

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 166

10 JANUARY 2014

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1 [PROCEEDINGS ON 10 JANUARY 2014]
 2 [09:14] CHAIRPERSON: The Commission resumes.
 3 Before we start this morning I just want to say the
 4 Commissioners and I have been thinking about the topic that
 5 was discussed yesterday in relation to the establishment of
 6 the times at which various important events took place and
 7 we think that what must happen is this; I think this would
 8 be the most appropriate way of dealing with it, avoiding
 9 all sorts of problems later, and that is that a report
 10 should be prepared – I don't think it has to be done by an
 11 expert, but a report must be prepared setting out the
 12 events in respect of which the times have been established,
 13 the time established, and then setting out the basis of the
 14 establishment. I take it that will happen because I assume
 15 something along those lines is already in preparation by
 16 the evidence leaders to be given to the parties, but we
 17 would be grateful if the final product could be produced
 18 sooner rather than later because it will be very important
 19 for our work from now on. One of the points that was stood
 20 over from yesterday was the question of which incidents
 21 should be the subject of the establishment of time, but I
 22 said that the parties – and I know the evidence leaders
 23 have done a lot of work on that and set out a number of key
 24 incidents in respect of which they have established the
 25 time, but the parties may wish to add others which they

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1 regard of importance. Brigadier, you're still under oath.
 2 ADRIAN MARTHINUS CALITZ: Thank you,
 3 Commissioner.
 4 CHAIRPERSON: Mr Chaskalson.
 5 MR CHASKALSON SC: Chairperson, before we
 6 resume the cross-examination, can I clarify, for the
 7 purposes of this exercise can we take JJJ37 as an agreed
 8 starting point, or does each of the time conversion factors
 9 have to be shown as well?
 10 CHAIRPERSON: I see what you mean. JJJ13
 11 is a – sorry, JJJ what's it?
 12 MR CHASKALSON SC: 37.
 13 CHAIRPERSON: 37, yes, I get the number
 14 wrong. JJJ37 is effectively the conversion table.
 15 MR CHASKALSON SC: That's correct,
 16 Chairperson.
 17 CHAIRPERSON: I haven't discussed it with
 18 the Commissioners; I would have thought that's – I mean all
 19 that need be said is that the conversion table was produced
 20 on the basis of identifying an incident on each photograph,
 21 or sorry, taken by each camera, video camera or stills
 22 camera, and then correlating it – sorry, I'm getting it
 23 wrong. What happened was you sought to show what the
 24 correct reading on the clocks of each still camera or video
 25 camera should have been, using the eTV time and the eTV

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1 camera as the correct time, which is why you talk about eTV
 2 time, and then the way it was done was an incident would be
 3 identified on the photograph for example and that would be
 4 correlated against either the eTV material or some other
 5 material, and in that way it would be, it's possible to
 6 ascertain to what extent each clock was out so that the
 7 clocks could notionally be adjusted in the conversion
 8 table. That's my understanding of it.
 9 MR CHASKALSON SC: Correct, Chair –
 10 CHAIRPERSON: I accept that that's all
 11 that need be said, but if the other parties, and they've
 12 all agreed because you've put it to them before, but if
 13 there are questions arising once the report is produced
 14 along those lines, it can be elaborated further, if
 15 necessary.
 16 MR CHASKALSON SC: Thank you,
 17 Chairperson.
 18 CHAIRPERSON: The major task which I
 19 assume has been largely performed already is in relation to
 20 the identification of the incidents, the time of which has
 21 to be established, and then the basis on which the
 22 establishment is done, but -
 23 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 24 Brigadier, before we pick up on the topic that we were
 25 dealing with last night, I'd just like to tie up several

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1 loose ends that I identified when I was reflecting on your
 2 evidence last night, and then we'll come back to finish off
 3 on the topic that we were dealing with at the close
 4 yesterday.
 5 Sorry, Chairperson, there is another issue which
 6 needs to be put on record, which is that when we played the
 7 Protea Coin chopper video yesterday, CC22, in Commission,
 8 it was being played on an Apple, through an Apple computer.
 9 It seems that the clock on the Apple computer functions
 10 differently from the clock on Windows-based computers, so
 11 although the video starts from 0 and ends at 38:34, the
 12 points in the middle, you know if you stop at point 22:15
 13 on the Apple computer that was played yesterday it's not
 14 the same point as all of our Windows computers would recall
 15 as 22:15. All of our timelines have been done on the
 16 Windows computer and our times correlate with the times
 17 that SAPS has found using the same software that we use on
 18 our machine. So the specific references that were given
 19 yesterday in relation to particular moments where we
 20 stopped the clock in hearing yesterday on the Apple
 21 computer may be 4 or 5 seconds out either way for everybody
 22 else who's working with Windows computers, and we just
 23 wanted to put that on record and what we would propose is
 24 that it's the Windows, that the Windows timeline is the
 25 timeline that ought to be used by everybody.

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1 CHAIRPERSON: I take it that that can be
2 fixed up; possibly a little schedule can be produced
3 indicating, to be read together with the transcript of
4 yesterday's evidence.

5 MR CHASKALSON SC: Yes, Chairperson, that
6 would be very helpful because otherwise what will happen is
7 someone will see a reference in the record of when the
8 video was playing yesterday, will look for it and won't see
9 what's there.

10 CHAIRPERSON: Yes, yes. So if that can
11 be attended to, I think that will be – you're happy with
12 that, Mr Semenya?

13 MR SEMENYA SC: We are, Chair.

14 CHAIRPERSON: Good. Alright, thank you.
15 Can we now resume cross-examination? By the way, I know
16 it's difficult to estimate issues but is it possible to
17 give us – I'm not asking for a guess but more a guesstimate,
18 I suppose, of how long you're likely to be. It depends on
19 all sorts of factors, I understand, but –

20 MR CHASKALSON SC: I will finish by
21 teatime.

22 CHAIRPERSON: I like that "will."

23 MR CHASKALSON SC: Brigadier, just a
24 couple of loose ends. I understood you yesterday to accept
25 with the benefit of hindsight, not to say that this was

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1 your knowledge at the time but to accept with the benefit
2 of hindsight that if the strikers in the koppie were to be
3 engaged it would have been easier to engage them if they
4 could have been flushed out of the koppie first. Is that
5 correct? With the benefit of hindsight about what the
6 terrain in the koppie was like.

7 BRIGADIER CALITZ: I haven't received the
8 transcript, so I'm not sure my exact words yesterday. With
9 the benefit of hindsight now I think the process was
10 successful because we were busy with the water cannons
11 flushing the people out and they were then to be broken up
12 into – ek is alweer op Engels – opgebreek word in kleiner
13 groepies en dan so ontwapen en gearresteer word. Ek weet
14 nie of ek vir u getuig het buite die koppie nie. Ek het
15 gesê daar waar hulle sou opgebreek het in kleiner groepies,
16 dan sou hulle kon gearresteer word.

