last victim and all
 3 the people, the relevant people on koppie C, koppie 3, had
 4 already been killed, we have to know – and if the time at
 5 which they were killed is based on an inference from the
 6 times from Captain Ryland's video, we need that time don't
 7 we? If you can't give it to me it doesn't matter, we can
 8 get it later but –

9 MR CHASKALSON SC: We will. I put the
 10 inference on the basis that after victim C is killed one
 11 doesn't hear a gun fire on Captain Ryland's videos.

12 CHAIRPERSON: Yes, but it's important to
 13 know what time interval there was, if any, between what one
 14 can call the second-last shot on Captain Ryland's video and
 15 the last one and then this is on the assumption, I take it,
 16 well, do we know - we should, through triangulation, as it
 17 were, be able to work out whether the last shot in fact was
 18 at the time when you say, based on other material, that
 19 Mpumza died at 16:19:47, is that right?

20 MR CHASKALSON SC: Yes, well, let us do
 21 the exercise then we'll come back. We don't need to delay
 22 the cross-examination.

23 CHAIRPERSON: I don't expect you to do it
 24 now, I'm just saying if you were to persuade us of the
 25 correctness of this material, that exercise I'm afraid has

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1 got to be done.

2 MR CHASKALSON SC: We will do it. Yes, I
 3 think a few more facts that you didn't expressly address in
 4 your nine points. Do you accept that you knew that the
 5 terrain at the koppie was difficult terrain and that there
 6 would be lots of place for militant strikers to conceal
 7 themselves? Not with the benefit of hindsight, I'm now
 8 talking at the time. Koppie 3, I'm talking about.

9 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 10 verskil van u. Ek het dit hanteer onder punt 5. Dit is op
 11 bladsy 18944. Ek het vir u verwys daar na lyn 19, "We were
 12 informed that the members were armed, some of them with
 13 firearms, others with traditional. You knew that the
 14 terrain of the koppie was difficult terrain and there would
 15 be lots of places militant strikers could conceal
 16 themselves." So ek het dit hanteer in my punt 5 met my
 17 antwoorde.

18 CHAIRPERSON: You agree then with Mr
 19 Chaskalson's point that you knew that the terrain was
 20 difficult. That's the only point he is making. Am I
 21 right, Mr Chaskalson?

22 MR CHASKALSON SC: That is so, yes.

23 CHAIRPERSON: So that's not a point of
 24 debate between you and Mr Chaskalson.

25 BRIGADIER CALITZ: Nee, nee.

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1 CHAIRPERSON: You're on the same page,
 2 same line there, okay.

3 MR CHASKALSON SC: And did you – and
 4 flowing from that, you also didn't respond to the
 5 proposition that I put to you that the terrain at the
 6 koppie was much more difficult to deal with than the open
 7 area in which you had arrested the strikers, north-west of
 8 the koppie and where you were still positioned. Do you
 9 accept that?

10 BRIGADIER CALITZ: Nee, ook nie, mnr die
 11 Voorsitter. Ek dink in my antwoord het ek vir u gesê dat
 12 dit is waarom ons die waterkanon soontoe gestuur het en die
 13 ander deel, waar die oopte nie nodig was nie.

14 MR CHASKALSON SC: Sorry, I didn't follow
 15 your, the last part of your answer.

16 BRIGADIER CALITZ: Ek sê –

17 MR CHASKALSON SC: After you said "en die
 18 ander deel."

19 BRIGADIER CALITZ: Dit is waarom ons die
 20 waterkanonne daarnatoe gestuur het om die persone wat ons
 21 noem, as 'n mens kan praat van uit-flush, om hulle so
 22 uiteen te dryf en dan na die noordweste toe was dit 'n oop
 23 gebied so dit was nie nodig vir my om die waterkanon
 24 soontoe te stuur nie en dit was 'n oop gebied waarop die
 25 mense dan makliker in kleiner groepies opgebreek kon word

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1 en gearreesteer word.

2 CHAIRPERSON: You are agreeing with Mr
 3 Chaskalson. Mr Chaskalson said the north-west section, the
 4 veld really north-west of the koppie was fairly easy
 5 terrain to handle for your operational purposes. You've
 6 already conceded that the koppie 3 itself was more
 7 difficult for the reasons that you gave. So you're again
 8 agreeing with him.

9 [12:08] BRIGADIER CALITZ: In daardie opsig, mnr
 10 die Voorsitter, ek sê net, het gesê ek het nagelaat om
 11 daarna te verwys, so toe verwys ek maar net na my –

12 CHAIRPERSON: [Microphone off, inaudible]
 13 remind me, while Mr Chaskalson is looking at his notes,
 14 where were the – you summoned the water cannon because you
 15 wanted to flush the people out, which is probably a good
 16 verb to use when you're using water to drive them out. Now
 17 which water cannon was this? Was this the North West water
 18 cannon or the Johannesburg one?

19 BRIGADIER CALITZ: Albei, mnr die
 20 Voorsitter. Een was aan die linkerkant van die koppie, en
 21 die ander een aan die –

22 CHAIRPERSON: Now I'd be grateful if you
 23 would be patient with me because I've tried to be patient
 24 with you and everybody else, if you'll be patient with me.
 25 Let's look at KKK17.1 and can you tell me roughly, because

<p style="text-align: right;">Page 19071</p> <p>1 I know this evidence is somewhere else but just make it 2 clear to me, where were the two water cannons situated when 3 they started flushing out, as you put it, the people on the 4 koppie? I don't know if we can see them on the picture, 5 but it doesn't really matter. The position presumably we 6 should be able to see.</p> <p>7 BRIGADIER CALITZ: Mnr die Voorsitter, as 8 ons na KKK17.1 kyk sal ek onder korreksie sê daar waar die 9 woord "Pappa1" staan, dit was die "approach" van die 10 linkerkantste boonste hoek van die bladsy in die rigting 11 van Pappa1. Dit is waar die een waterkanon was, en die 12 ander een –</p> <p>13 CHAIRPERSON: Sorry, I'm afraid – I know 14 it's my fault, but I'm not following you properly.</p> <p>15 BRIGADIER CALITZ: Nee, nee, waar Pappa1 16 is, u sien waar die P1 in die geel blokkie staan? Ja, net 17 bo dit waar die rotse begin, ja omtrent in daardie 18 omgewing, nou nie binne-in die bos nie, maar ja, daar. So 19 dit is waar die een waterkar "ge-approach" het en hy het 20 dan gespuit binne-in die bos en die ander een was aan die 21 ander kant –</p> <p>22 CHAIRPERSON: I'm sorry, before we move 23 on to the next one, was it stationary? Did the water 24 cannon spray water while it was moving or did it come to a 25 position, stop there and then spray?</p>	<p style="text-align: right;">Page 19073</p> <p>1 the water cannons was spraying coloured water, as it were. 2 The other wasn't. So this was the one that was, it was 3 blue, wasn't it?</p> <p>4 BRIGADIER CALITZ: Hulle sit so 'n groen- 5 blou "dye" in die water om –</p> <p>6 CHAIRPERSON: Yes, so a dye.</p> <p>7 BRIGADIER CALITZ: - om die persone te 8 merk –</p> <p>9 CHAIRPERSON: So we can see the dye there 10 on the ground.</p> <p>11 BRIGADIER CALITZ: Dit is korrek.</p> <p>12 CHAIRPERSON: That's very good. Right, 13 now where's the other water cannon?</p> <p>14 BRIGADIER CALITZ: Net aan die oorkant 15 van –</p> <p>16 CHAIRPERSON: Sorry, was this the North 17 West water cannon or the Johannesburg one? It doesn't 18 really matter, but -</p> <p>19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 nee, ek kan nie, ek sal dit moet –</p> <p>21 MR CHASKALSON SC: It was the North West 22 water cannon, Chairperson.</p> <p>23 CHAIRPERSON: North West water cannon, 24 right. They go in for blue dye. Okay, and the other 25 Johannesburg water cannon, they were using ordinary water?</p>
<p style="text-align: right;">Page 19072</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, ek 2 sal u ongelukkig nou nie – ek het nou nie hulle dopgehou 3 of –</p> <p>4 CHAIRPERSON: I see, okay.</p> <p>5 BRIGADIER CALITZ: So, maar ek verstaan 6 en ek kan kyk na die foto's waarna ons gaan kyk het en daar 7 was op verskeie plekke –</p> <p>8 CHAIRPERSON: We can find that. So what 9 you're telling me is that if one looks at this photograph 10 and looks at the caption "P1" in the yellow block pointing 11 to Papa1, at the right-hand top corner of that yellow block 12 one sees there's a pathway or a road of some sort and you 13 say on that pathway, that's where the water cannon came, 14 presumably more or less from the left-hand corner of the 15 photograph, came down and sprayed into the bush from there. 16 Is that right?</p> <p>17 BRIGADIER CALITZ: In die bos en dan – ek 18 dink as ons, as ek onder korreksie, as u sien net bo Pappa1 19 se geel blok sal u nog die blou dele sien op die gras, op 20 die klippe –</p> <p>21 CHAIRPERSON: Yes, I was going to ask you 22 about that. There appear to be the coloured marks on the 23 ground.</p> <p>24 BRIGADIER CALITZ: Dit is die –</p> <p>25 CHAIRPERSON: Is that caused by, one of</p>	<p style="text-align: right;">Page 19074</p> <p>1 BRIGADIER CALITZ: Aan die 2 teenoorgestelde kant van die koppie sal u sien daar staan, 3 dit lyk soos 'n Canter voertuig.</p> <p>4 CHAIRPERSON: Is that the Canter vehicle 5 which is more or less above this enlarged block with body C 6 and then it looks like something red on the ground near it? 7 Is that the one? Or am I wrong?</p> <p>8 MR CHASKALSON SC: Chairperson, I'm 9 pointing out the final position of the Johannesburg water 10 cannon now. It's on the far right-hand side of the -</p> <p>11 BRIGADIER CALITZ: No, where it started 12 it's –</p> <p>13 MR CHASKALSON SC: Where it started –</p> <p>14 BRIGADIER CALITZ: The one that I'm 15 referring –</p> <p>16 MR CHASKALSON SC: Its first spray was –</p> <p>17 BRIGADIER CALITZ: Ja, I'm referring to 18 that white Canter there to your left, there. I think that 19 is where he enters and he starts spraying somewhere around 20 from that Canter onwards.</p> <p>21 CHAIRPERSON: So alright, let's get that 22 properly described then. As one looks at the photograph on 23 the, it looks like the south-eastern corner really - would 24 that be right, Mr Chaskalson? – of the koppie, more or 25 less –</p>

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1 MR CHASKALSON SC: Yes.

2 CHAIRPERSON: - in the middle of the

3 photograph, but near the top there is a vehicle which is a

4 Canter, parked almost by itself. You say that's where the

5 Johannesburg water cannon started its spraying and then it

6 moved down, is that right, towards – is that the vehicle in

7 the bottom right-hand corner of the photograph next to

8 which there's a red object? Is that correct?

9 MR CHASKALSON SC: Well, Brigadier, can I

10 try to lead you through this? I mean don't feel obliged to

11 say yes to my questions, but if we can just run quickly.

12 It moved in a clockwise direction around the koppie, came

13 into the dry dam into the far – well, just went into the

14 dry dam to the south of the koppie. It then appeared to

15 retreat, and there are statements which speak of an attack

16 on the water cannon, and if we can zoom, can we zoom out?

17 I'm not sure if we – and it went clockwise around the dry

18 dam to its closing position which was a considerable

19 distance away from any engagements that were taking place

20 in the koppie. So the closing position that we see now is

21 the position to which it withdrew and played no further

22 part in the operation. Does that sound right to you,

23 Brigadier?

24 BRIGADIER CALITZ: Ja, ek het so vinnig

25 na die – net om miskien te help, waar hy eerste begin

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1 "spray" het, het ek verstaan u sê hy het om gekom en verby

2 die sedanvoertuie beweeg en dit is waar hy die eerste keer

3 "gespray" het. As ons miskien net na bladsy 235 van

4 "exhibit" L kan kyk, ek dink dit sal mnr Voorsitter dalk

5 net –

6 CHAIRPERSON: Alright, before we get

7 there, let's just try to get on record what's being

8 described. I think we describe where the water cannon

9 began. That's near that Canter towards the top of the page

10 in the middle. Mr Chaskalson said it then moved in a

11 clockwise direction and ended up somewhere near the vehicle

12 which we see in the bottom right-hand corner of the

13 photograph. If one takes the right-hand top corner of the

14 body C block, the yellow line around the body, body C

15 enlargement, and moves diagonally towards the top right one

16 sees that vehicle; it was near there. One can also see on

17 the photograph the outline of the dry dam and in the middle

18 of that dry dam there is a vehicle standing by itself and

19 there's this red object I referred to just ahead of it to

20 the right. Is that right? And what Mr Chaskalson said, as

21 I understood him – and if I misunderstood him he'll correct

22 me – at one point the water cannon was on the surface of

23 the dry dam. It then came under, appears according to the

24 statement to come under attack and then withdrew from the

25 dry dam area towards the right of the photograph and then

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1 ended up at the spot I've described. Is that correct, Mr

2 Chaskalson? Am I right?

3 MR CHASKALSON SC: It actually drove

4 clockwise around the dam. It went out of the dam and drove

5 clockwise around the dam to its position where it ended in

6 this photograph.

7 CHAIRPERSON: I see. Alright.

8 BRIGADIER CALITZ: Mnr die Voorsitter,

9 ja, die bladsy waarna ek –

10 CHAIRPERSON: And you've referred to 235.

11 BRIGADIER CALITZ: Ja.

12 CHAIRPERSON: - of exhibit L, which

13 usefully shows both the North West water cannon spraying

14 blue dye and the Johannesburg water cannon spraying undyed

15 water, clear water.

16 BRIGADIER CALITZ: Dit is miskien om vir

17 u aan te dui, omdat ek gesê het ek was nie daar, ek sal nie

18 kan help, maar dit is die naaste foto wat ek kan, om u te

19 antwoord.

20 CHAIRPERSON: Ja, okay.

21 MS LE ROUX: Chair, and I apologise for

22 interrupting my learned friend's cross-examination, but

23 just for clarity sake, is Brigadier Calitz testifying with

24 respect to the movements of the water cannon from his own

25 recollection or from the videos that demonstrate where

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1 they'd been?

2 CHAIRPERSON: No, he made it clear he's

3 not. I asked him, I just wanted to know where they were,

4 then he said well actually they move around. He didn't

5 know from his own knowledge, but Mr Chaskalson said he'd

6 help us and the witness was then able to confirm more or

7 less with hindsight what the situation was. Is that

8 correct?

9 BRIGADIER CALITZ: Mnr die Voorsitter,

10 ja, ek was glad nie daar nie. Ek het dit nie gesien nie.

11 Ek het net na die "slide" verwys om vir u 'n aanduiding te

12 gee. U het vir my gevra waar hulle begin "spray" het en

13 volgens my "hindsight," exhibit L is die beste voorbeeld

14 wat ek kon aan dink. So ek weet glad nie van die beweging

15 van die waterkanonne nie. Ek het hulle nie dopgehou nie.

16 Hulle was aan die anderkant van die koppie van waar ek was.

17 Ek kan glad nie vir u sê waar hulle beweeg het nie.

18 CHAIRPERSON: Yes. I was just asking

19 because I wanted to get my bearings, as it were. But you

20 did see the North West water cannon, did you, the one

21 that's spraying the blue dye, or didn't you see that?

22 BRIGADIER CALITZ: Mnr die Voorsitter,

23 nee, ek kan nie getuig dat ek hom gesien "spray" het op

24 hierdie stadium nie. As ons miskien kyk die tyd van die

25 foto en waar ons was, watter rigting, nee, ek het glad nie

1 dit so dopgehou nie.

2 CHAIRPERSON: But did you give any
3 instructions to the water cannons?

4 BRIGADIER CALITZ: Dit is korrek, mnr die
5 Voorsitter. Ek het met Kolonel Vermaak deurentyd gepraat
6 en u sal hoor op die video het ons deurentyd gepraat en
7 gesê "Water cannons, disperse," en Kolonel Vermaak het
8 hulle ingepraat van waar hy dan sien dit nodig was om te –

9 CHAIRPERSON: I see. You caused them to
10 be instructed to do the necessary –

11 BRIGADIER CALITZ: Ek het die opdrag
12 gegee vir die persone om te gaan uiteendryf –

13 CHAIRPERSON: Alright, I see.

14 BRIGADIER CALITZ: En die waterkanonne is
15 deel van die uiteendryf proses.

16 CHAIRPERSON: Now I'm reminded of the
17 fact that we've been sitting for roughly an hour since we
18 took the tea adjournment, so it's convenient, appropriate
19 to take the comfort break at this stage.

20 [COMMISSION ADJOURNS COMMISSION RESUMES]

21 [12:33] MR SEMENYA SC: Chair -

22 CHAIRPERSON: Mr Semenya, you were going
23 to say something, as you indicated earlier, but I think the
24 idea was to say it in the presence of the representatives
25 of the media. I don't see them here. It's an exception,

1 as always, of the representatives of the South African
2 Press Association and of course what you – we are also
3 being televised. So if you wish to make your statement
4 now, you may do so.