17 MR CHASKALSON SC: But Brigadier, you say
18 the process was successful. 17 people were killed. Do you
19 regard that as irrelevant to the success of the process?

20 BRIGADIER CALITZ: Nee, mnr die
21 Voorsitter, glad nie. Ek het, ek dink met toneel 1 het
22 hulle dieselfde vraag vir my gevra. Glad nie. Op daardie
23 stadium, nou in hindsight weet ons dat daar 17 mense dood
24 is. Op daardie stadium was dit vir my 'n gewone
25 uiteendrywing met Openbare Orde Polisiëringslede. Ek het

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1 dit getuig dat ek net met die Pappa voertuie gepraat het,
2 net met die Openbare Orde Polisiëringslede, en dat die
3 uiteendrywing van die waterkanon en dan ook net non-lethal,
4 dit is rubber wat dan gebruik is vir die uiteendrywing. So
5 die sukses wat ek daar gesê het is dat toe Kolonel Vermaak
6 vir my sê die waterkanonne kan wag, die persone is "ge-
7 encircle," was dit vir my 'n suksesvolle uiteendrywing.
8 Die groep was opgebreek, ons kan nou arrestasies maak. Dit
9 is waarna ek verwys het.

10 MR CHASKALSON SC: Yes, but Brigadier, my
11 question is a question with the benefit of hindsight, and I
12 want to make that very clear – with the benefit of
13 hindsight, and assessing the success or failure of the
14 operation with the benefit of hindsight. Do you accept
15 that if it was necessary to, if it was going to be
16 necessary to engage the strikers, it would have been more
17 advisable to engage them after they had been flushed out of
18 the koppie into open veld?

19 BRIGADIER CALITZ: Mnr die Voorsitter, as
20 ek nou weereens met die benefit van hindsight, as 'n ou nou
21 moet – ek sou my nog steeds moet verlaat het op wat die
22 lug-steun vir my gesê het wat die omstandighede daar is –

23 CHAIRPERSON: No, no, you're not
24 understanding the question. You're not using hindsight if
25 you're relying upon the information the eye in the sky gave

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1 you. The information the eye in the sky gave you is
2 relevant to your state of mind at the time and you've told
3 us you thought that the dispersal operation had succeeded
4 because that's what you understood Lieutenant Colonel
5 Vermaak to be telling you and that's why you thought it had
6 succeeded, but now with the benefit of hindsight we know
7 that that hadn't happened, that there were still people on
8 koppie 3 and in the situation where it was a difficult
9 terrain, there were rocks and bushes and that kind of
10 thing, so that if POP people came into that area to drive
11 them out, well to disarm them and arrest them and so forth,
12 there were all sorts of problems that were going to happen.
13 They would be hiding behind rocks. They would be able to
14 launch attacks upon the POP people. Those who had firearms
15 could shoot at them. Those that had pangas or assegais
16 could jump out and attack them, and a situation could then
17 arise where the POP people would be obliged to defend
18 themselves, and we know that they had pistols to defend
19 themselves with. One person on each Nyala had a rifle. So
20 we know that they would have been – they might well in that
21 terrain have been in a situation where they were called
22 upon to defend themselves and with fatal consequences for
23 some of the strikers, and of course there were always a
24 danger that they might in fact exceed the bounds of self-
25 defence in particular circumstances, so that all those

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1 problems in fact arise because the attempt was made to deal
2 with them still on koppie 3. Isn't that correct?

3 BRIGADIER CALITZ: Mnr die Voorsitter,
4 ja, ek verstaan nou baie beter soos wat u verduidelik het.
5 Ek het net verneem mnr Chaskalson verwys "in hindsight,"
6 soos dit daardie dag plaasgevind het. Dis hoekom ek weer
7 verwys het daarna. Ek verstaan wat u sê. As ons –

8 CHAIRPERSON: Do you agree with what I
9 put to you?

10 BRIGADIER CALITZ: Ek stem –

11 CHAIRPERSON: It's not really rocket
12 science; it seems to be pretty clear.

13 BRIGADIER CALITZ: Ek stem saam, mnr die
14 Voorsitter, dat ons, die sukses dan, die "flushing out" van
15 die persone en dan dat hulle dan sou deurbeweeg en dan dit
16 was beter om dan die arrestasies en die opbreek van die
17 groepe dan so te doen.

18 CHAIRPERSON: [Microphone off, inaudible]
19 needs to be blunt. If you had been told at the time that a
20 number of these people are still on koppie 3, they are
21 still hiding behind bushes, hiding behind rocks, they are
22 armed with dangerous weapons, do you think it appropriate
23 for us to go there and try to disarm and arrest them there,
24 or is it a risky proposition, what would you have said?

25 BRIGADIER CALITZ: Dit is reg, mnr die

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1 Voorsitter. Met die benefit van hindsight het ek nou gesê
2 ons sou beter gewees het om nou dan heeltemal, wat die
3 woord is "uit geflush" het en dit is wat ek dan verneem het
4 gister dat, ag wat ek nou vir u wil sê is dat die sukses
5 waarvan ek verwys is dat ons het hulle "uit geflush," hulle
6 sou deurbeweeg het na die oop gedeelte toe en dit was dan
7 baie veiliger gewees. So in daardie geval stem ek saam met
8 u, met die benefit van hindsight, dit sou baie beter gewees
9 het.

10 CHAIRPERSON: You haven't answered my
11 question. I said if the question was being put to you at
12 the time –

13 BRIGADIER CALITZ: O, ekskuus.

14 CHAIRPERSON: - what would your answer
15 have been? Shall we go in and try to arrest them and
16 disarm them and so forth on that terrain, or will it be a
17 risky proposition to try to do that? What would your
18 answer have been if I had been there at the time and put
19 that question to you?

20 BRIGADIER CALITZ: Mnr die Voorsitter, ek
21 sal dan, as hulle my gekontak het dan sou ek seer sekerlik
22 gevra het wat is die omstandighede binne-in die koppie, is
23 daar persone – u het gesê dat persone kruip weg agter die
24 koppie, of daar was gevaarlike, ek dink u het verwys na
25 die –

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1 CHAIRPERSON: Well, there were rocks and
2 bushes to hide behind –

3 BRIGADIER CALITZ: Daardie tipe van
4 inligting, nee, dan sou die opdrag gewees het probeer met
5 die waterkanonne en met die uiteendryf om hulle nog steeds
6 uiteen te dryf na 'n oper gebied toe. Dis korrek.

7 CHAIRPERSON: Ja, alright. Thank you.
8 I'm sorry to interrupt you, Mr Chaskalson. I hope that
9 helped a bit.

10 MR CHASKALSON SC: Now you've spoken
11 about using the water cannon to flush people out of the
12 koppie. I'd have thought another obvious device to get
13 people to leave an area in the nature of the koppie, or of
14 the nature of the koppie would be to use teargas. Would
15 you accept that?

16 BRIGADIER CALITZ: Dit is een van die
17 opsies vir uiteendrywing, ja.

18 MR CHASKALSON SC: Because one of the
19 features of the operation at koppie 3 that's always struck
20 me as odd is that no teargas whatsoever was used. Are you
21 aware of that?