5 MR SEMENYA SC: Indeed, Chair, if I may.
6 Chair, Commissioners, you would recall on Tuesday my
7 learned colleague, Mr Bizos, made the statement that I am
8 claiming a right to consult with Brigadier Calitz who is
9 under cross-examination, and I claim that right to consult
10 with him, one, and secondly, to advice him, that is
11 Brigadier Calitz, as to what answers to give to the
12 questions. Might I just put the context to how this came
13 about, Chair? You would recall that we took an adjournment
14 at a point of trying to determine whether fairness requires
15 Brigadier Calitz to be taken through video material, so as
16 for him to be able to understand the questions that Mr
17 Chaskalson was putting to him. This led to the
18 adjournment. We went into chambers, and might I just point
19 out what the record points to as matters that happened in
20 chambers? You do say, Chair, when Mr Bizos says this on
21 Tuesday at page 18954 from lines 2 onwards, 4 onwards, says
22 the chairperson, "This is a matter that was discussed in
23 chambers. Perhaps Mr Semenya can answer himself. My
24 understanding, says the Chair, is that it is felt the
25 witness will not have the technical expertise to summon up

1 the videos in question and zoom in on the particular
2 portions that are going to be relied on by Mr Chaskalson.
3 So it is only fair that he should be shown those videos.
4 Someone must show it to him. The matter was discussed in
5 chambers. There is no question of him being told what
6 answers to give. Mr Chaskalson was quite happy to accept.
7 The person who will be present while this would happen,
8 will be Mr Semenya, who, as you know, is an advocate with
9 the highest integrity, in whom we have full confidence and
10 there is no question at all that Mr Semenya would do
11 anything improper. And there is no question at all that Mr
12 Semenya would do anything improper. He himself was
13 originally concerned that he couldn't speak to the witness
14 because he was under cross-examination, and it seems to us
15 that that problem was removed on the basis, which I have
16 explained to you, but what let him explain it further, but
17 I think I've captured some of it anyway, Mr Semenya."

18 Now, I subsequently confronted – well, confront
19 is the wrong word – I approached Mr Bizos to show him the
20 transcript of the record and what it is that had happened
21 before, because at that time I was unsure whether I could
22 have inadvertently said, I will be advising the witness and
23 I will be giving the witness answers. Now the transcript
24 is there. I have showed it to Mr Bizos. This is what I
25 say in relation to that matter. As I explained it further,

1 Chair, you're including videos as to that matter and I say,
2 "and the videos as well and we submit that a witness of the
3 Brigadier's stature surely requires to give informed and
4 advised answers in relation to that material. Our estimate
5 is that he will require a whole good number of hours to do
6 so. It's not possible for him to do it whilst they were
7 standing down today. Happily, we are not sitting tomorrow,
8 because of the commitments of this facility we have with
9 the municipality and we are proposing to use tomorrow,
10 together with our own expert in examining this technical
11 materials that informs the cross-examination and which in
12 turn will inform and enable the witness to be able to speak
13 accurately on the issues that are raised with him."

14 My conversation with Bizos today was to try and
15 say, it may very well be that you have misinterpreted the
16 word advice that I have used. It was used in the context
17 as the chairman explained, that it was limited to technical
18 information given to the witness, that's all. And I had
19 invited Mr Bizos to say in the light of this evidence, I
20 think it is only proper you retract the accusation, because
21 I could never have intended to inform the witness what
22 would happen. And this was precipitated by the fact that
23 the media the following day said I had done what Mr Bizos
24 had accused of me of doing and it replicated. Now, Mr
25 Bizos has colossal reputation in the profession in this

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1 country and all over the world. It magnifies this thing
2 for me, that I could be accused by someone like him to be
3 intending to act improperly. And I accept if he is
4 disinclined to retract it, but the truth is what it is and
5 I have outlined it.

6 CHAIRPERSON: Thank you. Mr Bizos do you
7 wish to comment at all?

8 MR BIZOS SC: Mr Chairman, I will repeat
9 what I told Mr Semenya. I relied on what Mr Semenya said,
10 the words to the effect, we submit that the witness of the
11 Brigadier's stature or in view of the Brigadier's stature,
12 surely requires to give informed and advised answers in
13 relation to that matter. Well, I was concerned when I
14 objected, Mr Chairman, that Mr Semenya thought that because
15 the witness was a Brigadier he had some rights which
16 ordinary witnesses don't have, and I also was concerned by
17 the use of the words "advised answers." I interpreted
18 that, Mr Chairman, that that was advice to be given by Mr
19 Semenya or members of his team. Lawyers give advice, Mr
20 Chairman, and that is how I interpreted it, and I said that
21 my learned friend claims the right to consult with him and
22 advise him as to what answers to give. I believe that was
23 a fair interpretation of what he had told the Commission.

24 Later I heard my learned friend, Mr Semenya, that
25 I am not going to be advising the witness on anything and

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1 if I have articulated myself that way, it was completely
2 not what I intended to convey. I told Mr Semenya, and I
3 want to tell the Commission that my relationship with Mr
4 Semenya goes very far back and I have said that before, and
5 that we have actually worked as colleagues and we are
6 actually doing some public work together as members of a
7 committee. I accept his later statement that he did not
8 intend to convey that he was going to advise him. I
9 cannot, however, withdraw my interpretation of what he
10 said. I accept his explanation that I may – he may not
11 have expressed what he really wanted to say, that insofar
12 as it was interpreted as conduct which is unbecoming. I
13 accept his explanation that he did not intend it and I
14 think that the matter should rest there. I do feel for my
15 colleague, whom I respect, about the truncated versions
16 that have been published and I hope he accepts my assurance
17 that my interpretation was bona fide. It was, in my view,
18 a correct interpretation before he actually said that that
19 was not his intention. I will accept that and I hope that
20 it will ease my colleague's position in the public eye. He
21 is an honourable member of our profession and I accept
22 that, but I could not have allowed in view of his statement
23 that a Brigadier is entitled to be advised as to what
24 answers to give.

25 CHAIRPERSON: Thank you. Mr Semenya is

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1 there anything you wish to add?

2 MR SEMENYA SC: No, Chair, I thank the
3 opportunity you gave me.

4 CHAIRPERSON: The matter I think will now
5 rest there. I take it is clear to everyone in the room
6 today that there may have been an ambiguity in what you
7 said which gave rise to misunderstanding, but the
8 misunderstanding was indeed removed and there's no question
9 of your wishing to do or asking to do anything that was in
10 any way improper or unethical and I hope that the press
11 which gave inadequate publicity to this exchange yesterday
12 will do something to make it clear, in the interests of
13 fairness, that what the full position is. Thank you.
14 Brigadier, you're still under oath. Mr Chaskalson?

15 BRIGADIER CALITZ: [s.u.o]

16 MR CHASKALSON SC: Thank you. Brigadier,
17 then just to pick up on some of your testimony earlier
18 today. If I understood your answer to me when you conceded
19 that the terrain inside koppie 3 was more difficult than
20 the terrain where you had positioned yourself to the
21 northwest of the koppie, you said that's why you sent the
22 water canons to flush the strikers out. Am I recalling
23 correctly? You said that's why you sent the water canons
24 to the koppie to flush the strikers out?

25 BRIGADIER CALITZ: Ja, maar die terrein

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1 wat meer ingewikkeld is, het ek verneem, u bewys hierdie is
2 plat deel en hier is 'n paar rotse, bome, sulke tipe van
3 goed. Dit is wat ek daarby verstaan het.

4 MR CHASKALSON SC: And when you said you
5 sent the water canons there to flush them out, did you mean
6 that you wanted to flush them out of the koppie into the
7 open veld?

8 BRIGADIER CALITZ: Wat, mnr die
9 Voorsitter gevra het of dit die [onhoorbaar], toe het ek
10 gesê die water kanonne is deel van 'n uiteendryf aksie. So
11 soos hulle gaan en hulle spuit dan sal die skare gewoonlik
12 90% weg beweeg van die water af en dit het die geleentheid
13 gegee om in kleiner groepe op te breek, te ontwapen en dan
14 te arresteer.

15 MR CHASKALSON SC: Sure, but in relation
16 to the terrain at the koppie, koppie 3, were you hoping
17 that the water canons would flush the strikers out of the
18 koppie? Did you want to get the strikers out of the koppie
19 so that you could confront them on – in open veld?

20 BRIGADIER CALITZ: Ja, soos ek met u
21 getuig het, Mnr die Voorsitter, dit is 'n opvolg aksie. So
22 maak nie saak in watter gebied hulle ingegaan het nie, dit
23 is deel van die uiteendryf aksie. Ek sal nie vir u kan sê
24 laat ek nou die doel was om hulle miskien uit die koppie
25 uit te dryf of ver te dryf. As dit daar sou gewerk het en

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1 hulle gaan in kleiner groepies, die persone encircle hulle.
 2 Die eerste geleentheid wat die ouens gekry het, sodra hulle
 3 net opbreek in kleiner groepe sou hulle dan gearresteer
 4 geword het.

5 MR CHASKALSON SC: But, Brigadier, I have
 6 difficulty with that answer, because the point about the
 7 koppie is it's full of difficult terrain – hiding places.
 8 So if you have militant strikers who want to dig themselves
 9 in, there are a lot of hiding places where they can
 10 position themselves, and if you're sending policemen in
 11 there, it's a high risk operation for policemen, much
 12 higher than if the operation takes place in open veld.
 13 Would you accept that?

14 BRIGADIER CALITZ: Mnr die Voorsitter,
 15 nee, nou met hindsight kan ons presies weet hoe lyk die
 16 koppie binne en wat daar aangaan, op daardie stadium glad
 17 nie, nee.

18 MR CHASKALSON SC: No, I'm asking you
 19 with hindsight.

20 BRIGADIER CALITZ: Nee, sekerlik nou met
 21 hindsight, as 'n mens die koppie 3 gaan in ag neem en in
 22 hindsight gesê het die koppie 3 was heeltemal vooraf verken
 23 en ons het geweet waar elke ding, dan kon die beplanning
 24 dalk op 'n ander manier ook. So daar is verskeie faktore
 25 in hindsight wat mens in ag kan neem, maar op daardie

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1 stadium, nee, was ons nie bewus nie.

2 MR CHASKALSON SC: Well, Brigadier, that
 3 wasn't the answer that you gave to me earlier, because I
 4 asked you do you concede that you knew that the terrain at
 5 the koppie was difficult terrain and there'd be lots of
 6 places for militant strikers to conceal themselves, and
 7 after a lengthy exchange with the chairperson you did
 8 ultimately concede that and you said that's why we sent the
 9 water cannons there to flush them out.

10 BRIGADIER CALITZ: Dit is korrek. U het
 11 my nou self dieselfde vraag gevra waarop vir u gesê het hoe
 12 ek dit verstaan het, daar is meer rotse, bome, bosse, waar
 13 die ander terrein oop is. Dit is wat ek verstaan het met u
 14 vraag.

15 MR CHASKALSON SC: So given that
 16 concession that you knew that at the time, I still find it
 17 difficult to understand why you proposed to engage the –
 18 with that knowledge you were happy to engage the strikers
 19 in the koppie, rather than flushing them out of the koppie
 20 before you engaged them.

21 BRIGADIER CALITZ: Nee, as ek nou die
 22 vraag, ek is nie seker ek verstaan wat u vir my vra nie.

23 MR CHASKALSON SC: Well, you knew that
 24 the koppie was difficult terrain. You knew it was more
 25 difficult terrain than open veld and you knew that it had

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1 hiding places where people could conceal themselves and
 2 from which they could attack policemen if they wanted to,
 3 but if I understood your earlier answer, you didn't intend
 4 the northwest – the water cannons necessarily to flush
 5 people out of the koppie, you just wanted to break them up
 6 into small groups and if the small groups were in the
 7 koppie, even in the difficult terrain, you were happy to
 8 engage them there. Is that right?

9 BRIGADIER CALITZ: Miskien as ek u reg
 10 verstaan kan ek net weer herhaal wat ek gesê het. Mnr die
 11 Voorsitter, die water kanonne word gebruik as deel van 'n
 12 uiteendryf aksie. 90%, 99%, as ons 'n water kanon gebruik
 13 in die normale omstandighede, beweeg die persone weg van
 14 die water kanon af. In hierdie omstandighede, weet ons nou
 15 in hindsight, hulle het gaan weg kruip binne in die plekke
 16 en nie verder om beweeg nie en dit is waar dan die openbare
 17 orde, volgens my, wat Kolonel Vermaak gesê het die people
 18 are encircled, het ek gedog dit is waar hulle dan opgebreek
 19 is en die opdrag gegee het dat hulle moet gearresteer word.
 20 As ons vat in die normale operasionele deel van my werk en
 21 ons dryf persone uit in 'n gebied, in dit is in 'n woon
 22 gebied, en hulle gaan tussen wonings in, dit is nie laat
 23 ons die mense terughou nie, hulle volg nog steeds op en
 24 gaan maak die arrestasies.

25 MR CHASKALSON SC: So do I understand you

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1 correctly that when you got the report from Lieutenant-
 2 Colonel Vermaak that the people were encircled and you then
 3 issued the order, get out and make arrests – get out of the
 4 Nyalas under protection and engage, you thought that people
 5 had been broken up into small groups outside the koppie,
 6 had been dispersed from the koppie and broken up into small
 7 groups where arrests could be made outside the Nyalas, or
 8 did you know that they were still inside the koppie?

9 BRIGADIER CALITZ: Nee, wat Kolonel
 10 Vermaak vir my gesê het, en dit is clear in die transcript,
 11 miskien moet ons gaan kyk na die presiese woorde, "Ja,
 12 Papa1, if that water cannon can wait there. The people are
 13 encircled. You can make arrests now down there." So dit
 14 beteken dat die water kanonne is gebruik en toe het die,
 15 volgens my, het die openbare orde polisiëring reg gekry om
 16 die persone dan te encircle, wat ons moes gedoen het, of
 17 dit in kleiner groepe is. En dit was waarop ek gesê het,
 18 okay, water cannons hold back. Met ander woorde dit is nie
 19 meer verder nodig om hulle op te breek nie, that guys get
 20 out of your Nyalas under protection and engage. Met ander
 21 woorde, gaan maak arrestasies. So dit is die presiese
 22 woorde wat daar gebruik is.

23 MR CHASKALSON SC: I know what the words
 24 are, but I'm trying to understand your state of mind at the
 25 time. Did you think you are issuing an order to people to

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1 engage in the koppie, or to engage out of the koppie? Did
 2 you think that the small groups were inside the koppie or
 3 had already been flushed out of the koppie?
 4 [12:53] BRIGADIER CALITZ: Nee, soos Kolonel
 5 Vermaak my gepraat het, het dit vir ons die heelyd geklink
 6 dat die persone daar bymekaar was, soos ek geluister het na
 7 die gesprek het hy gesê ry in, hier links daar regs. So
 8 ek kan nie vir u presies met sekerheid sê was daar 'n groep
 9 wat bietjie buitekant die koppie was of was daar 'n groep
 10 wat, ek ken nie daai terrein op daardie stadium so goed
 11 nie. As u luister na sy gesprek het hy baie vir die
 12 Canters gesê nie in daardie pad nie, draai hier links,
 13 draai daar regs. So ek verneem as dit u antwoord,
 14 antwoord.
 15 MR CHASKALSON SC: I'm not sure that it
 16 does. Are you saying that you weren't that familiar with
 17 the terrain and one that you weren't that familiar with the
 18 terrain and two, you didn't know really whether the small
 19 groups were in the koppie or out of the koppie?
 20 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 21 dink Kolonel Vermaak en die persone wat daar was sal u baie
 22 beter kan help met dit. Toe ek die boodskap kry dat die
 23 waterkanonne moet wag van hom af het ek verneem hulle het
 24 hulle werk gedoen en die groep is nou encircle. Dit werk
 25 so. Dispersion, dan encirclement en na die encirclement is

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1 daar disarming and arrest. So dit is wat die mense
 2 voorgelig is en dit is 'n gewone uiteendryf aksie volgens
 3 my. Waar die persone presies was en in watter deel van die
 4 koppie of, aan die linker kant of almal in die middel, dit
 5 kan ek nie vir u oor getuig nie.
 6 MR CHASKALSON SC: But you see,
 7 Brigadier, I'm not interested in what the actual state of
 8 affairs was or what Colonel Vermaak saw. I'm interested in
 9 your state of mind when you gave an order get out of the
 10 Nyalas under protection and engage. Did you think you were
 11 ordering people to engage inside the koppie?
 12 BRIGADIER CALITZ: Mnr die Voorsitter, u
 13 bly verwys na inside the koppie, ek verwys vir wat Kolonel
 14 Vermaak vir my gesê het, dat hy het vir my gesê die persone
 15 is ge-encircle. Hy het nie op daardie stadium vir my
 16 aangedui presies waar nie en dit is wat ek oor getuig. As
 17 die water kanonne die persone uiteendryf en hulle breek op
 18 in groepies of hulle kom in een groep bymekaar ek het nie
 19 op daardie stadium in my mind verstaan almal is presies
 20 binne in die koppie of hulle is aan die bo kant van die
 21 koppie of in watter kant nie. Ek het geweet hulle is ge-
 22 encircle en hulle was besig met 'n operasie in daardie
 23 area. So heel moontlik dan by die koppie.
 24 CHAIRPERSON: Does it mean that you
 25 didn't know whether they were in the koppie or not? They

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1 might still have been in the koppie or some of them might
 2 have been in the koppie and others were away from the
 3 koppie, is that right?
 4 BRIGADIER CALITZ: Korrek, mnr die
 5 Voorsitter.
 6 CHAIRPERSON: Now I must say I can't
 7 understand why it was necessary to engage them at that
 8 stage presumably if they were in the koppie and the police
 9 were around, was around the koppie they couldn't have got
 10 up to much mischief in the koppie while they were there and
 11 those were in the koppie it might have been a tricky
 12 dangerous situation, to try to arrest them because they
 13 could hide behind bushes and behind rocks and attack people
 14 approaching them and so on. Now I would have thought it
 15 was a situation where it would have been appropriate to
 16 have called off the operation, the dispersal disarmament
 17 arresting operation to have just kept the situation static
 18 as it were and regrouped, considered the situation. It was
 19 difficult for you of course because you couldn't see what
 20 was going on any way. That's my difficulty, you see, you
 21 remember the evidence is, the evidence hasn't been given
 22 quite yet but we have experts statements and General Mpembe
 23 said in his evidence that if he had known for example of
 24 what happened at scene 1 he might well have told you and
 25 others not to carry on with the situation at scene 2 but to