22 BRIGADIER CALITZ: Mnr die Voorsitter,
23 ja, nou in hindsight ons kyk na die statistiek, weet ons
24 daar het – ek dink daar is stun grenades gebruik, rubber en
25 water, so die traangas, ek weet nie wat die omstandighede

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1 was of die bevelvoerders wat daar was, die windrigting,
2 enige van daardie faktore, so ek weet nie wat die
3 omstandighede was hoekom hulle dit nie gebruik het nie,
4 maar ek is bewus dit is, daar is nie gebruik nie.

5 CHAIRPERSON: Let me ask you this
6 question. Was the wind blowing strongly on that day, at
7 that time? You were there; at least you'd know that.

8 BRIGADIER CALITZ: Kommissaris, dit is –

9 CHAIRPERSON: No, but seriously –

10 BRIGADIER CALITZ: Nee, nee, nee, ek
11 verstaan –

12 CHAIRPERSON: I understand wind is a big
13 problem –

14 BRIGADIER CALITZ: Ek verstaan wat u sê,
15 maar ek sal rêrig nie –

16 CHAIRPERSON: I'm sorry to talk over you.
17 I understand wind is a big problem if you're using teargas,
18 particularly if it's going to blow the teargas back at you,
19 and I don't think you people had gas masks that day.

20 BRIGADIER CALITZ: Die Openbare Orde
21 Polisiëring het wel by hulle in hulle voertuie gehad.
22 Weens die aanval op die eerste het hulle hulle nie aangehad
23 nie, ja.

24 CHAIRPERSON: Alright, okay. So can you
25 remember whether there was a wind problem that day?

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1 BRIGADIER CALITZ: Mnr die Voorsitter,
 2 die enigste wat ek nou kan in hindsight is na die video's
 3 wat ons gekyk het op toneel 1 waar ons gesien het as daar
 4 rook opgaan, die rigting wat die wind – maar ek sal nie sê
 5 dis 'n vreeslike sterk wind nie, nee. Maar daar was wel
 6 die rook wat wegbeweeg het, maar op koppie 2, ek is
 7 eerlik –
 8 VOORSITTER: Koppie 3.
 9 BRIGADIER CALITZ: Ag, koppie 3, ekskuus,
 10 toneel 2 –
 11 CHAIRPERSON: I take it certain exercises
 12 can be performed; we can get one of the people to look at
 13 some of the videos and see what happens to the bushes and
 14 so on, if there's a strong wind blowing we'll see the
 15 branches moving around and if it's relatively still we'll
 16 see that too. So that's something we could ascertain with
 17 almost scientific accuracy –
 18 BRIGADIER CALITZ: Dit kan help –
 19 CHAIRPERSON: But you can't tell us from
 20 your knowledge –
 21 BRIGADIER CALITZ: Ja, ek kan rêrig nie
 22 help nie, nee mnr die Voorsitter.
 23 MR MPOFU: Sorry, Chairperson, just for
 24 my own clarity, is it suggested that the were differences
 25 between the wind at scene 1 and scene 2 in this analysis?

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1 CHAIRPERSON: He's not saying anything,
 2 but it sometimes can be. You know the question is was
 3 there a wind problem which prevented the use of teargas.
 4 That's the question.
 5 MR MPOFU: Only at scene 2?
 6 CHAIRPERSON: Well, we're busy with scene
 7 2 at the moment. Let's keep our eyes on this particular
 8 ball and not – we're busy with the second half now. The
 9 whistle has already gone at the end of the first half, so
 10 let him carry on with this question.
 11 MR CHASKALSON SC: Have you ever made an
 12 enquiries from the members under your command, the POPS
 13 members, as to why they chose not to use teargas on that
 14 day?
 15 BRIGADIER CALITZ: Nie op daardie stadium
 16 nie, nee.
 17 MR CHASKALSON SC: No, I'm talking about
 18 "op hierdie stadium" –
 19 VOORSITTER: Nie op daardie stadium nie,
 20 ons praat van hierdie stadium.
 21 BRIGADIER CALITZ: O, in hindsight.
 22 VOORSITTER: Tot vandag toe.
 23 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 24 kan nie presies onthou wat die redes was. Ek dink dit was
 25 wat, soos dit voor hulle uitgespeel het, het die lede gesê

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1 daar was van stun grenades gebruik gemaak en dan ook
 2 haelgeweer rubber saam met die - ek kan nie dink dat ons
 3 spesifiek gepraat het oor die traangas nie, nee.
 4 MR CHASKALSON SC: Brigadier, I think
 5 you'll find that none of your members used stun grenades
 6 either. The only stun grenades that were thrown were
 7 thrown by two members of the Dog Squad.
 8 BRIGADIER CALITZ: Ja-nee, ek het nie
 9 gesê wie hulle gegooi het nie. Ek sê net ek weet op
 10 daardie dag is dit gebruik. Onthou ek het getuig dat ek
 11 was glad nie bewus –
 12 MR CHASKALSON SC: I'm asking about
 13 enquiries that you've made after the event about this
 14 operation in respect of which you were the commander. Do
 15 you remember who you spoke to about why teargas wasn't
 16 used?
 17 BRIGADIER CALITZ: Nee, mnr die
 18 Voorsitter, ek dink dit was daardie tydjie in Roots toe
 19 alles bymekaar gekom het en toe ons met die verskillende
 20 groeperings opgebreek het, en ek dink dit is waar die
 21 inligting vandaan gekom het, maar ek dra glad nie kennis –
 22 ek dink as u verwys na die Honde Eenheid, dit beteken aan
 23 die suidekant waar die stuns gebruik is.
 24 MR CHASKALSON SC: Then just to move to
 25 another loose end, the corrected version about Lieutenant

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1 Colonel McIntosh, victim C and the movement of your Nyala,
 2 I understand your evidence now to be that you accept that
 3 your Nyala moved straight to the koppie, but that you can't
 4 remember why this was the case and you were hoping that
 5 maybe Warrant Officer Nong would throw some light on that
 6 at a later stage. Is that correct?
 7 BRIGADIER CALITZ: Dit is korrek, ja, mnr
 8 die Voorsitter.
 9 MR CHASKALSON SC: And you accept that
 10 your Nyala did stop at the koppie?
 11 BRIGADIER CALITZ: Ja, dit is korrek, mnr
 12 die Voorsitter.
 13 MR CHASKALSON SC: Now when you got out
 14 of the Nyala as it stopped at the koppie, surely it was
 15 clear to you that there was a massive crime scene inside
 16 the koppie?
 17 [09:34] BRIGADIER CALITZ: Volgens my was dit die
 18 arrestasies wat besig was plaas te vind na die dispersion
 19 action wat ons die opdrag gegee het en kon so tussen die
 20 voertuie deur sien daar lê persone, hulle is besig om die
 21 persone, ek dink daar was Canter voertuie ook onder
 22 korreksie voor ons waar hulle dan besig was met die persone
 23 tydens die arrestasie.
 24 CHAIRPERSON: The expression crime scene
 25 can possibly lead to confusion but the fact is there were

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1 people there who were or had been perhaps by that time in
 2 possession of dangerous weapons, right? So it was a scene
 3 where people had been apprehended at the lowest as it were
 4 in possession of dangerous weapons, isn't that so. So in
 5 that sense it was a crime scene. The sort of scene you
 6 would want, if you, I understand there's problems with
 7 medical people but leaving that part aside it's a scene
 8 that you would want to leave intact for the LRC people,
 9 what are they called, LCRC people to deal with, isn't that
 10 so?

11 BRIGADIER CALITZ: Dit is korrek, mnr die
 12 Voorsitter. Enige uiteendryf aksie is 'n toneel wat ons
 13 daarna moet kyk

14 CHAIRPERSON: Ja and did you, I take it
 15 you didn't know at that stage that people had died or did
 16 you?

17 BRIGADIER CALITZ: Glad nie, mnr die
 18 Voorsitter.

19 CHAIRPERSON: Did you know that firearms
 20 had been fired, had you heard shots of any kind?

21 BRIGADIER CALITZ: Mnr die Voorsitter,
 22 nee, gister is ook vir my gevra live fire, ek kan onder,
 23 glad nie omstandighede sê dat ek enige skote gehoor het nie
 24 en dat ek iets snaaks vermoed het nie. Ek dink gister het
 25 ek getuig daar was miskien 'n haelgeweer soos die persone

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1 gedisperse was in die noord weste kant maar daar was
 2 helikopters in die lug en die goeters. So ek, ek kan glad
 3 nie vir u met sekerheid sê dat ek wel enige skote gehoor
 4 het.

5 CHAIRPERSON: This is the point I was
 6 coming to. Is it that you can't remember whether you heard
 7 firearms being discharged or you can remember that you
 8 didn't hear firearms being discharged, you understand the
 9 difference.

10 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 11 het oor hierdie ding oor en oor probeer dink in my
 12 gedagtes, is daar enige oomblik waar ek dit wel gedink het
 13 en ek kan op geen, in my gedagte op 'n punt kom waar ek kan
 14 sê wel ek het dit daar gehoor of ek het dit daar gehoor
 15 nie. So volgens my nee ek het dit nie gehoor nie.

16 CHAIRPERSON: Thank you.

17 MR CHASKALSON SC: Well, Brigadier,
 18 presumably if you had heard the sounds of firearms, sharp
 19 point firearms being fired you would have wanted
 20 immediately to get a report on what was going on.

21 BRIGADIER CALITZ: Dit is korrek. Ek sou
 22 dan dadelik op radio obviously gevra het ek hoor dit, kan
 23 iemand 'n situasie rapport gee, nie uit die lug uit want
 24 onthou die aerial command sal dit ook nie kan hoor, maar
 25 van die bevelvoerders wat daar was. Ek het comms gehad met

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1 die Papa Nyalas so ek sou dan onmiddellik vir hulle gevra
 2 het gee vir my 'n situasie rapport, wie het geskiet, waar
 3 is geskiet en hoekom.

4 MR CHASKALSON SC: You say you had comms
 5 with the Papa Nyalas, what were those Comms?

6 BRIGADIER CALITZ: Dit was van dat ons by
 7 die hergroeperings lyn vorentoe gegaan het waar ek dan
 8 opdragte gegee het vir die Papa voertuie gaan links, Papa
 9 voertuie kom saam hierdie kant toe, en daai tipe van
 10 kommunikasie op die radio.

11 MR CHASKALSON SC: Sorry I misunderstood
 12 you. I was, I thought you were referring to means of
 13 communication not individual communications. So you're
 14 talking about communications that were made over the radio?

15 BRIGADIER CALITZ: Die radio, dit is
 16 korrek, mnr die Voorsitter.

17 MR CHASKALSON SC: So if you say that you
 18 can't, we know that you didn't at any stage call for
 19 reports about, call for reports from the Papa vehicles
 20 inside the koppie for, about incidents of gunshot fire.

21 BRIGADIER CALITZ: Dit is korrek, dit is
 22 duidelik op die transcript.

23 MR CHASKALSON SC: And if you had heard
 24 or been alerted to gunshot fire that would have been the
 25 responsible thing for you to have done?

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1 BRIGADIER CALITZ: Dit is korrek, as ek
 2 dit gehoor het sou ek beslis daarop gereageer het.

3 MR CHASKALSON SC: So when you said to
 4 the Chairperson you've gone over it in your memory again
 5 and again and you can't recall ever having heard gunshots
 6 surely there's a much simpler way for you to know that you
 7 never heard gunshots which is that you never made any
 8 inquiries about them, you know that you never made any
 9 inquiries about them.

10 BRIGADIER CALITZ: Mnr die Voorsitter, ja
 11 die enige wat ek wel gesien het daar was, was in hindsight
 12 en dit is met die transkripsie en die video en die footage
 13 wat ons dan daarna geluister het, was daar opmerkings
 14 gewees daaroor.

15 MR CHASKALSON SC: So now that you've
 16 listened to the video you realise that there were in fact
 17 some reports of gunshots?

18 BRIGADIER CALITZ: As u reg onthou dit is
 19 die stukke wat u vir my gegee het, ek dink Dinsdag waarop
 20 ek dan gaan luister het na sekere dele van daardie wat u na
 21 my, u het na sekere dele verwys.

22 CHAIRPERSON: You use the expression -

23 BRIGADIER CALITZ: Met tydlyne by.

24 CHAIRPERSON: Sorry, Mr Chaskalson, you
 25 use the expression reports of gunshots, do you mean -

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1 MR CHASKALSON SC: Radio reports.
 2 CHAIRPERSON: Radio reports?
 3 MR CHASKALSON SC: Radio reports.
 4 CHAIRPERSON: You found the discharge of
 5 a firearm.
 6 MR CHASKALSON SC: No, I mean one hears
 7 the sound of a discharge of a firearm on Captain Ryland's
 8 videos, several times but that's of little relevance to the
 9 Brigadier's position because it's possibly a 140, 150
 10 metres away from his position. So we don't know what
 11 Captain Ryland's but one can hear on Captain Ryland's cell
 12 phone, is something that he could have heard from his
 13 position. But there are radio reports of gunshots and
 14 maybe we can go to them now.
 15 CHAIRPERSON: Captain Ryland's is a bit
 16 further away from koppie 3 and the witness.
 17 MR CHASKALSON SC: Not at the time –
 18 CHAIRPERSON: Not at the time the gun, I
 19 see, I'm sorry. At the time the sounds of discharge of
 20 firearms are heard that was before he got to the close
 21 vicinity of koppie 3 when he was still up in the area where
 22 people were being arrested, is that correct?
 23 MR CHASKALSON SC: That's correct,
 24 Chairperson.
 25 COMMISSIONER HEMRAJ: And, Mr Chaskalson,