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1 wait, called off the operation and Mr De Rover had said in
 2 his expert summary that he thinks that Mr Madlanga was
 3 right when he submitted to this commission earlier on that
 4 if the operation at scene 2 had been called off at that
 5 stage it's likely that a number of people wouldn't have
 6 been killed and I know this is, we're entering into the
 7 territory of hindsight which is a tricky territory to
 8 traverse but I still don't understand, and I'd be grateful
 9 if you could help me, if there were people in the koppie,
 10 it was a tricking area with bushes and rocks and so on,
 11 even, I can even understand highly trained STF people would
 12 have had to act very carefully in making arrests because
 13 they didn't fire a shot, the STF people. I don't
 14 understand why it was necessary to give an order to engage
 15 at that point, rather leave them there for the moment,
 16 regroup, consider the situation carefully and then act
 17 appropriately but any way that's my problem. I don't know
 18 the answer, that's why I'm putting the question to you.
 19 BRIGADIER CALITZ: Mnr die Voorsitter, ja
 20 met die benefit soos u sê in hindsight nou laat ons weet
 21 hoe lyk die terrein en dan soos u verwys na Generaal Mpembe
 22 sou hy ingelig gewees het, sou hy my laat weet het, u sal
 23 onthou ek dink dis onder punt 2 of 3 wat ek gemaak dat ek
 24 was ook nie bewus van die groepe wat inbeweeg het na
 25 daardie koppie of wat daar binne plaasgevind het nie. So

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1 sou ek as operasioneel bevelvoerder ingelig gewees het dat
 2 daar wel 'n TRT, K9 en die NIU en dat die persone en laat
 3 daar voorvalle plaasgevind het stem ek 100% saam met u, mnr
 4 die Voorsitter, dan kon ek 'n ingeligte besluit gemaak het
 5 en gesê het ons is nou van al die kante af almal stop, weet
 6 en dan kan ons dit van daar af gevat het. Daar stem ek
 7 100% saam met u. Op daardie stadium het ek nie geweet van
 8 enige van daardie groepe, dit was net volgens my 'n
 9 openbare order polisiëring voertuie wat rubber en water het
 10 en toe hulle ook vir my dan sê hulle is ge-encircle was dit
 11 vir my duidelik dat hierdie persone was dan dieselfde wat
 12 ons in die noord westelike gedeelte gedoen het. Ry met die
 13 voertuie, disperse die mense en sodra hulle gaan lê of
 14 sodra ons om hulle is en ge-encircle dan klim jy uit en jy
 15 maak die arrestasies. Gewoonlik is daar nie 'n dreigende
 16 gevaarlike situasie dan meer nie. So dit is hoe ek dit
 17 hier verstaan het.

18 CHAIRPERSON: I must tell you that I,
 19 this is obviously just a prima facie observation. But I
 20 do, and I'm not putting it in any, saying it by way of
 21 blaming anybody, I'm just stating the fact. It does look
 22 at this stage prima facie as if there was, the operations
 23 there were uncoordinated. I think you would agree with
 24 that. Your point was you didn't realise that the people
 25 who weren't acting in accordance with your instructions

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1 were even there. Is that correct?
 2 BRIGADIER CALITZ: Sê net, wie was nie
 3 daar, mnr die Voorsitter?
 4 CHAIRPERSON: You didn't know that some
 5 of the people were there?
 6 BRIGADIER CALITZ: Dit is heeltemal
 7 korrek, ja, en persone wat inbeweeg moes vir my laat weet
 8 het as hulle inbeweeg.
 9 CHAIRPERSON: So the lack of
 10 coordination, because I think you'll agree it was, looked
 11 at objectively as it were with hindsight, the operations
 12 were uncoordinated. You couldn't coordinate these, the
 13 people whose presence you were not aware of? That's right
 14 isn't it?
 15 BRIGADIER CALITZ: Mnr die Voorsitter,
 16 ja, ek sal dit, miskien nie uncoordinated nie maar ek sal
 17 miskien die woord net die kommunikasie was nie daar nie.
 18 CHAIRPERSON: Well you wanted them all to
 19 act together in accordance with the coordinated plan.
 20 BRIGADIER CALITZ: Daar was nie
 21 kommunikasie na my kant toe en daarom kon ek nie, ja.
 22 CHAIRPERSON: And the truth was that some
 23 people were there shouldn't have been there at all. It was
 24 not part of the plan that they should come there, they had
 25 other jobs to do which they should have been doing, is that

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1 right?
 2 BRIGADIER CALITZ: In hindsight is, het
 3 ons daarna gekyk van die persone wat soontoe gegaan het,
 4 hulle het wel hulle redes gegee hoekom -
 5 CHAIRPERSON: Maybe, but General Naidoo
 6 was supposed to take the paramedics to scene 1 and he, on
 7 his way to scene 1 he got diverted, again there may be good
 8 reason which he will explain to us in due course but the
 9 fact is he was supposed to be taking people to scene 1. On
 10 the way he came passed scene 2 and decided to lend a hand
 11 as it were, is that correct without even telling you that
 12 he was there. Is that right?
 13 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 14 weet nie die rede hoekom hy soontoe gegaan het nie, maar ek
 15 weet dat hy my nie ingelig het nie, ja.
 16 CHAIRPERSON: It put you in a bit of a
 17 disadvantage I would think to be fair to you, is that
 18 right?
 19 BRIGADIER CALITZ: Dit maak dit baie
 20 moeilik vir 'n operasionele bevelvoerder op die grond om
 21 besluite te neem of om enige koördinerende te doen as die
 22 persone jou nie inlig nie. Sodra persone jou inlig dan,
 23 soos ek vir u sê my ondervinding is, ek doen hierdie al vir
 24 19, 20 jaar. So dit word gekoördineer. Alle inligting,
 25 alles wat plaasvind binne in die operasie moet hulle so gou

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1 as doenlik by my uitkry dan kan ek die JOC laat weet waar
 2 die oorhoofse bevelvoerder sit wat dan die call sal maak.
 3 COMMISSIONER HEMRAJ: At this stage you
 4 were told by Colonel Vermaak that they were encircled, who
 5 did you think they, the strikers were encircled by? Was it
 6 other units?
 7 BRIGADIER CALITZ: Dit is die Papa
 8 voertuie wat ek nog die heelyd meer gekommunikeer het.
 9 COMMISSIONER HEMRAJ: Just the POPS
 10 team?
 11 BRIGADIER CALITZ: Dit was net hulle wat
 12 soontoe gestuur was volgens my. Ek was glad nie bewus van
 13 enige ander persone daar nie.
 14 COMMISSIONER HEMRAJ: Thank you.
 15 MR CHASKALSON SC: Brigadier -
 16 CHAIRPERSON: I just want to pick up
 17 that point, sorry before Mr Chaskalson, am I correct in
 18 thinking, if I'm wrong just help me with that. Am I
 19 correct in thinking that as far as you were concerned the
 20 forces you were coordinating in causing to be directed,
 21 instructed were POP people, is that right?
 22 BRIGADIER CALITZ: Dit is korrek wat saam
 23 met my beweeg het.
 24 CHAIRPERSON: People who were using non,
 25 less than lethal force?

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1 BRIGADIER CALITZ: Korrek, mnr die
2 Voorsitter.
3 CHAIRPERSON: So if that assumption you
4 made had been correct then thee shouldn't have been any
5 deaths at scene 2 well part from possibly people who
6 attacked others and self defence was required but there
7 shouldn't have been any deaths there because certainly not
8 at the hands of the POP people because basically they were
9 using less then lethal force, is that right?
10 BRIGADIER CALITZ: Korrek, mnr die
11 Voorsitter. Dis hoekom ek getuig het oor die bodies, ek
12 het verstaan dis mense wat beseer was deur rubber.
13 MR CHASKALSON SC: Chairperson, I know
14 that we've gone passed 1 but I just want to take up a
15 couple of points from the Brigadier's answers if I may.
16 CHAIRPERSON: Do you have to do it now
17 or will it not be better for everybody if we do it after,
18 when we resume. I'm in your hands.
19 MR CHASKALSON SC: I don't have to do it
20 now.
21 CHAIRPERSON: Ja I think to be fair to
22 the witness he probably would welcome an opportunity to
23 have some lunch to. So we'll adjourn now until, well it's
24 5 past 1, adjourn till 10 to 2.
25 [COMMISSION ADJOURNS COMMISSION RESUMES]

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1 [13:56] CHAIRPERSON: The Commission resumes. As
2 you know, this chamber is made available to us free of
3 charge by the Tshwane Municipality, who normally require it
4 on the first Monday as well as the first and third
5 Wednesday. Those are the days we don't sit here. We're
6 hoping to use some of those days for having conferences
7 elsewhere on aspects relating to phase 2; that is something
8 we're going to announce later. But I've been informed that
9 the Tshwane Municipality has an important meeting here on
10 Monday, the 20th, so which means that we won't be able to
11 sit the week beginning the 20th on either the Monday or the
12 Wednesday. There's obviously nothing we can do about it.
13 We're very grateful to the municipality for what it has
14 made available to us, but I thought it would be helpful and
15 appropriate to warn those involved in the Commission that
16 of course we will not be sitting on the Wednesday the 22nd,
17 but we will not be sitting on Monday the 20th either. But
18 in case anyone wants to ask me are we going to sit on
19 Tuesday the 21st, the answer, as so many of the police
20 witnesses are inclined to give, is in the affirmative. You
21 are still under oath, Brigadier.
22 ADRIAAN MARTHINUS CALITZ: s.u.o.
23 CHAIRPERSON: Mr Chaskalson.
24 MR CHASKALSON SC: I thought you were
25 going to say, Chairperson, as I have already testified in

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1 relation to similar questions previously.
2 CHAIRPERSON: I haven't.
3 MR CHASKALSON SC: In relation to that
4 question I fear you have, Chairperson, several times.
5 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
6 Brigadier, just briefly to pick up on that question that
7 you were asked before lunch about who you thought was going
8 to be conducting the operation and what the risk of lethal
9 force was, you said you just thought it would be POPS
10 members. Now the first proposition I want to put to you is
11 that of course doesn't mean that there wasn't a risk of
12 lethal force being used because each Nyala has one R5
13 inside the Nyala and every POPS member has a pistol. You
14 accept that?
15 BRIGADIER CALITZ: Ja, but we must
16 remember it's an instruction for a dispersion, so those
17 firearms you don't use in the case of a dispersion.
18 MR CHASKALSON SC: Well, it turns out in
19 the event that the firearms were used. If we look at the
20 ballistics report we see – I think it's FFF8 – we see that
21 POPS members fired only 30 rubber rounds at scene 2 and
22 fired 46 9mm and 12 R5. So it was almost twice as many
23 sharp-point as rubber rounds that were used. Can you
24 respond to that?
25 BRIGADIER CALITZ: Ja, that information,

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1 in hindsight I become aware of that.
2 MR CHASKALSON SC: But you must have
3 contemplated it as a possibility at the time.
4 BRIGADIER CALITZ: Contemplated? Sê net
5 vir my, as u kan herhaal?
6 MR CHASKALSON SC: People are armed.
7 They're going into very difficult terrain. If the
8 dispersion action doesn't go as planned, surely there's a
9 risk that there will be a need to resort to lethal force.
10 BRIGADIER CALITZ: Mnr die Voorsitter,
11 nee, ek het getuig dat ek het gedink dit was suksesvol
12 gewees en ons was besig met die waterkanonne om die persone
13 uiteen te dryf, toe word daar vir my uit die lug uit, uit
14 die helikopter, Kolonel Vermaak wat ook baie jare
15 ondervinding het, gesê dat die mense, die waterkanonne moet
16 stop, die mense is nou ge-encircle. So volgens my was dit
17 'n suksesvolle encirclement gewees sonder enige dreigemente
18 wat deurgegee is, en daarom het ek gedink dis net 'n
19 normale dispersion. Dit het glad nie vir –
20 MR CHASKALSON SC: With respect,
21 Brigadier, I don't think that can be correct because your
22 specific instruction was for the POP members to get out
23 under protection of the task team. Why was there a need
24 for protection of the task team if you thought this was
25 just going to be an ordinary dispersion operation?

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1 BRIGADIER CALITZ: Nee, mnr die
2 Voorsitter, u het miskien my goed verkeerd verstaan of
3 verkeerd geïnterpreteer. Dis nie "under protection of the
4 task team" nie. It's under protection of the Nyalas and
5 then those task force vehicles, onthou ons het een pantser
6 voertuig gehad ook, so die doel was onder protection van
7 die pantser voertuie en dit is altyd hoe jy 'n persoon moet
8 nader. Selfs aan die noordwestelike kant waar ons was, dit
9 is nie dat jy uitklim en nou loop jy net vrylik na die
10 groep toe nie. Die Nyala beweeg; die persone beweeg langs
11 die Nyala tot ons daar is en dan word die arrestasies
12 uitgevoer.

13 COMMISSIONER HEMRAJ: It's under cover of
14 the vehicle as opposed to in protection.

15 BRIGADIER CALITZ: Dit is so,
16 Kommissaris.

17 CHAIRPERSON: Protection from whom?
18 BRIGADIER CALITZ: Dit is, under
19 protection of the, protection beteken –

20 CHAIRPERSON: I said from whom. Normally
21 you are protected against something or from something. So
22 when you say under protection the question is, under
23 protection from whom?

24 BRIGADIER CALITZ: Mnr die Voorsitter,
25 dit is hoe ek nou net verduidelik het; as ons in normale

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1 omstandighede arrestasies uitvoer by 'n uiteendryf aksie
2 dan sal die Nyala voertuig altyd saam met die lede beweeg
3 en hulle sal dan in beskerming dan, dit is teen die groep,
4 die protesters, wie ook al die persone is wat gearrester
5 moet word, tot hulle dan op so 'n stadium by hulle kan kom
6 dat hulle kan sien wat aangaan en dan uitbeweeg en die
7 arrestasies uitvoer.

8 MR CHASKALSON SC: Now you've been
9 answering questions in relation to the command that you
10 exercised and control you exercised over this operation.
11 You'll accept that you were commander of the overall – you
12 were operational commander for the whole operation, so you
13 had command not just of the POPS members but also the TRT
14 and the NIU and the STF in the operation?

15 BRIGADIER CALITZ: Nee, mnr die
16 Voorsitter, dit is die overall commander wat dan command
17 het oor al daardie forces. Myne was die operational
18 commander gedeelte, die koördinerings van dit.

19 CHAIRPERSON: Who was under your command?
20 Which groups?

21 BRIGADIER CALITZ: Dit is die
22 koördinerings van al die bevelvoerders wat dan vorentoe
23 gegaan het. Die groepe wat saam met my vorentoe beweeg het
24 was die Pappa Nyalas. Dit is die uiteendryf groepe gewees,
25 mnr die Voorsitter.

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1 CHAIRPERSON: To take a practical
2 example, when General Naidoo arrived on the scene - I know
3 you didn't know he was there, but that's another point –
4 when General Naidoo arrived there with his men, if you had
5 been aware that they were there, would you have the
6 authority to give them instructions and orders and
7 commands?

8 BRIGADIER CALITZ: Ek dink die woord
9 "opdrag" is miskien bietjie – dit sou meer 'n versoek
10 gewees het want dis my senior in rang, maar die overall
11 commander, wat sou gebeur het – kom ek stel dit anderste,
12 Kommissaris, mnr die Voorsitter, dat indien Generaal Naidoo
13 vir my laat weet het hy het inbeweeg na koppie 3 en dan sou
14 dit my taak gewees het om die forces te coordinate. Sou ek
15 dan die JOC gekontak het en gesê het ek is nou net ingelig
16 dit en dit het afgespeel, Generaal Naidoo is hierdie – en
17 ek glo dan die CJOC commander, wat Generaal Mpembe was, of
18 dan die senior in die JOC sal dan daardie call maak en dan
19 vir ons opdrag gee. Myne was gewees die koördinerings van
20 wat alles op die veld aangaan. Met ander woorde enigiets
21 wat sou gebeur moes hulle aan my gerapporteer het en dan
22 sou ek dit dan op daardie stadiums deurgegee het JOC toe.

23 MR CHASKALSON SC: But let's take issues
24 of rank out of the equation. Colonel Gaffley, were you in
25 a position to say Colonel Gaffley, take your task force

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1 vehicles around to the other side of the koppie where you
2 are needed?

3 BRIGADIER CALITZ: As ek hulle gesien
4 het, of as hulle saam met my beweeg het of hulle was aan
5 die westekant kon ek hom getaak het.

6 MR CHASKALSON SC: So you were, you did
7 have command over Colonel Gaffley?

8 BRIGADIER CALITZ: Ja, dit is die
9 koördinerings van elke groepbevelvoerder en
10 seksiebevelvoerder van voertuie en hulle sou aan my
11 gerapporteer het, wat dan die operational commander is, en
12 ek val dan onder die oorhoofse bevelvoerder, wat dan
13 verantwoordelik is vir al die aksies op die grond.