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1 the sounds of fire on the Captain Ryland's video has that
 2 been identified as live ammunition fire?
 3 MR CHASKALSON SC: We haven't had an
 4 expert refer to that, we can do that but I mean it's, one
 5 doesn't need much expertise, people are in what looks like
 6 a war situation from the visuals on Captain Ryland's video,
 7 one can infer immediately that's what's and every now and
 8 again he says get down, get down, they're shooting and hear
 9 pop, pop, pop. So it's, I mean we can do the exercise, my
 10 own view is that it would be unnecessary.
 11 CHAIRPERSON: Maybe it's necessary to
 12 the untutored ear the discharge of a shotgun, the firing of
 13 a shotgun which discharges rubber pellets may sound like
 14 sharp ammunition being used or, the untutored ear may be
 15 unable to distinguish between sharp ammunition and rubber
 16 bullets being fired. So possibly it's an exercise that has
 17 to be performed. If we are going to argue from inference
 18 later, or be asked to argue from inference the, each fact
 19 from which inference is sought to be drawn must be
 20 established with a high degree of accuracy.
 21 MR CHASKALSON SC: Well we can discuss
 22 that further at a later stage. Maybe if we can go to the
 23 radio reports and the, I've already, the radio reports
 24 really need to be split into two separate categories.
 25 There are the radio reports that we hear audibly either on

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1 the Protea coin chopper video which is CC22 or on Captain
 2 Ryland's videos when his cell phone is close to his radio
 3 but that's the I series videos. That's one category. Then
 4 there are another category of radio reports because there
 5 are radio reports which were recorded in the JOC and which
 6 are not audible on either the Protea Coin chopper video or
 7 Captain Ryland's videos either because at that stage there
 8 was the relevant video cameras weren't near the radios or
 9 because it was at a period when before or after the
 10 relevant videos were on.
 11 CHAIRPERSON: You say record in the JOC
 12 I think you mean recorded in writing.
 13 MR CHASKALSON SC: Indeed, recorded in
 14 writing.
 15 CHAIRPERSON: Written down in the JOC,
 16 ja.
 17 MR CHASKALSON SC: That's correct,
 18 Chairperson and that's the list of radio communication
 19 reports in JJJ168, Captain Van Heerden's list. So let's
 20 start with the one that we can still hear today. We've
 21 already dealt with the report of two bodies at the back of
 22 the koppie, we've heard your explanation for it. I don't
 23 want to go back to that. But if we go approximately, sorry
 24 that was at ETV time 16:09:17. If we go one and a half
 25 minutes later to Protea Coin 13:20 at 16:10:50 ETV time we

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1 hear on the radio, "shoot again target." We gave you these
 2 references, do you accept that that's what we hear on the
 3 radio?
 4 BRIGADIER CALITZ: Dit is korrek, dit
 5 staan ook so in die transcript wat ek het GGG35.
 6 CHAIRPERSON: - in the transcript you've
 7 got, is that what you hear? I mean the transcript could be
 8 wrong. We want to know whether you accept that the
 9 transcript correctly records what can be heard.
 10 BRIGADIER CALITZ: Ek kan dit hoor op die
 11 -
 12 CHAIRPERSON: Okay so the answer is yes
 13 you can hear it. The fact that you have the transcript
 14 doesn't take it any further.
 15 BRIGADIER CALITZ: Dit is korrek, mnr die
 16 Voorsitter.
 17 CHAIRPERSON: It's your ears that we're
 18 interested in now, not the ears of the transcriber.
 19 BRIGADIER CALITZ: Dis C22 wat ek gehoor
 20 het op die Coin chopper, korrek, mnr die Voorsitter.
 21 MR CHASKALSON SC: Then if we go again –
 22 COMMISSIONER HEMRAJ: Sorry, whose voice
 23 is that, "shoot again target," do we know?
 24 MR CHASKALSON SC: We haven't identified
 25 that voice.

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1 BRIGADIER CALITZ: Dit is my stem, mnr
 2 die Voorsitter.
 3 MR CHASKALSON SC: That's your voice
 4 shoot again target?
 5 BRIGADIER CALITZ: Dis hoekom ek sê
 6 miskien as ons na die video kan kyk dan kan ek net
 7 verduidelik dit is hoe ek dit erken het.
 8 MR CHASKALSON SC: Can we –
 9 CHAIRPERSON: I don't think the video
 10 can help us, we're listening to an audio recording I
 11 believe.
 12 BRIGADIER CALITZ: Ons het gister uit die
 13 Protea Coin uit, so dit is net waarna ons kan verwys.
 14 MR CHASKALSON SC: We're now going to run
 15 into the same problem that we ran into yesterday because –
 16 CHAIRPERSON: I understand that it won't
 17 work, having a debate with the Commissioner on the question
 18 of terminology. I know it's on the video but it's on the
 19 video soundtrack, you play the video and you hear the sound
 20 track, is that right?
 21 MR CHASKALSON SC: That's correct.
 22 CHAIRPERSON: On the sound track you
 23 hear a voice and the owner of the voice has put his hand up
 24 and said it's my voice, is that the position and the
 25 question is what does that voice say, what do other voices

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1 say and that is what we're going to listen to now, is that
 2 right?
 3 MR CHASKALSON SC: Well maybe the
 4 Brigadier should explain the circumstances in which he said
 5 those words and then we can look at the video.
 6 CHAIRPERSON: Alright let's do that.
 7 Now the problem that we had yesterday is we're going to
 8 have again today because the spots at which particular
 9 things can be heard will be wrongly, will be identified by
 10 the Apple people in a different way, they speak, they use
 11 different system of chronology it would seem from the work,
 12 who are the other people –
 13 MR CHASKALSON SC: Microsoft.
 14 CHAIRPERSON: Microsoft. So these are
 15 rival commercial enterprises which are not singing from the
 16 same hymn sheet.
 17 MR CHASKALSON SC: We may introduce
 18 Google at a later stage.
 19 BRIGADIER CALITZ: Mnr die Voorsitter, as
 20 ek dan –
 21 CHAIRPERSON: So the first, before we
 22 have this interesting exercise of the one commercial
 23 enterprise playing something that we normally listen to,
 24 with the instruments of another commercial enterprise, can
 25 you explain as Adv Chaskalson asked you to, why you said

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1 what you admit you said and what you meant by it.
 2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 ja, ek het gevra, ek verstaan die Apple computer en die
 4 ding. As jy gaan kyk, ek wil miskien verwys na die GGG35
 5 as ek mag, ek weet nie of mnr die Voorsitter die
 6 transkripsie by u het nie waar ons gister geëindig het, as
 7 ek net die woorde kan lees, ek dink almal gaan dit kan
 8 recall want dit was gister, ek het ongelukkig nog nie 'n
 9 transkripsie gekry van gister nie. Ek het gedink ek sal
 10 dit kan gebruik maar dit het nog by ons uitgekom nie. Om
 11 16:10:05, tussen 16:09, 16:10 volgens die tye wat ek
 12 verstaan het daar was nou sekondes verskil. Maar ek dink
 13 nie dit gaan 'n verskil maak nie, is daar 'n stem wat sê,
 14 "water cannon go forward, water cannon go forward," my
 15 stem. "There's a group hiding in the middle there, go
 16 forward, go forward, I said go forward no, no, no go left,
 17 left, left, ek het daarvoor getuig dat dit was nadat Kolonel
 18 Vermaak vir hulle gesê gaan links. Ek het vir hulle gesê
 19 forward, forward en soos ek dop gehou het gesien oh nee hy
 20 het moes gesê links to strike dit my u kan hoor dit is 'n
 21 operasionele druk tyd. Die volgende woord is Kolonel
 22 Vermaak wat sê, "yeah water cannon and the Nyala go
 23 straight go straight and go to your right man there's a
 24 road there where you can drive in." So ek kon die
 25 frustrasie in stem hoor dat hy sukkel met die waterkanon.