14 CHAIRPERSON: It sounds as if the concept
15 of coordination must include the authority to give
16 instructions. In order to achieve coordination, to make
17 sure – you don't want everybody massed say at the southern
18 side of the koppie, you need people on the northern side, I
19 say as an example, and Gaffley is there at the south, say,
20 and you've got a lot of other people so you don't need him
21 at the south, you need him at the north, so you're
22 coordinating the activities because you're getting people
23 to the north and the south, so you would surely then have
24 had the authority to say to him I need you at the north,
25 not here, please go there –

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1 BRIGADIER CALITZ: Dit is korrek –
 2 CHAIRPERSON: - and he would have had to
 3 obey your instruction.
 4 BRIGADIER CALITZ: Dit is korrek, mnr die
 5 Voorsitter.
 6 CHAIRPERSON: Ja.
 7 MR CHASKALSON SC: And conversely you
 8 ought really to have been informed of what the movements of
 9 the tactical forces at the koppie were so that you knew
 10 where there were tactical forces and where you could
 11 engage, deploy them quickly.
 12 BRIGADIER CALITZ: Korrek, mnr die
 13 Voorsitter.
 14 MR CHASKALSON SC: And at some level you
 15 should have taken steps to get as much information as you
 16 could in this regard. You needed to know the position of
 17 your tactical forces.
 18 BRIGADIER CALITZ: Ja, soos ek sê, elke
 19 bevelvoerder was "ge-brief" gewees en sou daar, die
 20 voorligting was duidelik gewees, sou enigiets plaasvind in
 21 hulle teenwoordigheid, sou hulle my dan so inlig.
 22 MR CHASKALSON SC: And you say you just
 23 didn't get informed, so you didn't know about the presence
 24 of TRT, K9, NIU?
 25 BRIGADIER CALITZ: Ek was glad nie bewus

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1 van hulle nie. Ek het bewus geraak die oomblik toe ek by
 2 body C is van die TRT en van die ander toe ek by Generaal
 3 Naidoo uitkom by die koppie.
 4 MR CHASKALSON SC: You hadn't seen NIU
 5 before?
 6 BRIGADIER CALITZ: Die NIU sou opgevolg
 7 het. Hulle was by scene 1 en hulle was getaak om dan
 8 koppie 1 te "sweep" saam met die Taakmag.
 9 MR CHASKALSON SC: Can I take you to a
 10 photograph, a Colonel Botha photograph 5141, I think it was
 11 KKK14.
 12 CHAIRPERSON: So it is an exhibit?
 13 MR CHASKALSON SC: It is already an
 14 exhibit, KKK14.5141. I think I've got the wrong exhibit
 15 number. Is it 16? 16, not 14. I apologise. Can we call
 16 that vehicle up?
 17 CHAIRPERSON: This is 141. Is this the
 18 right one?
 19 MR CHASKALSON SC: 5141, it's an enhanced
 20 version of 5141 that doesn't enhance much. This is 5141A
 21 that you've called up. Go to 5141 itself. Now can we zoom
 22 in on the position of Brigadier Calitz's vehicle up at the
 23 top of this photograph? And if you can just mark, identify
 24 Brigadier Calitz – or I've got a marker; Brigadier Calitz,
 25 that's your vehicle.

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1 BRIGADIER CALITZ: Dit is korrek, mnr die
 2 Voorsitter.
 3 MR CHASKALSON SC: And while we're on
 4 this –
 5 CHAIRPERSON: No, no, no, what's that
 6 going to mean on the record? On the record we see five –
 7 MR CHASKALSON SC: Brigadier, I'm calling
 8 everyone –
 9 CHAIRPERSON: We see six vehicles, one in
 10 the bottom left-hand corner and the other five in the
 11 middle. In the middle there's a column of three vehicles –
 12 MR CHASKALSON SC: Sorry, Chairperson, I
 13 don't want to interrupt, but –
 14 CHAIRPERSON: And that is the one to
 15 which you're referring?
 16 MR CHASKALSON SC: But in the record
 17 they'll see the full photographs and they won't know what
 18 you're referring to because we've zoomed in to a section of
 19 it.
 20 CHAIRPERSON: Yes, that's true, but at
 21 the top part of the picture is a group of six vehicles, as
 22 it were in the veld, and that's what we zoomed in on, and
 23 there's one in the – there are five vehicles together more
 24 or less, three in the middle, one behind the – parallel to
 25 each other, and two on either side and it's the one at the

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1 bottom of those three which is the one to which you have
 2 pointed.
 3 MR CHASKALSON SC: Can we now zoom out
 4 and can we zoom in on this line of NIU members at the
 5 corner of the koppie on the right-hand side. Now
 6 Brigadier, will you concede that this is an NIU unit, or a
 7 collection of NIU members lined up here?
 8 BRIGADIER CALITZ: Dit lyk volgens die
 9 uniforms dat dit wel so kan wees, ja. Hulle was nie in my
 10 voertuie nie so dis seker hulle wat opgevolg het.
 11 MR CHASKALSON SC: Can we then zoom back
 12 to the big photograph, or to the whole photograph, and you
 13 say –
 14 CHAIRPERSON: It's more a question of
 15 "un-zooming" I would think, than zooming.
 16 MR CHASKALSON SC: Yes. Were you aware
 17 that there was an NIU line here?
 18 BRIGADIER CALITZ: Nee, mnr die
 19 Voorsitter, dis wat ek getuig het, ek was nie bewus van
 20 hulle.
 21 MR CHASKALSON SC: And you didn't see
 22 them from your position in your Nyala at any stage?
 23 BRIGADIER CALITZ: Nee, mnr die
 24 Voorsitter.
 25 MR CHASKALSON SC: Were you at any stage

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1 looking at the koppie from your position in the Nyala?

2 BRIGADIER CALITZ: Ja, ek sal nie sê ek

3 het glad nie na die koppie gekyk nie. Ek glo dit was aan

4 daardie kant en ons het ook later in daardie rigting gery,

5 maar ek het glad nie daardie groepering van NIU opgemerk

6 nie. Ek weet nie wat is die tyd miskien van hierdie foto

7 nie en ek, dit lyk of ons besig was met die arrestasies in

8 daardie groep daar voor.

9 MR CHASKALSON SC: Yes, but your evidence

10 yesterday was for 98% of the time you were inside the Nyala

11 during those arrests.

12 BRIGADIER CALITZ: Dit is hoekom ek sê

13 ja, ek het – ek, die antwoord bly nee. Ek het hulle nie

14 waargeneem nie.

15 MR CHASKALSON SC: I see. So you weren't

16 able to coordinate their movements either?

17 BRIGADIER CALITZ: As hulle vir my

18 ingelig het hulle het nader gekom kon ek wel geweest het

19 hulle beweeg in en 'n opdrag gegee het, maar ek het nie op

20 daardie stadium geweest.

21 MR CHASKALSON SC: So the only tactical

22 units of which you were aware were the STF?

23 BRIGADIER CALITZ: Die enigste STF

24 waarvan ek bewus was, was die pantser voertuig. Ek dink

25 dit was Kolonel Gaffley, ja.

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1 MR CHASKALSON SC: Well, there were two

2 STF vehicles of which you should have been aware because

3 they were both part of your reorganisation line. There's

4 also a Scorpion.

5 BRIGADIER CALITZ: Ja-nee, ek bedoel nou

6 wat saam met die waterkanon beweeg het onder protection,

7 ja. Ek praat van die pantser voertuig.

8 MR CHASKALSON SC: I'm talking more

9 broadly at scene 2. The only tactical vehicles of which

10 you were aware were the STF vehicles.

11 BRIGADIER CALITZ: Korrek.

12 MR CHASKALSON SC: And the only tactical

13 units of which you were aware at scene 2 were the STF.

14 BRIGADIER CALITZ: Dit sal korrek wees.

15 MR CHASKALSON SC: So you weren't in a

16 position to coordinate any tactical forces other than the

17 STF at scene 2?

18 BRIGADIER CALITZ: Nie op daardie stadium

19 wat ek van bewus was nie, nee.

20 MR CHASKALSON SC: And did you take any

21 steps to establish the position of the – sorry, other than

22 the STF, I think I said NIU but I meant other than the STF.

23 Did you take any steps at any stage to establish the

24 position of the NIU?

25 BRIGADIER CALITZ: Nee, mnr die

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1 Voorsitter, ek het glad nie toe ons daar was vasgestel waar

2 hulle was nie. Volgens my sou hulle die koppie 1 agter

3 "ge-sweep" het en dan sou hulle dan die sitrap deurgegee

4 het.

5 MR CHASKALSON SC: And you weren't

6 interested in having them accessible for this operation at

7 koppie 3?

8 BRIGADIER CALITZ: Nee, hierdie was 'n

9 suiwer uiteendryf aksie gewees met die Openbare Orde

10 Polisiëringseenhede en daardie lede was nie gebruik vir

11 uiteendrywing nie.

12 MR CHASKALSON SC: Brigadier, I can

13 understand your contention about a "suiwer uiteendryf"

14 action in relation to the option that you took, rounding up

15 some suspects to the northwest of the koppie, but in

16 relation to what was going on inside the koppie it seems

17 anything but a "suiwer uiteendryf aksie." It's confronting

18 a group of armed, and in some cases armed with firearms,

19 you say, strikers in terrain where there are hiding places

20 everywhere and where visibility is very poor. How can that

21 be an ordinary dispersion action?

22 MR SEMENYA SC: Chair, in fairness, the

23 witness is not there when that is happening. He is

24 elsewhere, and he is not even coordinating that effort. He

25 is not saying they were encircled there for the purposes of

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1 dispersal.

2 MR CHASKALSON SC: The witness is the

3 operational commander of an operation in which he ordered

4 people to get out and engage inside a koppie, which he

5 knows is difficult terrain –

6 CHAIRPERSON: I don't think, to be fair,

7 he said – it's not as simple as that. He said he ordered

8 them to get out and engage and he said in answer to a

9 question I asked him he didn't know at that stage whether

10 they were in the koppie or out of the koppie or some out of

11 the koppie and some in the koppie. So the point you put is

12 half right. At least insofar as it relates to those who he

13 thought might well be in the koppie the question is

14 correct, but for the rest he didn't quite know and he was

15 receiving instructions from the air as to what was going

16 on, so perhaps you can reformulate the question slightly to

17 avoid objection.

18 [14:16] MR CHASKALSON SC: Insofar as it related

19 to what was taking place inside the koppie, this wasn't an

20 ordinary dispersion action. I would have thought to any

21 operational commander it would have been fairly clear that

22 if the operation didn't succeed immediately tactical

23 intervention was going to be necessary.

24 BRIGADIER CALITZ: Ek dink nie daar was

25 enige van daardie inligting deur gegee wat u nou van praat

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1 aan my nie, nee.

2 MR CHASKALSON SC: Well let me go to one

3 of your instructions. If we go to the Protea Coin video at

4 16:09:43.

5 CHAIRPERSON: Give us the exhibit

6 number, is this from the transcript?

7 MR CHASKALSON SC: CC22.

8 CHAIRPERSON: Thank you.

9 MR CHASKALSON SC: At, let's start at

10 12:02 because this is when Lieutenant Colonel Vermaak is

11 telling that there are two bodies at the back of the second

12 koppie.

13 CHAIRPERSON: To translate it into ETV

14 time is what?

15 MR CHASKALSON SC: 16:09:32. Your

16 response to Lieutenant Colonel Vermaak and we may need to

17 play it, I'll tell you what the transcript actually says

18 because I'm not sure it's on your GGG25. Your response is

19 Salmon and will you confirm that Salmon is Lieutenant

20 Colonel Vermaak's first name? Can you confirm that?

21 CHAIRPERSON: Salmon.

22 MR CHASKALSON SC: Salmon.

23 CHAIRPERSON: I would expect Salmon.

24 BRIGADIER CALITZ: As ek net die plek op

25 die transcript waar jy nou lees, ek het nie -

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1 MR CHASKALSON SC: It's 12:13.

2 BRIGADIER CALITZ: Jy sê dis net na die

3 twee bodies se report.

4 MR CHASKALSON SC: Yes. Maybe we should

5 play it for everyone to hear so that it can be heard. Can

6 we -

7 BRIGADIER CALITZ: The only thing is mine

8 doesn't have times to it. So I was just looking at, mine

9 just says male voice, male voice without any reference to

10 times. So I got it now where it says the two bodies, you

11 said that is 16:09:32.

12 MR CHASKALSON SC: Yes, 12:02 on this

13 video.

14 BRIGADIER CALITZ: Then the next male

15 voice starts with, "ah Salmon talk to the vehicles at the

16 small koppie," that one?

17 MR CHASKALSON SC: That's correct.

18 BRIGADIER CALITZ: Okay, I got it.

19 CHAIRPERSON: Perhaps we should listen

20 to it unless it's going to take a long time.

21 MR CHASKALSON SC: It shouldn't if we

22 just play it.

23 CHAIRPERSON: Not very clear but perhaps

24 it would be helpful because the transcript as I understand

25 it just says the male voice. Now he can tell us whether

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1 it's his voice.

2 MR CHASKALSON SC: Well let's ask the

3 Brigadier do you recall that exchange and do you recall

4 that the person saying Salmon is yourself.

5 BRIGADIER CALITZ: Maybe we must play it

6 and hear the voice then it's fine. Because I can't really

7 recall Salmon, Salmon or someone, miskien as ek dit hoor

8 kan ek dalk net weer gaan.

9 MR CHASKALSON SC: Can we then play the

10 audio or play the video with audio.

11 [VIDEO SHOWN]

12 MR CHASKALSON SC: Do you recognise that

13 as your own voice?

14 BRIGADIER CALITZ: Dit is korrek, mnr die

15 Voorsitter.

16 MR CHASKALSON SC: So you said to

17 Lieutenant Colonel Vermaak Salmon talk to the vehicles in

18 the small koppie there are several people hiding in the

19 small koppie. So you knew that there were some people

20 hiding in the small koppie.

21 BRIGADIER CALITZ: Dit was daardie

22 gedeelte aan die linker kant gewees.

23 MR CHASKALSON SC: Can we maybe -

24 BRIGADIER CALITZ: Op die koppie, ja, dit

25 is reg.

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1 MR CHASKALSON SC: Now which, can you

2 just clarify what you meant in relation to the koppie and

3 what you meant in relation to the linker kant.

4 BRIGADIER CALITZ: When you see the time

5 it's when we were busy with the arrest on that side. So

6 that must have been obviously when I looked at that side I

7 saw that there was some movement at that koppie.

8 MR CHASKALSON SC: But at that side are

9 you referring to koppie, when you say movement, movement at

10 koppie 3?

11 BRIGADIER CALITZ: Ja, the previous

12 photograph you saw me on top and then -

13 MR CHASKALSON SC: 5141 if we can have

14 that back.

15 BRIGADIER CALITZ: That's correct ja.

16 MR CHASKALSON SC: So you saw movement

17 inside the koppie from your position?

18 BRIGADIER CALITZ: No, I don't say

19 inside, I said there was movement there and then I said to

20 him talk to the vehicles because there was some silence on

21 the vehicles, you can see his reply is ja that's what I've

22 tried to take the Nyalas to Brigadier but they're not very

23 successful with it.

24 MR CHASKALSON SC: No, Brigadier, slow

25 down. I'm interested in you say there are several people

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1 in the small koppie hiding in the small koppie. So you
 2 must have seen people hiding in the small koppie.
 3 BRIGADIER CALITZ: No.
 4 MR CHASKALSON SC: That was in koppie 3.
 5 BRIGADIER CALITZ: No, I can't say I see
 6 hiding in the small, maybe dit was 'n afleiding wat ek
 7 gemaak het want ek het die persone daar gesien en daarom
 8 het ek gesê die voertuie, hy moet hulle inpraat soontoe.
 9 MR CHASKALSON SC: But your
 10 communications speaks for itself, it says hiding in the
 11 small koppie. You told Lieutenant Colonel Vermaak there
 12 were people hiding in the small koppie, that's what you
 13 thought at the time, is that correct?
 14 BRIGADIER CALITZ: Dit was my woorde
 15 gewees ja en ek het nou vir u gesê wat ek daarby bedoel.
 16 CHAIRPERSON: - what you meant by that.
 17 If you said there are people hiding in the small koppie I
 18 would have thought that meant there were people hiding in
 19 the small koppie or am I over simplifying it?
 20 BRIGADIER CALITZ: Nee, dit is heeltemal
 21 korrek, mnr die Voorsitter, hy het net gesê ek het gesien
 22 daar is persone was daar, dis nie dat ek hulle fisies
 23 gesien weg kruip het in die koppie nie. Maar dit was 'n
 24 afleiding wat ek gemaak het. Ek het gesien daar's beweging
 25 en ek het vir die voertuie gesê om dan in daardie rigting

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1 te gaan want dit is die afleiding wat ek gemaak het, hulle
 2 sal weg kruip agter daardie obstruksies wat daar is.
 3 COMMISSIONER HEMRAJ: Mr Chaskalson, the
 4 amended transcript of the audio is that still GGG35 or is
 5 there another exhibit?
 6 MR CHASKALSON SC: There isn't, to the
 7 best of my knowledge there isn't an agreed amended
 8 transcript. We have some corrections to make to GGG35
 9 still ourselves.
 10 CHAIRPERSON: Sooner or later and I'd
 11 hope sooner rather than later we would have agreement on
 12 that and we would have an updated amended version of that
 13 transcript because obviously it's quite an important
 14 document.
 15 MR CHASKALSON SC: It's a very important
 16 document, Chairperson, our problem is we are trying to get
 17 the audio enhanced and it's been a very lengthy process and
 18 we are very confident that the enhancement of the audio
 19 will reveal a much fuller and more accurate transcript than
 20 GGG35.
 21 COMMISSIONER HEMRAJ: Is the Brigadier
 22 reading from an amended document because I can't quite
 23 follow some of the excerpts that he's referring to in the
 24 GGG35 that we have.
 25 MR CHASKALSON SC: I'm not sure what

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1 document the Brigadier is, I don't have the Brigadier's
 2 document. So maybe the Brigadier can answer your question.
 3 BRIGADIER CALITZ: Mine is marked GGG35
 4 and on top it is SHARC CALS transcript of Lonmin Chopper
 5 video but there's no times to it and that is why I
 6 yesterday or the day before we testified that this is the
 7 ones that I mentioned to you, 11 minutes or 13 minutes into
 8 but there's no times indicated to this, every, I think it's
 9 about seventh or eight entry just got a slot on it. But
 10 that's the one that I was testifying on and that's the only
 11 one that I worked with. So I thought it was the official
 12 document that was handed in with the exhibit number. So,
 13 but that's the only one I got.
 14 MR CHASKALSON SC: Commissioner Hemraj,
 15 maybe at the tea adjournment we can just compare the two
 16 documents and establish your document, I am in fact working
 17 off my own working document because I need exact times for
 18 each communication to be able to put them to the Brigadier.
 19 COMMISSIONER HEMRAJ: Thank you very
 20 much.
 21 MR CHASKALSON SC: So you were you of the
 22 view from what you had seen that there were people hiding
 23 in the small koppie?
 24 BRIGADIER CALITZ: Ek het gesê dit is die
 25 afleiding wat ek gemaak het, ja.

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1 MR CHASKALSON SC: And if we run the tape
 2 forward, before we do let me tell what I say the transcript
 3 says and then we can listen for it. Brigadier Vermaak says
 4 ja that's –
 5 CHAIRPERSON: He's a colonel.
 6 MR CHASKALSON SC: Colonel Vermaak says,
 7 "ja that's where I'm trying to take the Nyalas in," I think
 8 GGG75 says why, it actually says where but I'm not very
 9 successful with it. "Papa7 go straight, Papa7 go straight,
 10 water cannon go with Papa7 on your right hand side." Then
 11 you come in and you say, "water cannon go forward, water
 12 cannon go forward there's a group hiding in the middle
 13 there. Water cannon go forward, go forward I said, go
 14 forward left, left, left." Do you accept that that's what
 15 the transcript says or would you like us to play it.
 16 CHAIRPERSON: Let's listen to it first.
 17 BRIGADIER CALITZ: I've got the
 18 transcript and that's the exact words, that's why I'm
 19 saying I don't know the time of this and the position of
 20 the water cannons but yes I did give the instruction.
 21 CHAIRPERSON: You accept the accuracy of
 22 the transcript. Then perhaps Mr Chaskalson will be able to
 23 tell us what the time was.
 24 MR CHASKALSON SC: The Brigadier's second
 25 statement, "water cannon go forward, water cannon go

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1 forwards there's a group hiding in the middle there, water
 2 cannon go forward go forward I said, go forward, left,
 3 left, left," that's at 12:35 on the Protea Coin, it starts
 4 at 12:35 on the Protea Coin video CC22 which is 16:10:05.
 5 Now, Brigadier, from that command that you issued to the
 6 water cannon you had a very clear sense in your own mind of
 7 where people were hiding because you were directing the
 8 water cannon to a particular position. Can you recall
 9 where that was?
 10 BRIGADIER CALITZ: Nee, mnr die
 11 Voorsitter, as jy na die sin kyk go forward, go forward as
 12 ek dan gekyk na die koppie sou ek dan die waterkanon gesien
 13 het wat seker oppad was in daardie rigting en ek het hom
 14 dan gesê as ek sê go left beteken hy was aan die regter
 15 kant van dan die koppie tussen, ek sou skat tussen my
 16 voertuig en daai een. So dit is waar ek dan vir die
 17 waterkanon sou gesê gaan na die koppie toe.
 18 MR CHASKALSON SC: Well maybe we can look
 19 at the video because we can actually see something that
 20 approximates what you say there. Can we go back to the
 21 video at 12:13 and now we're going to need to zoom, I'm not
 22 sure if you can zoom. Just pause so that we can get your
 23 zoom correct. Can you take, the scale of the zoom is fine
 24 but we need to focus on the koppie. So if you can just
 25 move that square down towards the, in a diagonal direction

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1 down to the right. Back there, that's great and if you can
 2 zoom in on the koppie itself. Sorry, if you're going into
 3 the, just go to that triangle, ja that's great. Okay can
 4 you stop at that point so that we can play back and if you
 5 take us back to, to 12:13 and if you can just pause there
 6 for a minute. Brigadier, I'm pointing out, sorry your
 7 vehicle, can we just move the zoom a little, the zoom
 8 section of a bit more to the right. Just pause. That
 9 would be your vehicle Papa1 that I'm pointing out now which
 10 at time, I can't see the video time I'm afraid. Well
 11 first, Brigadier, would you confirm that that would your
 12 vehicle?
 13 CHAIRPERSON: You better describe for
 14 those who are going to read the record later what vehicle
 15 you're pointing to. There are three Nyalas or thee
 16 vehicles in a line. The right hand side of the picture
 17 more or less in line and then there's another one somewhere
 18 to the right. If you draw a straight line parallel to the
 19 bottom of the page from the one on the right towards the
 20 left you go through the middle of those three Nyalas in a
 21 line or three vehicles in a line and that one is yours I
 22 think that's the one that's been pointed out, am I correct?
 23 MR CHASKALSON SC: Brigadier, would you
 24 confirm that that's your vehicle?
 25 BRIGADIER CALITZ: If you say the time to

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1 me maybe then I can see because we know what time we stand
 2 off with the arrests. We make it 16:09 and now if you say
 3 this one is 16:10 but I see I'm alone there and I know I
 4 wasn't alone when we make the arrests. So now there's only
 5 three vehicles apart where there was cluster of vehicles.
 6 So I'm not sure what time is this video, if I can just get
 7 that. If you can see just, when you say JOC Chopper, JOC
 8 Chopper in between there I give the report of the arrests
 9 that we were busy with effecting.
 10 MR CHASKALSON SC: At 16:09:48 is the
 11 time at this picture which is 12:18 on the Lonmin Chopper
 12 video.
 13 BRIGADIER CALITZ: So it's not 16:10:05?
 14 MR CHASKALSON SC: No, it's about 15
 15 seconds earlier.
 16 BRIGADIER CALITZ: Just give the correct
 17 time again, 16?
 18 MR CHASKALSON SC: We have, what we see
 19 is 12:18 on the video. 12:18 on the video is 16:09:48. So
 20 this is the point at which Lieutenant Colonel Vermaak is
 21 saying that's where I'm trying to take the vehicles but I'm
 22 not being very successful. Now if we play it and I would
 23 ask the Commissioners and yourself Brigadier to keep your
 24 eye on these vehicles which I'm gesturing to at the far
 25 right corner of the koppie or let's call it the west corner

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1 of the koppie because it's, right will change as the
 2 helicopter goes around and around. One of them is a water
 3 cannon and one of them is a Nyala and those are the
 4 vehicles you're trying to direct.
 5 CHAIRPERSON: Sorry just to get a
 6 description of that on record. That line that I referred
 7 to of three vehicles, if one continues that line up towards
 8 the top of the page it, as it approaches the koppie itself
 9 to the left of it there is what looks like a white blob at
 10 the moment, in fact I think two white blobs is that right,
 11 Mr Chaskalson?
 12 MR CHASKALSON SC: That's correct, Chair.
 13 CHAIRPERSON: Those are the vehicles
 14 you're referring to, one of them you say is a water cannon,
 15 which one, can you show us?
 16 MR CHASKALSON SC: It's the one that will
 17 respond to the Brigadier's instructions shortly. So if we
 18 can just run the video forward and I can't remember which
 19 one is the water cannon and which one is the Nyala. I
 20 suspect, well the bigger one will be the water cannon which
 21 would probably make it the one on the right hand side. Can
 22 I ask for the sound to be played again because we need to
 23 see picture with sound and if we and if we can run it from
 24 there.
 25 [14:35] [VIDEO SHOWN]

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1 MR CHASKALSON SC: So Brigadier, you were
 2 directing the water cannon into the koppie with a view to
 3 dealing with a group that you had inferred were hiding in
 4 the koppie and you had a sense of where they were hiding.
 5 BRIGADIER CALITZ: Ja, as ons nou na die
 6 video geluister het en ons ook na die transcript kyk sou u
 7 sien net voor wat ek gesê het is die "water cannon go left"
 8 en waar Kolonel Vermaak dan probeer het om die persone te
 9 beduie watter kant toe, en ek het basies daardie presiese
 10 boodskap herhaal omdat ek met 'n basis stel sit, so miskien
 11 is dit net 'n sterker boodskap. So vanwaar ek gesien het,
 12 is presies wat Kolonel Vermaak gesê het in die vorige een,
 13 "Go straight, water cannons go left" en toe het ek gesien
 14 van daar af daardie waterkanon en ek het verduidelik hulle
 15 moet na hulle linkerkant toe gaan soos die chopper met
 16 hulle praat.
 17 MR CHASKALSON SC: So are you suggesting,
 18 Brigadier, that the deployment of the water cannon to the
 19 koppie to engage or to confront a group of hiding strikers
 20 in the koppie was initiated not by you but by Lieutenant-
 21 Colonel Vermaak?
 22 BRIGADIER CALITZ: Nee, ek sê net die
 23 opdrag is herhaal. Kolonel Vermaak is die persoon uit die
 24 lug uit wat kan sien presies waarnatoe hy daardie voertuie
 25 wil vat en ek het net daardie opdrag dan, kan ek sê

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1 beklemtoon, weer vir hulle gegee.
 2 MR CHASKALSON SC: Ja, Brigadier, but
 3 what your answer doesn't address is the fact that before
 4 Lieutenant-Colonel Vermaak started directing the koppie,
 5 directing the water cannon, you had identified that there
 6 were several people in the small koppie hiding in the small
 7 koppie and you had actually ordered him to talk to the
 8 vehicles in the small koppie for that purpose. So you were
 9 the person who presumably must have had a sense of where
 10 these people were hiding.
 11 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 12 dink as ons na die hele transcript, as u bietjie vorentoe
 13 kyk sal u sien, "Alright guys, you've got them in the
 14 middle, they're going to break through," daar was sekere
 15 gedeeltes waar Kolonel Vermaak in hierdie wat ek het,
 16 GGG35, wel met hulle gepraat het. En toe is daar 'n stuk
 17 stilte, dis waar ons besig was met die arrestasies en toe
 18 het hy daar gepraat en ek het vir hom gevra om dan die
 19 voertuie in te praat na daardie koppie toe, wat hy dan vir
 20 my gesê het hy was besig om te doen. So dit is nie dat ek
 21 die waterkanonne eerste in gevra het nie, ek het vir hom
 22 gesê hy moet die voertuie in praat soontoe en toe het hy
 23 gepraat met papa7 en dan ook die "Water cannon go left," as
 24 ons nou die vorige sin sê, en ek het herhaal "Water cannon
 25 go forward, go forward, there's a group hiding in the

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1 middle." Dis wat ek voorheen gesê het en dan het ek ook
 2 vir hulle gesê "Go left, left, left." Dit is die wat ek
 3 gehoor het ook dan van die chopper af. Van my posisie af
 4 sou dit vir my onmoontlik gewees het om te sien wat presies
 5 in die middel aangaan.
 6 MR CHASKALSON SC: Brigadier, you
 7 wouldn't have seen "Go left, left, left" from the chopper
 8 because what the chopper said, "Go with papa7 on your right
 9 hand side" and in fact it said, "Papa7 go straight, papa7
 10 go straight, water cannon go with papa7 on your right hand
 11 side." It didn't instruct the water cannon to go left.
 12 You must have known that the water cannon had to go left to
 13 get round papa7 into the koppie.
 14 BRIGADIER CALITZ: U sien miskien,
 15 Voorsitter, dit is waar ons miskien verskil. As ek kan
 16 lees presies soos my transcript sê, wat op die dinges is,
 17 is "Papa7 go straight, papa7 go straight, water cannon go
 18 left, papa7 on your right hand side." Jy het die "on left"
 19 nou net uitgelos wat wel in my transcript is, so ek werk
 20 met dit wat ek kan uit getuig op hierdie stadium.
 21 MR CHASKALSON SC: My transcript may be
 22 incorrect but we can possibly –
 23 CHAIRPERSON: Can we listen to it? I
 24 know you say it's going to be enhanced but perhaps if we
 25 listen very carefully we may hear something.

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1 MR CHASKALSON SC: 12:0 is where it
 2 should be.
 3 [VIDEO IS SHOWN]
 4 MR CHASKALSON SC: Well, I stand by my
 5 transcript.
 6 BRIGADIER CALITZ: Meneer, nee, duidelik.
 7 Kom ons gaan terug dan sal ek vra waar hulle moet pause en
 8 dan luister ons net. Hy het duidelik gesê "Water cannon go
 9 left." Kom ons gaan net, op my versoek asseblief mnr die
 10 Voorsitter, gaan terug. Ek dink ons het hom net te ver ge
 11 –
 12 CHAIRPERSON: Please comply with the
 13 request of the witness.
 14 BRIGADIER CALITZ: Waar hy begin met
 15 "Papa7 go straight, papa7 go straight," daardie
 16 gedeeltetjie, net daardie sin.
 17 MR CHASKALSON SC: 12:20. Can we just
 18 run back to 12:20?
 19 BRIGADIER CALITZ: Hy gaan sê "Papa7 go
 20 straight, papa7 go straight," en dan net na water cannon,
 21 hoor wat dan gesê word.
 22 [VIDEO IS SHOWN]
 23 BRIGADIER CALITZ: "Water cannon go
 24 left." Gaan bietjie terug 'n sekond. Hoor net wat sê hy
 25 na "water cannon."

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1 [VIDEO IS SHOWN]
 2 BRIGADIER CALITZ: Hy sê definitief
 3 "Water cannon go left, papa7 on your right hand side." So
 4 dit is baie duidelik.
 5 MR CHASKALSON SC: I don't hear it that
 6 way, perhaps we will have this debate later with an
 7 enhanced tape but even if you're right, you continued –
 8 let's go back and play the whole tape because several
 9 seconds later you're continuing to direct the water cannon.
 10 Now how can you do that if you can't see the water cannon
 11 and don't know where the water cannon is supposed to be
 12 going? So let's go back to 12:20 and run through it one
 13 last time. Can we just play it through, with audio?
 14 [VIDEO SHOWN]
 15 MR CHASKALSON SC: So you say "Water
 16 cannon go forward, forward, forward, no, no, no, go left."
 17 Could you possibly have been saying that without seeing
 18 where the water cannon was going?
 19 BRIGADIER CALITZ: Soos ek getuig het vir
 20 u, mnr die Voorsitter, as ek hom gekyk het op daardie
 21 stadium waar Kolonel Vermaak gesê het hulle moet ingaan,
 22 het ek gesê "Water cannons go forward, go forward," dan op
 23 'n stadium het ek gesê, "I said go forward, no, go left,
 24 left, left." So ek het aanvanklik vir hulle gesê "Go
 25 forward, go forward," en toe herhaal het, want onthou die

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1 chopper het gesê nee, hulle moet links gaan. So daar
 2 behoort 'n opening daar te wees waar die chopper dan vir
 3 hulle gesê het "Go left."
 4 MR CHASKALSON SC: Well, Brigadier, I
 5 want to put to you that either you're being deliberately
 6 obtuse now or you have a very strange manner of conducting
 7 an operation by remote control without sight.
 8 BRIGADIER CALITZ: No, that –
 9 CHAIRPERSON: Mr Chaskalson, I don't
 10 think that's justified. If I understand him correctly he
 11 is saying the bit about "go left" is not his voice but
 12 Lieutenant-Colonel Vermaak's, isn't that so?
 13 MR CHASKALSON SC: No, that's not what he
 14 is saying. He is saying the thing about "go left" is his
 15 voice, he remembered that Colonel Vermaak had said go left
 16 earlier and that's why he said go left.
 17 CHAIRPERSON: If you hadn't, if you
 18 couldn't see them how did you whether they'd gone left or
 19 not? That's what worries me. I can understand –
 20 BRIGADIER CALITZ: Mnr die Voorsitter ja,
 21 dis hoekom ek sê ek het net die woorde herhaal.
 22 CHAIRPERSON: No, but how did you know
 23 they hadn't gone left? I mean why say go left if you can't
 24 see what's going on, an instruction is being given, "go
 25 left," for all you know they might have gone left. So why,

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1 what is it necessary to repeat the order for? I have
 2 difficulty with that but perhaps there's an explanation.
 3 Please, if there is, give it to me.
 4 MR CHASKALSON SC: Well, do you have an
 5 explanation, Brigadier?
 6 BRIGADIER CALITZ: Mnr die Voorsitter,
 7 nee, ek kan net vir u sê dat die chopper wat met die
 8 voertuig gepraat het, op daardie stadium het ek 'n basis
 9 stel gehad en soos hulle gepraat het, het ek net die woorde
 10 herhaal daar. Ek dink dit het miskien op 'n ander
 11 geleentheid, as ek dit nie mis het nie, het dit ook gebeur.
 12 Ek moet net gaan kyk, waar hy dan gesê het as die
 13 waterkanonne net kan wag. Ek dink dit is net op die
 14 volgende – o, dit was die waar hy gesê het die waterkanonne
 15 "can wait there" en toe het ek vir die waterkanon gesê
 16 "hold back." So dit is soos hy aan my rapporteer, dit is
 17 dan die koördinerings wat ek doen na die grond voertuie toe.
 18 MR CHASKALSON SC: But Brigadier, I go
 19 back to my original question. You initiated the idea of
 20 directing the water cannon to a group that you believed
 21 were hiding in the koppie. You initiated that. That
 22 didn't come from Lieutenant-Colonel Vermaak, so where did
 23 you think that group was hiding and where did you see them
 24 or where did you see movement from which you inferred
 25 hiding in the koppie?