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1 Ek was nie seker omdat daar nie terug koms met hom was of
 2 hierdie persone nie. Dan sê hy, "I'm saying the one that
 3 is with Papa7, met ander woorde die waterkanon with Papa7,
 4 dit staan in die transkripsie, "you are driving into the
 5 bush now, yes passed the Nyala." Nou op ons tyd wat ons
 6 gekyk het, ek weet nie watter computer of programme ons het
 7 maar dit is so 13:15, 13:19 in die transcript in, "you're
 8 driving into the bush now yes past the Nyala go straight
 9 now." So dit het ek op daai stadium gedink hy is nou in
 10 die bos, go straight now, met ander woorde die groepering
 11 wat ons aanvanklik verwys het is nou voor hom. Dan is daar
 12 'n opbreek in die radio. Volgens my die woorde was ek het
 13 met die waterkanon gesels, so al wat die radio deur kom is
 14 shoot again target en dan maak hy die radio blib, blib,
 15 blib nou met ons analogue radio sisteme en dit was miskien
 16 'n probleem met die radio's dat as 'n ou praat het ek
 17 either die radio te vroeg gedruk of die syn het direk nie
 18 deurgegaan nie. Maar ek het vir die waterkanon gesê water
 19 cannon shoot again at the target vir daardie spesifieke en
 20 dit is om 13:20 tot omtrent 13:21. Dan kan u sien as ons
 21 dan dieselfde aksie gebruik het, daai in zoom wat ek nou,
 22 ek het toe nou die ding gedoen. Kan 'n ou sien dat om
 23 13:24 twee sekondes na die tyd het die waterkanon wel
 24 gespuit. So hulle kon my hoor en hulle het gereageer op
 25 wat ek die opdrag was van die hele gesprek, dit was nou

<p style="text-align: right;">Page 19200</p> <p>1 net rondom die waterkanon en dan omtrent 'n paar sekondes 2 later, onder korreksie, 10, 8 sekondes later praat ek weer 3 met die waterkanon en ek sê, die transkripsie sê inaudible, 4 dit begin net to the small koppie. Daai inaudible het ek 5 weer gepraat met die waterkanonne en die voertuie in the 6 small koppie they are coming up and move towards the 7 substation. Dit is miskien in 'n antwoord op hindsight nou 8 dat ons hulle uit flush en dan sal hulle uit hardloop en 9 sodoende was dit my mening dat ons flush hulle uit en ons 10 gaan hulle dan in kleiner groepies. Onmiddellik daarna het 11 Kolonel Vermaak en dit was getuienis reeds gewees het hy 12 reageer en gesê ja Papa1 if that water cannon can wait 13 there, met ander woorde die opdragte wat ek toe vir die 14 waterkanon gegee het en gesê spuit en pasop hulle kom uit 15 aan die kant, dis die beweging wat ek toe ek aan die kant 16 van die koppie waarneem, if those people can wait there the 17 people are encircled now. So op daardie stadium het ek 18 gedink goed hy het dan 'n beter sig uit die lug uit en ek 19 het toe vir die waterkanonne gesê okay hold back waarop ek 20 vir almal gesê gaan dan uit omdat hy 'n beter sig het en 21 gaan maak arrestasies. So dit is die storie rondom die, 22 maar die woorde op die, u sal hoor as ons die transkripsie 23 speel dit is 'n baie, ek het verneem daar's 'n nuwe trans, 24 so as ek moet herhaal is ek bereid, ek is net gevra om net 25 stadiger te praat, mnr die Voorsitter, vir die translator.</p>	<p style="text-align: right;">Page 19202</p> <p>1 die waterkanon. 2 MR CHASKALSON SC: So you're now saying 3 you could see the water cannon? 4 BRIGADIER CALITZ: Ja, ek dink ek het dit 5 gister ook so genoem. 6 MR CHASKALSON SC: We had a lengthy 7 exchange about when you are saying, directing the water 8 cannon to go left whether you could or couldn't see the 9 water cannon. Yesterday I understood you to be saying you 10 couldn't see it, you were just repeating what Lieutenant 11 Colonel Vermaak had said. Now you say you could see it. 12 BRIGADIER CALITZ: Ek dink op die video 13 het ons verwys na die onderpunt by die koppie, die groot 14 voertuig ja. 15 [09:53] MR CHASKALSON SC: So, at the time you 16 could see the water cannon. 17 BRIGADIER CALITZ: Korrek, mnr die 18 Voorsitter. 19 MR CHASKALSON SC: And it seems that not 20 only could you see the water cannon, but you also had a 21 sense of where you wanted the water cannon to shoot or 22 where and when you wanted the water cannon to shoot, 23 because you are instructing the water cannon to shoot, not 24 Lieutenant-Colonel Vermaak, and you're saying shoot at the 25 target.</p>
<p style="text-align: right;">Page 19201</p> <p>1 So die woorde op die transcript wat deurgekom het hoor jy 2 net die radio shoot again target, gaan hy weer af. So maar 3 ek weet duidelik dit was met die waterkanonne waarmee ek 4 gepraat het. Die onderbreking in die radio en wat ge- 5 record is, is nie die hele sin wat daar was nie. 6 MR CHASKALSON SC: So, Brigadier, let me 7 see if I understand correctly. Your instructions were not 8 about live fire, they were about getting the water cannon 9 to shoot first? 10 BRIGADIER CALITZ: Ja, daar kan nie 11 opdrag wees om lewendige ammunisie te gebruik nie, dit gaan 12 altyd net wees disperse. 13 MR CHASKALSON SC: Now when we dealt with 14 this, well with the seconds immediately leading up to here 15 and the seconds immediately after it you indicated that you 16 couldn't see what was going on in the koppie and you 17 couldn't see the water cannon, you were merely just 18 repeating what Lieutenant Colonel Vermaak had told you? Do 19 you recall that? 20 BRIGADIER CALITZ: Ja, ek dink, ek moet 21 na die transkripsie weereens gaan kyk. Ek het gesê toe ek 22 terug kyk ek dink op die linker agterkant, ek dink u het na 23 verwys die groter een is die, hoe die voertuie op 'n 24 afstand van 100, wat het u gesê 150 meter, so dit is so een 25 en 'n halwe rugby veld ek kon sien dit waar hy sukkel met</p>	<p style="text-align: right;">Page 19203</p> <p>1 BRIGADIER CALITZ: As jy onthou gister 2 het ek vir u gesê daar's 'n verskil tussen 'n aerial 3 command en commanders op die grond, die bevelvoerders op 4 die grond is nog steeds in bevel van hulle mense en wat 5 hulle sien voor hulle. So die aerial command kan vir die 6 persone op die grond instruksie gee, gaan hierdie kant toe, 7 gaan daai kant toe, en dit is hoekom ek die woordjie gelees 8 het, "You're driving in the bush now? Yes, pass the Nyala. 9 Go straight now." So toe ek hoor go straight now, was dit 10 in my gedagte dat dit is – hulle is nou by die persone en 11 dit is toe ek die opdrag gegee het vir die water kanon om 12 hulle dan uit te flush. 13 MR CHASKALSON SC: But you'll recall also 14 yesterday that the identification of people hiding in the 15 koppie came from you, not from Lieutenant-Colonel Vermaak. 16 BRIGADIER CALITZ: Ons het daaroor 17 getuig. 18 MR CHASKALSON SC: Now you say that the 19 water cannon was going to – that you issued an instruction 20 – let me get my note – not an instruction, almost a warning 21 or a report to your men, "They're coming out in the small 22 koppie, they're coming out and moving towards the 23 substation." That was your voice. 24 BRIGADIER CALITZ: Ek vertrou dit is wat 25 ek gesê het waar ek met die water kanon en die persone</p>