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1 BRIGADIER CALITZ: As ek net kan weet
 2 waar verwys u na dat ek geïnisiër het dat hulle na die
 3 koppie toe gaan?
 4 MR CHASKALSON SC: "Salmon talk to the
 5 vehicles in the small koppie, there are several people in
 6 the small koppie hiding in the small koppie." That's the
 7 first mention of a group of people hiding in the small
 8 koppie.
 9 BRIGADIER CALITZ: Ja, daarna het ek
 10 verwys na die voertuie, die papa Nyalas, die voertuie wat
 11 saam met ons was in die dispersie. Die eerste verwysing
 12 daar na die water cannon, dit was Kolonel Vermaak se woorde
 13 waar hy dan met die waterkanon gepraat het en ek het dit
 14 net herhaal.
 15 MR CHASKALSON SC: You see –
 16 COMMISSIONER HEMRAJ: Sorry. Mr
 17 Chaskalson, there's an entry on, it seems 09:43 to 10:05
 18 where the last sentence reads, "Can you maybe, that Nyala
 19 is in front of the water cannon, if they can move then the
 20 people are caught down there in the middle of that koppie."
 21 Does that bear reference to the same incident? I have it,
 22 square brackets [9.43 to 10:05] on GGG35.
 23 MR CHASKALSON SC: That is a
 24 communication from Lieutenant-Colonel Vermaak.
 25 COMMISSIONER HEMRAJ: And then –

<p style="text-align: right;">Page 19135</p> <p>1 MR CHASKALSON SC: At 10:28 in fact. 2 COMMISSIONER HEMRAJ: And then two 3 entries down, "Alright guys, you've got them in the middle, 4 they're going to break through, they're going to break 5 through." That's just before [11:25]. 6 MR CHASKALSON SC: That's again 7 Lieutenant-Colonel Vermaak but then he says they're going 8 to break through and in fact if one looks at what happens 9 at that point is people run out to the south-west of the 10 koppie where they are confronted by Captain Kidd's group. 11 It seems to be a different incident. Well, not it seems to 12 be a different incident, it's almost definitely a different 13 incident. But Brigadier, I will move on from here but I 14 want to put to you that from this transcript it's clear 15 that you could see enough to know that there were some 16 people hiding in the small koppie and to know also the 17 general location in which they were hiding because you were 18 directing a water cannon there. What is your response to 19 that? 20 BRIGADIER CALITZ: Nee, ek stem nie met u 21 saam nie, mnr die Voorsitter. 22 MR CHASKALSON SC: Well, I'll leave it at 23 that and for the rest it can be argument on credibility. 24 Brigadier, I put to you earlier that the dispersion action 25 that you chose to address yourself was a simple dispersion</p>	<p style="text-align: right;">Page 19137</p> <p>1 maar ek kan nie sê hoeveel dit was. Ek weet iewers in 2 exhibit L het hulle melding gemaak daarvan en ek dink 3 Kolonel Vermaak se foto's het ook op verskeie plekke – ek 4 het verwys op 'n stadium na slide 205, dink ek, in exhibit 5 L wat ek gesê het waar anders sou die mense heen gaan? Dit 6 is duidelik dat die groter groep mense in 'n noordwestelike 7 rigting wegbeweeg het. 8 MR CHASKALSON SC: Well, Brigadier, if 9 indeed the bulk of the people were to the north-west, why 10 didn't you take the bulk of the armoured vehicles to the 11 north-west and why didn't you head there directly yourself? 12 BRIGADIER CALITZ: Dit was in die rigting 13 waarnatoe ek gegaan het. 14 MR CHASKALSON SC: It's not in the 15 direction where you went directly. You first went parallel 16 with the koppie before turning up to the right. So your 17 first movement was in the direction of the koppie. Do you 18 want us to play that? 19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 nee, dit gaan nou weer oor rigting en wanneer het ons links 21 gedraai en regs gedraai, die tyd. Ek sê vir u ek was in 'n 22 noordwestelike rigting en dit is waar ons die arrestasies 23 uitgevoer het asook die dispersion uitgevoer het. 24 MR CHASKALSON SC: Again we can make the 25 arguments on the basis of the electronic evidence at a</p>
<p style="text-align: right;">Page 19136</p> <p>1 action but that you actually left the really difficult 2 engagement at scene 2 to other people and that was going to 3 be the engagement in the koppie. What's your response to 4 that? 5 BRIGADIER CALITZ: Ek het voorheen 6 daaroor getuig, Mnr die Voorsitter, dat aan die 7 noordwestelike kant die meerderheid van die mense was en 8 dat dit vir my dieselfde uiteendrywing was, die van die 9 koppie waar die waterkanonne die persone sal uiteen dryf, 10 waar die arrestasies sal wees, asook aan die noordwestelike 11 kant waar dieselfde uiteendrywing plaasgevind het met 12 arrestasies. 13 MR CHASKALSON SC: Brigadier, you've said 14 the bulk of the people were to the north-west but I must 15 put to you that the electronic evidence does not bear this 16 out at all. I've asked you to refer me to any electronic 17 evidence that shows this. I can't find any photograph that 18 shows more than possibly 100, 150 people to the north-west. 19 Are you aware or is the SAPS team aware of any other 20 electronic evidence that shows the area to the north-west 21 with more people in it? 22 BRIGADIER CALITZ: Mnr die Voorsitter, 23 nee, ek kan vir u getuig wat ek op daardie dag gesien het. 24 Ek weet nie toe die foto's geneem is in watter rigting of 25 watter angle, ek dink exhibit L het iets in waar persone –</p>	<p style="text-align: right;">Page 19138</p> <p>1 later stage but I want to put to you that it's not just 2 that you left the difficult part of the operation to 3 others, it's that in your statement you have unfairly tried 4 to avoid responsibility for what went wrong at scene 2 by 5 suggesting that the operation at scene 2 was under the 6 command and control not of yourself but Lieutenant-Colonel 7 Vermaak. Can I take you to paragraph 121? 8 CHAIRPERSON: Sorry, what paragraph 9 number? 10 MR CHASKALSON SC: 121. 11 CHAIRPERSON: Thank you. 12 MR CHASKALSON SC: There you say, "There 13 was still a large group of strikers to the north of where 14 we were positioned. I instructed the Nyala to move in that 15 direction. Some of the Nyalas accompanied the water 16 cannons to what we now know as koppie 3, under command and 17 instructions from Lieutenant-Colonel Vermaak." Are you 18 suggesting that the command of the operation at koppie 3 19 was conducted by Lieutenant-Colonel Vermaak? 20 BRIGADIER CALITZ: Mnr die Voorsitter, 21 weer eens, in die begin het ons getuig dat daar is 22 verskillende groepbevelvoerders en toe ons in daardie 23 rigting beweeg het, het ek die chopper gesê dat hy moet vir 24 my die voertuie in daardie rigting vat en dan soos ons in 25 terme van wat ons gebruik, eye in the sky, sal hy dan bevel</p>

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1 neem oor die voertuie en vir hulle sê in watter rigting
 2 hulle moet inbeweeg.
 3 CHAIRPERSON: Is that correct? If you
 4 look at slide 147 of exhibit L, it deals with the air
 5 monitoring team. He was the commander of the air
 6 monitoring team, was he not, and what he had to do is set
 7 out in the last – you can see that – in the last block of
 8 slide 147. I don't see that he was given any command
 9 power, authority.
 10 MR CHASKALSON SC: And maybe while you're
 11 at it, Brigadier, you can compare that with 146 which deals
 12 with the real aerial command which was Brigadier Fritz.
 13 [14:55] CHAIRPERSON: You see what the passage I
 14 showed you says that your job was to provide real-time
 15 feedback over the police radio and to the JOC, and send
 16 cellular photographs – this is Vermaak's job, I'm sorry, if
 17 – I was wrong. Provide real-time feedback over the police
 18 radio and to the JOC, send cellular photographs from the
 19 air via the GSM network to enhance situation awareness,
 20 take still camera photos and download it at the JOC on
 21 landing, and the third one, provide feedback to the
 22 operational commander – that's to you – regarding the
 23 protesters' actions around the neutral area. Now was there
 24 a variation or a change at some stage where he was given
 25 authority amounting to that of a commander? I know he was

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1 the commander of the air monitoring team but that
 2 presumably means he was have under his command the pilot
 3 and the other people who were in the helicopter, but – or
 4 am I missing something?
 5 BRIGADIER CALITZ: Nee, mnr die
 6 Voorsitter, dit was die plan gewees en ek dink die exhibit
 7 L is geskryf volgens die plan. Sou alles uitloop soos wat
 8 ons beplan het om te doen, met ander woorde dat ons sou
 9 uitbeweeg het, 'n dispersion action, sou hy dan presies dit
 10 gedoen het, provide feedback to the operational commander,
 11 en dan ook lugfoto's geneem het met die dispersion action.
 12 Omdat daar 'n aanval was en omdat die dinge dan van daar af
 13 in 'n dispersion action oor gesit het en ek met hom
 14 kommunikasie gehad het, was ek op daardie stadium nie met
 15 Brigadier Fritz enigsins in kontak op die tjopper, maar
 16 waarna mnr Chaskalson nou verwys, maar net met Kolonel
 17 Vermaak, en ek het hom dan gevra, wetende dat hy ook 'n
 18 ervare Openbare Orde Polisiëringlid is vir jare, ek dink
 19 ek het getuig 20 of 30 jaar, het ek hom dan gevra om vir my
 20 dan hierdie voertuie, die "eye in the sky" rol te doen en
 21 dan beheer te vat oor hulle na daardie koppie.
 22 CHAIRPERSON: What role was Brigadier
 23 Fritz playing which is set out in slide 146?
 24 BRIGADIER CALITZ: 1-4?
 25 CHAIRPERSON: 146.

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1 BRIGADIER CALITZ: Sy taak, as ek hier
 2 nou lees, ek het nou nog nie die bladsy voor my – aerial
 3 command post. Dit was Brigadier Fritz wat dan die aerial
 4 command post rol moes vervul het dan.
 5 CHAIRPERSON: So what you are suggesting
 6 is that Colonel Vermaak was also going to in effect man –
 7 if that's the right verb – an air command post from his
 8 helicopter and he would – you see, one of the things
 9 Brigadier Fritz was instructed to do, or authorised to do,
 10 was to direct counteraction and so on. Now that obviously
 11 was a commander position that he had, but are you
 12 suggesting that there were two air commanders functioning
 13 in the same airspace at the same time in different
 14 helicopters?
 15 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 16 was glad nie in kontak met Brigadier Fritz nie. Hy het nie
 17 met ons kontak gemaak of sitrappe deurgegee na my toe. Op
 18 daardie stadium was dit net Kolonel Vermaak bo my.
 19 CHAIRPERSON: I understand that, but
 20 that's not an answer to this question. The question is are
 21 you suggesting that there were two in effect air commanders
 22 at the same time operating effectively in the same airspace
 23 over Marikana in two different helicopters?
 24 BRIGADIER CALITZ: As ek dan die – ek, in
 25 hindsight weet ek dat die aerial command, Brigadier Fritz

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1 was wel in die lug gewees. Dit het ek nou in hindsight
 2 vasgestel, en hy sou dan, sou daar enige taktiese
 3 ontplooiing wees, met ander woorde verder weg van die
 4 Marikana dan sou hy dan daardie taktiese lede soontoe
 5 direct het.
 6 MR CHASKALSON SC: Did you inform
 7 Lieutenant Colonel Vermaak that he was now aerial
 8 commander?
 9 BRIGADIER CALITZ: Ek het Kolonel Vermaak
 10 ingelig toe ons gestaan het, staties, en van daar af het ek
 11 en hy kommunikasie gehad op die radio en ek het vir hom die
 12 versoek gestel dat hy vir my die karre moet vat en dan in
 13 die koppie gaan en beheer vat uit die lug uit.
 14 MR CHASKALSON SC: And so you're saying
 15 that Lieutenant Colonel Vermaak understood that he was
 16 aerial commander and in control of the operation at – in
 17 command of the operation at koppie 3?
 18 BRIGADIER CALITZ: Ek sou so kan getuig,
 19 ja.
 20 MR CHASKALSON SC: You see, if we look at
 21 the transcript we don't see anything that reflects that at
 22 all. We see Colonel Vermaak doing exactly what he was
 23 supposed to be doing, which is providing information to you
 24 as an eye in the sky, and so he describes to you what's
 25 going on underneath him and where there's a need for him to

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1 direct vehicles where you want them to go he directs them
 2 from the air. But the operational commands are all given
 3 by you, not by him.
 4 BRIGADIER CALITZ: Mnr die Voorsitter –
 5 MR CHASKALSON SC: We don't see him
 6 giving any operational commands.
 7 BRIGADIER CALITZ: Ek dink waar die
 8 transcript begin, dit is miskien weereens as ek die regte
 9 video transcript het, hy begin by "Water cannon go forward,
 10 go forward, go straight, go straight," wat dan Kolonel
 11 Vermaak se woorde is –
 12 MR CHASKALSON SC: That's before the
 13 vehicles even reached koppie 3, Brigadier.
 14 BRIGADIER CALITZ: Dit is hoekom ek vir u
 15 gesê het toe ons daar stasies was het ek vir Kolonel
 16 Vermaak gesê van daardie punt af sal hy dan die voertuie
 17 invat na koppie 3 toe. So van die begin af het hy die
 18 voertuie "ge-direct" na daardie rigting toe en nie ek nie.
 19 MR SEMENYA SC: Chair, just for
 20 completeness of understanding, we have GGG8, which is the
 21 statement of Brigadier Fritz explaining why he was not in
 22 aerial command.
 23 MR CHASKALSON SC: Do we have a statement
 24 from Lieutenant Colonel Vermaak saying that he was in
 25 aerial command? I have yet to see that, and in our

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1 consultations with him he said the exact opposite.
 2 CHAIRPERSON: You can't give evidence.
 3 It's now just after 3 o'clock. Perhaps it's an appropriate
 4 stage for us to take the tea adjournment, but if you want
 5 to round this point off first before we do that, please
 6 proceed.
 7 MR CHASKALSON SC: Well, I just want to
 8 make one point because what I'd like to – well, look at the
 9 transcript at page 18888, it's the transcript of this
 10 Monday, lines 18 to 19.
 11 BRIGADIER CALITZ: Sê net weer,
 12 asseblief.
 13 MR CHASKALSON SC: 18888. Chairperson,
 14 can I actually have three minutes now just to refer to two
 15 passages, or should we –
 16 CHAIRPERSON: Yes.
 17 MR CHASKALSON SC: - take the
 18 adjournment? Well, before we get to this, can we go back
 19 to the – we don't even need to go. We've discussed it a
 20 million times. I can just read. You'll recall the
 21 exchange about people being encircled in the koppie.
 22 Lieutenant Colonel Vermaak says "Papa1, if that water
 23 cannon can wait, the people, they are encircled, you can
 24 make arrests there now." So he gives a sitrep to you. You
 25 then issue an order, "Okay, water cannons hold back. Guys,

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1 get out of the Nyalas under protection. Under protection,
 2 get out. Get out there, engage. Get out there and engage
 3 those vehicles with the task force." So why would it have
 4 been necessary for you to give any order like that if
 5 Lieutenant Colonel Vermaak was in charge of the operation
 6 at koppie 3?
 7 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 8 dink daardie vraag kan vir Kolonel Vermaak gevra word
 9 waarom hy dit vir my versoek het en nie self met hulle
 10 opdrag gegee het nie. Sou hy self daardie opdrag gegee het
 11 was dit nie verkeerd nie. Die, maar hy het gesê dat
 12 "Brigadier, daardie waterkanonne kan wag, die mense is nou
 13 'ge-encircle.'" Dit was sy woorde aan my. Ek het
 14 onmiddellik gereageer en gesê "Waterkanonne, hou terug," en
 15 die POP mense klim uit onder beskerming en maak
 16 arrestasies.
 17 CHAIRPERSON: May I ask you two
 18 questions? Sorry. The first is did you specifically say
 19 to Lieutenant Vermaak at some stage I'm asking you or
 20 authorising you to take command from the air because you
 21 can see what's going on and I can't? Did you ever say
 22 anything of that kind specifically to him?
 23 BRIGADIER CALITZ: Mnr die Voorsitter ja,
 24 ek kan nie my presiese woorde onthou. Dit was nadat ons
 25 teruggekyk het daardie eerste keer en gesien het die TRT

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1 volg nie op nie en ek het die healtyd net met hom die
 2 kommunikasie kon kry en toe het ek vir hom gesê "Dit lyk my
 3 dis net ek en jy wat kommunikasie het, so vat vir my
 4 asseblief beheer van hierdie voertuie, so, en gee vir my
 5 terugvoer." So ek weet nie of die woordjie "beheer" of
 6 wat, maar ek glo Kolonel Vermaak kan definitief getuig as
 7 hy die woorde presies onthou, maar ek het aan hom gesê om
 8 beheer te vat van die lug af en dan vir my terugvoer te
 9 gee.
 10 CHAIRPERSON: At what stage was that?
 11 BRIGADIER CALITZ: Dit was nog toe ons
 12 gekommunikeer het, toe ek nie met die agterste groep van
 13 TRT kon verbinding kry nie en ek vir hom gevra het om vir
 14 my terug te vlieg en te gaan kyk hoekom hulle nie kom nie
 15 en dit is waar hy getel het, ek dink sy woorde was hy het
 16 tot about 25 getel maar die VB het gesê, die voorvalleboek
 17 inskrywing het gesê 18 bodies. Dit was op daardie stadium.
 18 CHAIRPERSON: So in other words after
 19 scene 1 when you were in the vicinity of the dry riverbed?
 20 BRIGADIER CALITZ: Dit is na scene 1.
 21 CHAIRPERSON: After scene 1.
 22 BRIGADIER CALITZ: Dit is korrek.
 23 CHAIRPERSON: When you were in the
 24 vicinity of the dry riverbed. Is that right?
 25 BRIGADIER CALITZ: Ja, waarna ons verwys