<p style="text-align: right;">Page 19204</p> <p>1 gepraat het, en op daardie afstand kon mens sien daar is 2 beweging. Ek kan nie vir u sê wie dit was, hoe hulle gelyk 3 het, dit is 'n hele ver afstand, maar jy kon sien na die 4 water kanon spuit daar was beweging gewees. Dit was wat ek 5 waargeneem het.</p> <p>6 MR CHASKALSON SC: You see what concerns 7 me and maybe we should just give the reference to that 8 passage in the transcript. My note on it is between 13:38 9 and 13:46 of the video, CC22, 13:38, 13:46, which is eTV 10 time 16:11:08 to 16:11:16. If you – in order to know that 11 the people were going to be flushed out in the direction of 12 the substation, you'd really have to know where the water 13 cannon was and where the people were, because there were 14 broadly two different directions where a water cannon 15 firing from the north could flush people out. Could flush 16 them out to the – sorry, I must just get my bearings right, 17 because - water cannon will be firing from the northwest, 18 the –</p> <p>19 CHAIRPERSON: Mr Chaskalson, I'm sorry to 20 interrupt you. GGG35 is the transcript we've got. Your 21 one has obviously been annotated or something, it's got 22 extra material on it, that's not on the document we have, 23 but can you tell us where exactly the passage you're now 24 reading to us, is to found so we can follow. We'll 25 obviously have to update our transcript and so on later,</p>	<p style="text-align: right;">Page 19206</p> <p>1 there are broadly two escape routes southeast, which is 2 where – maybe we can call up a different image of the 3 koppie to illustrate this.</p> <p>4 CHAIRPERSON: You mention that you want 5 it called up, then don't leave it to the discretion of the 6 machine operator.</p> <p>7 MR CHASKALSON SC: Let's try KKK17.1. At 8 the back of the koppie, there is a cluster of rocks and 9 bushes which I'm marking on KKK17.1 now. They are – let's 10 start with the rocks and bushes that go into the dam, the 11 dry dam, they are the first outcrop of rocks and bushes 12 from the right-hand side of the picture. Then to their 13 left there is a dense outcrop of rocks and bushes. The two 14 obvious escape routes if one is trying to get out of the 15 koppie are either through the dry dam to the right of the 16 picture and then out to the south – up to the west, 17 southwest here, or through a passage which I'm marking – I 18 think that's the passage that I'm marking there, which will 19 take you in the south easterly direction towards the 20 substation.</p> <p>21 CHAIRPERSON: That past the – near the 22 top of the picture we see a whole cluster of - it looks 23 like about a dozen vehicles. I haven't counted them, it 24 must be about a dozen vehicles, and then there's an opening 25 and then there are I think some more vehicles to the left.</p>
<p style="text-align: right;">Page 19205</p> <p>1 but let's just – if you can tell us where we must look?</p> <p>2 MR CHASKALSON SC: I'm just getting a 3 copy of GGG35.</p> <p>4 COMMISSIONER HEMRAJ: Our transcript 5 doesn't have the time reference that you've just given, 6 that's why we're having difficulty in finding the passage 7 you're referring to.</p> <p>8 MR CHASKALSON SC: At the top of page 5 9 of on GGG – at 35 the – and now if we just go back up to 10 page 4. Stop. Where it says male voice, Brigadier Calitz 11 has identified himself and the inaudible to the small 12 koppie is, "They're coming out in the small koppie, they're 13 coming out and move towards the substation." Sorry, let's 14 go back at the bottom of page 4. So that's the 15 communication and the reference is 13:38 to 13:46.</p> <p>16 CHAIRPERSON: Yes, thank you. And the 17 passage – the bottom line on page 4, where we have in 18 square brackets the words [inaudible], I think the witness 19 has expanded that from his memory.</p> <p>20 MR CHASKALSON SC: Yes, he expanded it 21 along the lines that I just have. Not from his memory, I 22 think from the transcript, from the listening more 23 carefully to the transcript to himself – the recording. 24 So, Brigadier, you knew that the water cannon was going to 25 flushing people out, but if people were to go flushed out,</p>	<p style="text-align: right;">Page 19207</p> <p>1 One of them being a Canter, I think. So what you're 2 suggesting is that that's a possible exit route, and the 3 other one you say is through the dry dam. Is that correct?</p> <p>4 MR CHASKALSON SC: That is correct, 5 Chairperson. So there are at least two possible ways in 6 which people flushed out of the koppie will go. Now, you 7 gave the report to your men that – not just your men, your 8 men and women, that the strikers were going to move out in 9 the direction of the substation. Direction of substation 10 I'm marking now and it's sort of in the first, at a point, 11 a third of the way from the left of the top of the picture. 12 Do you accept that that is the direction of the substation?</p> <p>13 BRIGADIER CALITZ: Mnr die Voorsitter, op 14 hierdie foto, ek weet die substasie sit langs die koppie. 15 Ek kan nie met akkuraatheid vir u sê presies waar nie. Ek 16 dink daar is ander fotos wat verder en beter fotos is wat 17 gebruik kan word, maar ek weet die substasies is omtrent 18 aan die kant waar daai sedan voertuie aan die noorde kant – 19 as ons nou op hierdie foto aan die bokant van die foto.</p> <p>20 BRIGADIER CALITZ: It's just below the 21 top of the photograph. There's a line of vehicles. There 22 appears to be road there.</p> <p>23 BRIGADIER CALITZ: Dit is die omgewing 24 waar die substasie is.</p> <p>25 COMMISSIONER HEMRAJ: - possible route is</p>