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1 het, "dry riverbed." Dit is korrek. Bietjie voor dit,
 2 maar ja.
 3 MR CHASKALSON SC: And did you ever tell
 4 all of the members of the operation that they were now
 5 under the command of Colonel Vermaak insofar as they went
 6 to koppie 3?
 7 BRIGADIER CALITZ: Nee, mnr die
 8 Voorsitter, ek dink die voertuie wat dan saam met ons
 9 beweeg het, het onmiddellik gereageer en Kolonel Vermaak
 10 het van daar af met die waterkanonne asook met die Casspir
 11 en met die Nyalas gepraat en hulle het gereageer daarop.
 12 Die bevelvoerders en die drywers het almal radio's in hulle
 13 voertuie, so ek glo as ek dit, daardie opdrag gegee het,
 14 was dit nie nodig om elke call sign apart te roep en dit
 15 weer te herhaal nie. Dit is my antwoord.
 16 COMMISSIONER HEMRAJ: What was the reason
 17 for asking Colonel Vermaak to take command of the vehicles?
 18 BRIGADIER CALITZ: Kommissaris, die
 19 enigste ding is ek het nie, daar waar ons moes opgevolg
 20 het, het ek gesien daar is 'n groep wat nou aan die
 21 linkerkant opvolg en ek het ook gesien daar is 'n groter
 22 groep aan die noordwestelike kant. So ek het geweet ek sal
 23 die groep moet split in twee en op daardie stadium het ek
 24 geweet van sy ondervinding van Openbare Orde Polisiëring en
 25 hy was dan ook in 'n beter posisie uit die lug uit om

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1 hierdie groep dan vir my te volg. So dit is waar ons dan
 2 gesplit het. Dit was die een groep wat ons net die healtyd
 3 gevolg het, dan was dit vir my makliker gewees. Maar die
 4 groepe was gesplit noordwes en na die koppie.
 5 CHAIRPERSON: Alright, well there's just
 6 one thing I want to put to you. I'm sorry, I haven't given
 7 you your full three minutes, but you can have some of it
 8 after tea. In the statement by Lieutenant Colonel Vermaak,
 9 which is exhibit GGG17, he doesn't say anything about that
 10 of course. What he says in paragraph 7, admittedly dealing
 11 with the situation before the time that you spoke of, he
 12 talks about how you gave instructions – referring to the
 13 third line of para 7 of that statement – and you gave
 14 instructions to the members to launch an operation. It
 15 almost appeared as if the members didn't hear and then he
 16 says, "Ek het weer Brigadier Calitz se opdrag herhaal uit
 17 die helikopter," because he got the impression they didn't
 18 hear. "So I repeated Brigadier Calitz's opdrag, and he
 19 then saw the members were acting. But of course he's still
 20 talking about scene 1. Then he says, "Om 15:58," it's
 21 15:58, we flew over the scene and noticed that a number of
 22 people were lying on the ground. The members then, "Die
 23 lede het weer groepeer," they then grouped again in line to
 24 be able to handle any further attacks. Then he says at
 25 16:01 the mass, the group I suppose came together behind

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1 the first koppie. The eight armoured vehicles formed a
 2 line to prevent the group from moving back to the scene or
 3 to the residential area. The group was about 500 people –
 4 the group of about 500 people moved back to the "agterste
 5 koppie," that's the furthest koppie back, at 16:03. The
 6 Nyala and the two water cannons approached the koppie from
 7 two sides and we heard someone reporting that shots were
 8 being fired from the koppie at the members. At 16:21 the
 9 groups moved into the koppie and arrests were made.
 10 Helicopters then patrolled the area to monitor if there
 11 were any further gatherings or processions arising
 12 spontaneously. So that's what he says. He doesn't say
 13 anything about giving any orders or receiving any
 14 instructions to give orders. He does describe the action
 15 by the Nyala and the two water cannons, but he – and the
 16 groups moving in to conduct arrests, but he doesn't say
 17 anything about he's having ordered it, but anyway, that's
 18 something that presumably will have to be clarified when he
 19 gives evidence. Can we take the tea adjournment at this
 20 stage? Which we will now do.
 21 MR CHASKALSON SC: Okay, absolutely,
 22 Chairperson.
 23 [COMMISSION ADJOURNS COMMISSION RESUMES]
 24 [15:29] COMMISSIONER: The commission resumes.
 25 Brigadier, you're still under oath. Mr Chaskalson, do you

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1 have any more questions for the witness?
 2 MR CHASKALSON SC: I do have some
 3 questions for the Brigadier. Brigadier, I don't want to
 4 take this issue with Lieutenant Colonel Vermaak further but
 5 I do want to put to you that this version of giving
 6 Lieutenant Colonel Vermaak command at koppie 3 is an
 7 incorrect version and is an attempt unfairly to saddle
 8 Lieutenant Colonel Vermaak with responsibilities for
 9 failure of command and control at koppie 3 when that
 10 responsibility and failures were yours and not his.
 11 BRIGADIER CALITZ: Ek wil net -
 12 MR CHASKALSON SC: I just want to put
 13 that to you, I'm going to argue it at that end of this
 14 hearing you can respond to it now if there's anything that
 15 you want to say in response to it.
 16 BRIGADIER CALITZ: Nee, ek wil maar net
 17 gesê daar's 'n verskil tussen 'n aerial command en 'n
 18 ground command. Die bevelvoerders op die voertuie bly nog
 19 steeds die groep bevelvoerders, aerial command beteken die
 20 inbring en die uitbring en die heen en weer geskuif van die
 21 voertuie daar. Die opdragte wat hy gegee het dit sal gaan
 22 en ek sal dan ook op die grond daardie opdragte kan
 23 herhaal. Maar ek hoor wat u sê maar ek verskil van u
 24 stelling.
 25 MR CHASKALSON SC: And I want to put to

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1 you that it's really just one of several instances of your
 2 giving versions in evidence before this commission that are
 3 designed to absolve yourself from responsibility for what
 4 happened at scene 3 and I want to –

5 CHAIRPERSON: Mr Chaskalson, I think
 6 that question in that form can't be allowed to remain as it
 7 is.

8 MR CHASKALSON SC: I am going to amplify
 9 it.

10 CHAIRPERSON: You have to give –

11 MR CHASKALSON SC: Yes, no I know.
 12 Absolutely and by way of illustration I'm going to refer
 13 again to the version in relation to victim C and Lieutenant
 14 Colonel Macintosh and after all of your concessions this
 15 morning let's see what remains of that version. You've
 16 conceded that the incident didn't happened at the same time
 17 as the exchange between yourself and Lieutenant Colonel
 18 Vermaak about, or you issued the order for people to engage
 19 at the koppie. So you were wrong on that. You've conceded
 20 that you didn't go immediately to victim C, you were wrong
 21 on that. You've conceded that your vehicle wasn't the
 22 first vehicle to go to victim C, it was in fact the last
 23 armoured vehicle. That's a third part of your version that
 24 you've conceded is incorrect and you've conceded that you
 25 didn't drive directly to victim C at all. Instead you

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1 drove directly to the koppie. So that's a fourth part of
 2 your version that you've now disavowed in the face of
 3 irrefutable electronic evidence. Which leaves very little
 4 of the version that we saw in your statement which was a
 5 version which appeared to me to be designed to explain why
 6 you only found out about koppie 3 on your version at the
 7 16:47.

8 CHAIRPERSON: You don't mean koppie 3
 9 you mean koppie 1 surely?

10 MR CHASKALSON SC: No, no. Well koppie
 11 1, koppie 3 either.

12 CHAIRPERSON: Oh I see.

13 MR CHASKALSON SC: Colonel what I do want
 14 to put to you –

15 MR SEMENYA SC: Sorry, Chair. Chair, the
 16 other thing is Mr Chaskalson has put a whole series of
 17 propositions without asking the witness to respond to each
 18 one of them.

19 CHAIRPERSON: Okay do you want to
 20 respond to the propositions as a whole or singly?

21 MR SEMENYA SC: And if I may, Chair, with
 22 your permission invite my learned colleague to put one
 23 proposition at a time, otherwise we don't understand what
 24 is being dealt with and what has not been dealt with.

25 MR CHASKALSON SC: Well the propositions

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1 about what the Brigadier has abandoned from his earlier
 2 version we've already canvassed. They don't need to be put
 3 to the Brigadier again. But -

4 BRIGADIER CALITZ: Mnr die Voorsitter,
 5 nee ek verskil. Daar is aan my gevra of ek wil antwoord en
 6 die voorstel was dat ons net deur een, een anderste sal ek
 7 net as 'n geheel sê ek stem nie saam nie. Alhoewel ek wel
 8 erken het dat ek net nie na C toe gery direk nie maar direk
 9 na koppie 3 toe. So dit het ek erken. Vir die anders het
 10 ek redes gegee. So dis nie laat ek concede het daar
 11 volgens my of as ek die woorde reg verstaan nie.

12 MR CHASKALSON SC: Well I don't want to
 13 enter this debate again. The record will speak to, for
 14 itself on what facts the Brigadier has abandoned from his
 15 earlier version. But what I do want to put to you is that
 16 on the basis of how much you've abandoned in relation to
 17 this incident at best we have to accept that your memory of
 18 what happened is so unreliable that we shouldn't trust it
 19 save where it's corroborated by some other evidence.
 20 What's your response to that.

21 BRIGADIER CALITZ: Ek het gesien daar was
 22 'n liggie aan maar ek verstaan net kwart van wat u nou vir
 23 my gesê het. Ek het nie mooi gehoor nie maar as u dit dalk
 24 net kan ver my herhaal dan kan ek weer aandag gee en
 25 luister en vir u 'n antwoord gee.

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1 MR CHASKALSON SC: Well what I want to
 2 put to you is that on the basis of how much of a very
 3 detailed version in relation to Lieutenant-Colonel
 4 Macintosh, Victim C and the time it happened, the manner in
 5 which it happened, how much of that you have now abandoned.
 6 Your memory of what happened, your independent memory of
 7 what happened would have to be a very unreliable memory and
 8 –

9 BRIGADIER CALITZ: Mnr die Voorsitter -

10 MR CHASKALSON SC: It doesn't, but hear
 11 me out, Brigadier, because you need to answer the whole
 12 question. It seems to me that this commission should not
 13 rely on that memory save where it's corroborated, not just
 14 in this, why is this incident different from any other
 15 incident, why should your memory be trusted on other
 16 incidents where on this incident you've accepted that it
 17 was wrong on so many respects?

18 BRIGADIER CALITZ: Mnr die Voorsitter,
 19 weereens alles rondom body C het ek van die oggend af in
 20 detail vir u verduidelik. Ek het gesê dat body C het wel
 21 plaasgevind wat so was. Ek het gesê Kolonel Macintosh het
 22 uitgespring en daarna toe gegaan wat so was. Ek het getuig
 23 dat ek met Kolonel Pitsi gepraat het op daardie toneel wat
 24 feitlik korrek is. Ek het getuig dat Kaptein Kidd het ek
 25 opdragte gegee, hy kan self kom getuig daarvoor as hy kom

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1 wat ook feitlik korrek is. Die enigste feit wat vir my nie
 2 korrek is nie waarop ek ge, soos u die woord gebruik het
 3 concede is, is dat in hindsight ons is nou wat is dit 18
 4 maande na die tyd, my verklaring is gemaak voor ek begin
 5 getuig het. Mnr die Voorsitter, het my gevra na die beste
 6 van my vermoei is hoe ek dit onthou. Al wat ek 'n fout
 7 gemaak het, ek het vir u gesê dat ek het met die voertuig
 8 gery eers na Kolonel Macintosh en toe na die koppie toe
 9 waar instead die video evidence toe ek dit sien toe kom dit
 10 terug na my en sê goed ons het na die koppie toe gery en
 11 vandaar af het ek gestap. So dit verander niks feitlik, as
 12 ek my opinie kan gee niks feitlik aan my verklaring nie.
 13 Die feite in die verklaring is presies net so. Dit gaan
 14 oor die beweging van my voertuig en dit is die enigste iets
 15 wat volgens u miskien nie credible of ek weet nie wat is
 16 die woord wat u gebruik het nie. Die res het ek feitlik op
 17 getuig en die feite is nog steeds so in my verklaring. Ek
 18 het wel gesê dat ons moet paragraaf 124 en 123 omruil. Die
 19 ander was op u eie tydlyn, die tydlyn was so deurmekaar en
 20 ons het dit vanoggend uitgeklaar en nadat ons dit
 21 uitgeklaar het, het ek dan saam met u gestem.
 22 MR CHASKALSON SC: Well, Brigadier, so
 23 your new version is that you drove your vehicle straight to
 24 koppie 3 and then you got out and didn't go into koppie 3
 25 but walked instead to Lieutenant Colonel Macintosh and

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1 victim C, is that the new version.
 2 BRIGADIER CALITZ: I won't say it's a new
 3 version. That's what I testified this morning on.
 4 CHAIRPERSON: It deviates on what you
 5 said on Tuesday but that's the way you remembered it.
 6 BRIGADIER CALITZ: Dit is korrek.
 7 CHAIRPERSON: You tell us that you've
 8 seen the videos and your memory has been as it were
 9 refreshed.
 10 BRIGADIER CALITZ: Dit is presies so,
 11 Kommissaris.
 12 CHAIRPERSON: There was also the problem
 13 of chronology, you'll remember that, you say that 124
 14 should be before 123, you conceded on Tuesday that there
 15 was a problem with the chronology but you said 124 should
 16 actually be after 125 as I remember it. But again, so your
 17 chronology was all at sixes and sevens shall we say but now
 18 you've changed that because you say you've seen the
 19 electronic material and that's jogged your memory as to the
 20 true sequence of events, is that what you're saying?
 21 BRIGADIER CALITZ: Dit is korrek, mnr die
 22 Voorsitter en die chronology, die tweede een waarna u
 23 verwys het, ek het die heelyd gepraat oor die 13:48 so as
 24 ek net van die begin af die tyd gehad het dan het ons
 25 geweet waarom dit in te pas. So wat my net ge-confuse het

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1 was die timeline. Niks oor die feitlik van wat gebeur het
 2 nie. Maar dis net -
 3 CHAIRPERSON: As easy as that. It's the
 4 sequence of events what came after what and what came
 5 before what. But anyway we won't debate that now, those
 6 are facts on the record aren't they. Mr Chaskalson's point
 7 as I understand it is you, there were these mistakes that
 8 you made. You now have given what you say is the correct
 9 version. You say it's based upon the electronic
 10 information. What Mr Chaskalson seems to say that absent
 11 stuff that's supported by the electronic information it
 12 would be unwise or unsafe to rely on what you, what you
 13 remember. That's the point basically he's putting to you
 14 and I understand you to say you don't agree with that.
 15 BRIGADIER CALITZ: Dis korrek, mnr die
 16 Voorsitter.
 17 MR SEMENYA SC: But Chair, even as a
 18 matter of law that's not correct. It may very well there
 19 are credible witnesses who confirm his evidence and is not
 20 confirmed by objective evidence and there will be no basis
 21 to reject it, purely on that logic alone. But you are
 22 leaving it to go because it's really matters for argument,
 23 but it is not accurate.
 24 CHAIRPERSON: You've already given us
 25 the advantage of a preliminary view of the arguments you're

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1 going to address to us on that point when you have to.
 2 MR CHASKALSON SC: So let's look at the
 3 new version. The new version is that you drove to koppie 3
 4 directly and then instead of you yourself going into koppie
 5 3 you choose instead to go to Colonel Macintosh, why did
 6 you do that?
 7 BRIGADIER CALITZ: Mnr die Voorsitter,
 8 dit is in vanoggend se punt. Ek dink dis punt 9 wat ek
 9 aangeraak het waar ek dit aangespreek het en gesê het ek
 10 het geweet van Kolonel Macintosh wat uitgespring het en
 11 gesê die lid word aangeval. So ek het voor my gesien dat
 12 daar is persone besig gewees met die arrestasies, dit het
 13 na 'n baie rustiger toneel gelyk. Ek het gesien Kolonel
 14 Macintosh sit op sy hurke aan die regter kant in die veld.
 15 So ek het daarna toe gegaan om myself te vergewis wat daar
 16 plaasgevind het. Obviously was dit 'n baie ernstiger
 17 toneel op daardie stadium vir my want ek het gesien hy sit
 18 daar by 'n persoon gehurkend. So ek het gaan myself
 19 vergewis wat by Kolonel Macintosh aangaan en terwyl ek by
 20 Kolonel Macintosh was het hy aan my vertel dan die persoon
 21 is oorlede. Ek weet nie of ek die res ook vir u moet sê
 22 nie.
 23 MR CHASKALSON SC: Well, but, Brigadier,
 24 I need to just understand what was going through your mind.
 25 First can we establish are you the one who controlled where

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1 the Nyala went in that journey?
2 BRIGADIER CALITZ: Mnr die Voorsitter,
3 weereens, dit is soos Dinsdag, ek het onder daai
4 omstandighede gedink dat ons het gery na Kolonel Macintosh
5 toe wat ek vir die drywer gesê kom ons moet gaan, Kolonel
6 Macintosh het gehardloop in daardie rigting. Ek het verwys
7 na my paragraaf, kan nie so uit die vuis uit onthou nie,
8 vanoggend het ek gesê we drove in the direction en ek dink
9 ons het 30, 40 meter van hom af gestop toe is ek in daardie
10 rigting.

11 MR CHASKALSON SC: Brigadier, you're
12 inching every closer to Lieutenant-Colonel Macintosh where,
13 we'll have to sort this out with the SAPS team but we've
14 done our own Google Earth analysis and this is what it
15 shows. It shows that the point at which you left your
16 position was 132 metres away from body C. We've used the
17 coordinates for body C that Warrant Officer Mohlaki took.
18 You drove a distance of 136 metres. So you actually drove
19 more than the distance that you would have had to drive to
20 get to body C and you ended up at a point 55 metres away
21 from body C. It's a bit like setting out from Cape Town
22 for Johannesburg and ending up in Durban.

23 BRIGADIER CALITZ: Mnr die Voorsitter,
24 nee ek kan nie saam met u stem nie. So ek sal maar moet
25 oorlaat aan die eksperts om vir ons daardie meting te doen

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1 en dan volgens my is ons van die toneel af reguit na die
2 koppie toe. Die video evidence is baie duidelik. Ek het
3 uitgeklim en toe na Kolonel Macintosh toe gestap. Die
4 afstand kan wel vir ons bereken word.

5 MR CHASKALSON SC: Now if you wanted to
6 go to Colonel Macintosh why did you park your vehicle 55
7 metres away, why didn't you say to Warrant Officer Nong
8 take this vehicle to Colonel Macintosh he's there.

9 BRIGADIER CALITZ: Mnr die Voorsitter,
10 nee ek kan glad nie vir u daarop getuig nie. Ek kan glad
11 nie onthou op daardie stadium wat die opdrag of die
12 spesifieke woorde was binne die voertuig nie. Miskien
13 Adjudant Offisier Nong sy verklaring of as hy kan getuig
14 daarvoor sal hy dalk beter kan sê wat daar plaasgevind het.

15 CHAIRPERSON: Will it be fair to, look
16 the shortest distance between two point is normally a
17 straight line. But I don't think anyone will quarrel with
18 that. Now you obviously didn't go in a straight line
19 towards Lieutenant Colonel Macintosh. Now if you can't
20 remember why that happened there may be a reason which
21 Warrant Officer Nong may remember then I suppose we must
22 just leave it there. Is that fair, you can't remember why
23 you didn't go straight to Macintosh?

24 BRIGADIER CALITZ: Mnr die Voorsitter, ja
25 as u sê nie 'n straight line nie, ek het van waar ons was

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1 reguit af beweeg. So dis hoekom ek sê ons moet miskien
2 laat die eksperts net vir ons daarna kyk. Dit is nie laat
3 'n ou in 'n sirkel weggery het en toe terug gekom het na
4 die koppie toe nie. Ek is van die toneel af reguit waar
5 body C op die regter kant was by koppie 1, koppie 3 gestop.
6 So die evidence -

7 CHAIRPERSON: You actually, if you, you
8 drove in a straight line, you were travelling the shortest
9 distance to koppie 3 which you did and then you walked to
10 Macintosh. Now you say there may have been a reason for
11 that. You can't, as I understand remember what it was and
12 one can only hope that Warrant Officer Nong may remember.
13 Is that correct?

14 BRIGADIER CALITZ: Dit is korrek.

15 CHAIRPERSON: Okay.

16 MR CHASKALSON SC: But, ja, well, I'm
17 happy, I must say I find your version unconvincing and I
18 put it to you that it's highly unlikely that if you wanted
19 to get to Colonel Macintosh, even if you had ended up at
20 the koppie you wouldn't then have instructed Warrant
21 Officer Nong to drive the 55 metres that you still needed
22 to go.

23 CHAIRPERSON: He doesn't say he
24 instructed him, you say, but any way it sounds like a
25 matter for argument. You put your proposition. He's had a

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1 chance to answer and he says he can't answer it, he can't
2 remember and I'm afraid that has to lie until, unless and
3 until Warrant Officer Nong can help us, isn't that right?

4 BRIGADIER CALITZ: Hy sal definitief kan
5 sê, toe ek vir hom gevra ons moet in daardie rigting beweeg
6 hoekom het die voertuig net op daardie punt gestop het. Hy
7 sal definitief daarvoor kan getuig.

8 MR CHASKALSON SC: You see, Brigadier,
9 what seems more likely from the positioning of the vehicle
10 is that the vehicle was instructed to go to koppie 3 and if
11 the vehicle went to koppie 3 and then of course you would
12 have stumbled into the crime scene at koppie 3 and you
13 would have found out about all of the shootings at koppie 1
14 and at koppie 3. But you say you only did that after you
15 did a diversion on foot, 55 metres to your west to spend
16 the next 23 minutes with Lieutenant Colonel Macintosh and
17 others, that's your version isn't it?

18 BRIGADIER CALITZ: Nee, mnr die
19 Voorsitter, dis nie wat ek gesê het nie. Ek dink dit is op
20 rekord wat ek gesê het. Ek het nie gesê ek het 55 meter
21 gestap nie. Ek het gesê die eksperts kan vir ons dit
22 miskien uitwerk. Ek het gesê ongeveer 40, ek het ook
23 verwys vroeër dat dis dieselfde afstand omtrent as wat u
24 gesê het die Casspir aan die body gestop het. Ons kan dit
25 gaan uitwerk. Ek is nou nie 'n ekspert daarop nie. Dan

<p style="text-align: right;">Page 19163</p> <p>1 het ek vir u gesê dat ek is direk na Kolonel Macintosh toe 2 om vas te stel omdat hy geskreeu het een van ons lede is 3 aangeval daar. So ek moes myself vergewis wat daar aangaan 4 en dit is vir die eerste keer waar ek dan die oorlede 5 persoon gesien het. U verwys ook net na Kolonel Macintosh, 6 dit is nie die enigste rede nie. Ek het verder vir u 7 verduidelik dat ek met Konstabel Sibiyane wat erg 8 getraumatiseerd was daar, ook in 'n redelike lang gesprek 9 was, ek moes hom gekalmeer het en ek het verder gepraat met 10 Kaptein Kidd wat daar aangekom het, opdrag gegee het. 11 Luitenant Kolonel Pitsi het na my toe aangekom. Hy het vir 12 my verduidelik daar's 'n skietery op sy voertuig gewees. 13 Op daai stadium het ek nie geweet dis daar, waar is van die 14 lede nog verder beseer nie. Ek is na sy voertuig toe wat 15 meters, ek is nou versigtig om te sê meters 15, weereens 16 eksperts kan vir ons bepaal hoe ver die Papa5 van die body 17 af gestaan het. Weer na sy voertuig toe, ek het die merke 18 op die voertuig gesien. Ek is terug na Kolonel Macintosh 19 toe, daar het ons gesels met die TRT lede en toe het ek 20 inbeweeg en ek dink in daardie stadium was dit ongeveer die 21 20 minute, ek het Kolonel, ag Generaal-Majoor Annandale 22 geskakel en hom meegedeel van dit en daarna is ek in die 23 koppie in self waar ek dan Generaal Naidoo ontmoet het en 24 vasgestel het eers op daardie stadium van die persone wat 25 oorlede is binne-in die koppie.</p>	<p style="text-align: right;">Page 19165</p> <p>1 woorde vandag onthou. Ek onthou ek het gesê vir Kaptein 2 Kidd, "Is hierdie persone saam met jou?" waarop hy my 3 meegedeel het dit is sy lede, en ek het hom toe nou getaak 4 en gesê stel vir my vas presies wat het hier gebeur en dan 5 moet hy dit vir my deur rapporteer aan die JOC. 6 MR CHASKALSON SC: And Captain Kidd 7 didn't mention to you that his unit had already killed 8 victim N? 9 BRIGADIER CALITZ: Nee, op daardie 10 stadium het hy geen inligting vir my deurgegee van enige 11 ander persone wat geskiet is nie. 12 MR CHASKALSON SC: Right, and you also 13 spoke to Colonel Pitsi. 14 BRIGADIER CALITZ: Ek het met Luitenant 15 Kolonel Pitsi gepraat by die toneel waar body C was. 16 MR CHASKALSON SC: And Lieutenant Colonel 17 Pitsi mentioned to you that his Nyala had been shot at, but 18 he didn't mention to you that he had witnessed the 19 shootings at scene 1, like he says in his statement. 20 BRIGADIER CALITZ: Ek dra nie kennis op 21 hierdie stadium wat hy in sy verklaring gesê het nie. Hy 22 het vir my gesê dat daar is op sy Nyala geskiet en ek dink 23 ek het getuig dat die insident was waarna ons verwys het 24 insident 2, toe hy die gap toegemaak het daar. Dit is waar 25 hy gesê het waar die persone op sy Nyala voertuig geskiet</p>
<p style="text-align: right;">Page 19164</p> <p>1 [15:48] MR CHASKALSON SC: Well, let's look a bit 2 closer at that. Constable Sibiyane who now looms large in 3 your 23-minute spell, you didn't seem to remember that 4 encounter when you made your statement or gave your 5 evidence-in-chief or responded to my cross-examination 6 yesterday on, or two days ago on what took the 23 minutes. 7 It's something that came to you after you realised that you 8 drove straight to the koppie and not to Colonel McIntosh. 9 Is there an explanation for that? 10 BRIGADIER CALITZ: Ek dink ek het gesê ek 11 het met die TRT lede daar gesels. Ek het net nie 'n naam 12 genoem nie. Ek dink ook op die Dinsdag, eergister het ek 13 wel genoem van Kaptein Kidd. Ek het wel genoem van Kolonel 14 Pitsi. Ek het wel genoem van body C. Ek het wel genoem 15 van Kolonel McIntosh. So ek dink ek het alles – ek het net 16 die naam van die persoon wat gevuur het – 17 MR CHASKALSON SC: But you didn't mention 18 anything about having to counsel someone who was in a 19 traumatic condition, which now seems to be what you – 20 BRIGADIER CALITZ: Ek kan nie rêrig 21 onthou of ek Dinsdag daarvoor getuig het nie, nee. 22 MR CHASKALSON SC: Let's look at Captain 23 Kidd. You said earlier today you required Captain Kidd to 24 explain how he got there. You recall that? 25 BRIGADIER CALITZ: Ek kan nie my presiese</p>	<p style="text-align: right;">Page 19166</p> <p>1 het. Ek het dan ook getuig dat ek later toe ek binne was 2 vir Kaptein Matlaka van die Kriminele Rekord Centre dan 3 opdrag gegee het om uit te gaan soontoe en 'n foto te neem, 4 wat die kaptein dan ook kan op getuig. Ek het vergeet van 5 hom. So daar is nog 'n persoon wat dan kan sê ek het 6 opdrag gegee en hom uitgestuur soontoe. 7 MR CHASKALSON SC: And Colonel McIntosh 8 who had heard the volley of gunfire at scene 1, he didn't 9 mention that to you either? 10 BRIGADIER CALITZ: Nee, ek is nie bewus 11 dat hy dit gehoor het nie, nee. 12 MR CHASKALSON SC: Did it strike you as 13 strange after the event that all of these people who were 14 witnesses to killings or shootings or events as horrific as 15 what happened at scene 1 just hadn't seen fit to tell you 16 about it? 17 BRIGADIER CALITZ: Mnr die Voorsitter, 18 nee, ek het, as 'n persoon nie iets waarneem nie en hy 19 rapporteer nie aan my nie, neem ek aan die dinge is in orde 20 daar. So ek het in hindsight wel vir hulle gevra waarom 21 die persone my nie gekontak het nie, waarop die verskeie 22 persone vir ons gesê het dat hoekom en waarom - en ek neem 23 aan dit staan in hulle verklarings ook - hulle my nie in 24 die hande gekry het of gekontak het nie. 25 MR CHASKALSON SC: Brigadier, I want to</p>

<p style="text-align: right;">Page 19167</p> <p>1 put to you a series of other implausibilities about your 2 version that you remained in blissful ignorance of the 3 shootings and the killings until 16:47. Let's start about 4 the gunfire, not at scene 1 which you say you didn't hear, 5 but at scene 2. 295 rounds of sharp ammunition were fired 6 by the SAPS at scene 2. You claim you heard none of this. 7 BRIGADIER CALITZ: As u vir my kan sê 8 wanneer daardie skote geskiet is en waar ek was, maar op 9 daardie stadium waar ek was toe ons die arrestasies gemaak 10 het en ek uitgeklim het, nee, ek het geen skote gehoor nie. 11 MR CHASKALSON SC: Your position was less 12 than 150 metres away from koppie 3. Your Nyala was 13 stationary through this entire period. I presume it was 14 idling. 15 BRIGADIER CALITZ: Dis hoekom ek sê as u 16 kan sê wanneer die skietery plaasgevind het en dan kan ons 17 dit met die tye vergelyk. Wat ek vir u getuig is waar ek 18 gestaan het tydens die arrestasies, daar was nie. Ek dink 19 daar was op 'n stadium – ek praat onder korreksie – persone 20 wat weer “ge-disperse” het of iets wat ons gesê het moenie, 21 of stop of iets, van die groep in die noordwestelike 22 rigting, maar dit was met 'n haelgeweer gewees en verder 23 weet ek nie van enige skerp-punt ammunisie nie, nee. 24 MR CHASKALSON SC: Well, while your Nyala 25 was parked at this position – or not parked, was stationary</p>	<p style="text-align: right;">Page 19169</p> <p>1 your hands. 2 MR CHASKALSON SC: Chairperson, I think 3 it's as good as – we may as well take the adjournment now 4 because I'm going to still be in the middle of this – 5 CHAIRPERSON: Well, if you've got a 6 point, you know, that you can't round off in three minutes, 7 then it's not sensible to begin with it. 8 MR CHASKALSON SC: Well, sorry, 9 Chairperson, let me finish the implausibility that nothing 10 was heard, because that I can do in three minutes. 11 CHAIRPERSON: Alright, okay. 12 MR CHASKALSON SC: Your Nyala was 13 stationary and idling throughout the period that it was 14 stationary north of koppie 3. It didn't move at any stage. 15 BRIGADIER CALITZ: Vanaf die tyd wat u 16 aangedui het dat ons daar aangekom het, ja. 17 MR CHASKALSON SC: Okay, so the loud 18 sound of the motor driving the Nyala wouldn't have drowned 19 out noise. It was idling. 20 BRIGADIER CALITZ: Ja, ek dink die Nyala, 21 die Casspir, die ander Nyala, twee Canters, ons was besig 22 met die arrestasies buite, so ja. 23 MR CHASKALSON SC: The doors of your 24 Nyala were open in all of the photographs that we see of 25 it. Do you recall that?</p>
<p style="text-align: right;">Page 19168</p> <p>1 in the position to the northwest of the koppie, that period 2 spans the entire period of shooting at scene 2. So you say 3 that you didn't hear any of the 295 rounds of sharp 4 ammunition that were fired during this period. 5 BRIGADIER CALITZ: Mnr die Voorsitter, ek 6 het daaroor getuig. Ek het geen lewendige ammunisie 7 gehoor, soos u dit stel, wat gevuur is nie. Daar is ook 8 geen rapport aan my gegee dat daar wel geskiet word by 9 daardie koppie nie, nee. 10 MR CHASKALSON SC: We'll get to reports 11 in due course, because there were reports that there was 12 shooting at the koppie – 13 CHAIRPERSON: Sorry, Mr Chaskalson, sorry 14 to interrupt you. I don't know where you get the 295 from. 15 According to slide 257 it's 268. 16 MR CHASKALSON SC: Slide 257 has been 17 disavowed by SAPS because it's an earlier version. It's 18 FFF8. 19 CHAIRPERSON: Oh, I see. It's now 295. 20 I'm sorry, I apologise. It's now 3 minutes to 4. We have 21 to adjourn, for reasons that are not necessary to repeat, 22 at 4 o'clock. So just bear that in mind. You've got three 23 minutes left to round off some points and then it looks to 24 me as if you're going to have to resume in the morning. 25 Unless you want me to take the adjournment now. I'm in</p>	<p style="text-align: right;">Page 19170</p> <p>1 BRIGADIER CALITZ: Ja, ek kan nie presies 2 onthou nie. Ek dink die een van Kolonel McIntosh, die 3 voorste regterkantste deur was oop. Die deur waar ek was, 4 was toe. 5 MR CHASKALSON SC: The left-hand sliding 6 door is open and can be seen in KKK16.5141 and 5142. Do 7 you want to see those photographs or do you want us – why 8 don't you look at them overnight? If you've got a problem 9 with that you can come back. KKK16.5141, 5142. So that 10 was the door to the koppie, that was open. Your men got 11 out from time to time to address the arrests and taking the 12 mug shots. None of them reported anything to you about 13 gunfire less than 150 metres away? 14 BRIGADIER CALITZ: Nee, soos ek sê ek het 15 geen direkte berig gekry dat daar skietvoerval was, of dat 16 daar persone op geskiet is nie, nee. 17 MR CHASKALSON SC: Now if they had been 18 aware of the shooting, would you not have expected them to 19 report it to you as operational commander? 20 BRIGADIER CALITZ: Dit is wat ek voorheen 21 getuig het. As enige van die TRT of die K9 of NIU wat wel 22 daar opgedaag het, of daar was 'n insident wat voor hulle 23 plaasgevind het, was dit verwag dat hulle my in kennis 24 gestel het. 25 MR CHASKALSON SC: No, I'm talking about</p>

1 your own men who were out in the open, 150 metres away from
2 the shooting.

3 BRIGADIER CALITZ: O, as hulle iets
4 gehoor het, ja, nee, vanselfsprekend.

5 MR CHASKALSON SC: And have you taken up
6 with any of them whether they heard anything and if so, why
7 they didn't report it to you?

8 BRIGADIER CALITZ: Nee, nie op hierdie
9 stadium nie, nee.

10 CHAIRPERSON: Mr Chaskalson, how far are
11 you from the end? It's now 4 o'clock.

12 MR CHASKALSON SC: I'm at the end of this
13 topic now. We can adjourn on this topic.

14 CHAIRPERSON: Very well, the Commission
15 will now adjourn until 9 o'clock tomorrow morning.

16 [COMMISSION ADJOURNED]

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