<p style="text-align: right;">Page 19208</p> <p>1 unimpeded, clear ways out of the koppie. 2 MR CHASKALSON SC: Indeed, indeed, 3 Commissioner Hemraj. 4 COMMISSIONER HEMRAJ: No accounting for 5 persons who would want to go over the rocks through the 6 bush in a different direction. 7 MR CHASKALSON SC: True. I mean that 8 increases the range of options. Maybe to illustrate it 9 more clearly, let's go to KKK5134. Colonel Botha's 10 photograph, which shows the substation relative to the 11 koppie. And now if we can just mark certain positions. 12 This is Papa1 that I'm marking now. There is a group of 13 seven vehicles at the bottom of the picture. Papa1 is the 14 second left most of these vehicles. The koppie speaks for 15 itself. The substation is on the left hand side of the 16 picture in the middle of the page. Now, Brigadier Calitz, 17 and in fact we can – can we just zoom in where I'm marking 18 now, because one of these vehicles is the water cannon, and 19 if we zoom in, we'll identify which one it is. There is 20 the northwest water canon, and if we can zoom back so that 21 we can describe it? Inside the koppie itself there is a 22 group of three vehicles together and one further to the 23 left of that group. The water cannon is in the group of 24 three and is the left vehicle in the group of three. So, 25 Brigadier, I'm marking your position, I'm marking the</p>	<p style="text-align: right;">Page 19210</p> <p>1 in the position as is shown on KKK17.1 at the time you gave 2 these orders? It's the previous photograph that was up. 3 BRIGADIER CALITZ: Nee, Kommissaris. Ek 4 het die opdragte gegee toe ek nog daar op die vorige foto 5 nou, wat ons nou net was. 6 MR CHASKALSON SC: 5.34. 7 BRIGADIER CALITZ: Ek het die opdragte 8 met die water kanonne gegee toe ek by die 150 meter wat hy 9 gesê het weg was van die koppie af. Ek het terug gekyk en 10 gesê daar agter het ek die water kanon gesien en as ons dan 11 gaan kyk waar die blou of die groen gedeelte op die gras, 12 ek dink dit is in die rigting, onder korreksie, waar hy dan 13 gespray het. 14 COMMISSIONER HEMRAJ: What I'd like to 15 understand is from your position in the Nyala in that 16 position, what was within your field of vision? 17 BRIGADIER CALITZ: Ek het terug gekyk, as 18 jy sien waar ek was, deur die linker en agter venster van 19 my voertuig. As ek nou op hierdie foto moet – ek weet 20 hierdie een is 'n baie latere – 21 COMMISSIONER HEMRAJ: Would perhaps use 22 the pointer just to show us on the photograph what was 23 within your field of vision, please? 24 BRIGADIER CALITZ: Ek weet hierdie is op 25 'n baie latere stadium. Daar is my voertuig. So wat ek</p>
<p style="text-align: right;">Page 19209</p> <p>1 position of the water cannon, and I'm marking the 2 substation. To know that the water cannon was going to be 3 driving people out to the substation as opposed to the area 4 – to a different area, you had to have a sense at the very 5 least of where the water cannon was, where it was firing 6 and where those people were. Did you have that sense? 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 ja, volgens my was die water kanon net bietjie voor. As 9 ons nou net die – ek het nie die verwysing hier 10 neergeskryf. Watter foto is die en die tyd van die foto? 11 MR CHASKALSON SC: This if from a much 12 later time, I'll grant you that. 13 BRIGADIER CALITZ: Dit is hoekom ek sê, 14 volgens my, onthou die water kanon se kleur waar hy spray 15 het ons gesê dis die blou-groen wat mens kan sien. So, 16 maar op hierdie foto, kom ek stem net saam, dit is die 17 substation aan die agterkant. 18 COMMISSIONER HEMRAJ: Can I just ask 19 something for clarity, please? When you gave these orders 20 to the water cannon and the other vehicles to go left or 21 right or straight, you would doing this from inside the 22 Nyala? 23 BRIGADIER CALITZ: Dit is korrek, ek is 24 by die voertuig. 25 COMMISSIONER HEMRAJ: And your Nyala was</p>	<p style="text-align: right;">Page 19211</p> <p>1 kon sien van daar is by die venster uit in daardie rigting, 2 en dan die agterste ruit sal tot hier kan kyk. So die 3 agterste deel van die voertuig wys hiernatoe, en dan die 4 linkerkant se agterste venster daar. So my visie sou 5 omtrent gewees het, as ek korrek is, met die, gelyk met die 6 Nyala en dan reguit so voor en toe die water kanon, volgens 7 my, was omtrent in daardie posisie. 8 COMMISSIONER HEMRAJ: You have a lot of 9 daardie and – 10 BRIGADIER CALITZ: O, ekskuus, waar die 11 groen, daai van die water sigbaar is op die foto in die 12 voorgrond. 13 COMMISSIONER HEMRAJ: From the rear 14 window of the Nyala, you could see to the right of the 15 koppie – beg your pardon, to the left of the koppie? 16 BRIGADIER CALITZ: To the left of the 17 koppie. 18 COMMISSIONER HEMRAJ: And through the 19 side window of the Nyala? 20 BRIGADIER CALITZ: You can see to the 21 right of the koppie past that Nyala that is – I don't know, 22 that Nyala, it's the one to my top right. 23 COMMISSIONER HEMRAJ: And those vehicles 24 that appear in the middle of the koppie, were those visible 25 to you?</p>

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1 BRIGADIER CALITZ: Like here now, this is
2 much –
3 COMMISSIONER HEMRAJ: There are three
4 vehicles in the middle of the koppie. Were they visible to
5 you? Those that you're pointing out, yes, where the water
6 cannon is.
7 BRIGADIER CALITZ: At this stage, I think
8 this bushes would have been – there's an opening maybe in
9 between, maybe on this TV it shows better there. There's
10 an opening where you can see through, and then there's
11 bushes and rocks on that side. So but there's a large
12 opening where you enter where you can see through.
13 CHAIRPERSON: Large opening is the one
14 where one can see dye on the ground, and to the left of it
15 one can see a rock, or a couple of rocks with dye on them
16 as well.
17 BRIGADIER CALITZ: Dit is korrek, Meneer.
18 CHAIRPERSON: Now, the position we see on
19 this photograph, is this the position where you were when
20 the arrests were made and Warrant Officer Nong took the
21 photographs of the arrested of the arrested people, is that
22 the position, the one we're talking about?
23 BRIGADIER CALITZ: Dit is korrek, Mnr die
24 Voorsitter.
25 CHAIRPERSON: So it's the place where you

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1 were when the arrests were made, when Warrant Officer Nong
2 took the photographs of the arrested persons. That was
3 northwest I think of koppie 3.
4 BRIGADIER CALITZ: Dit is korrek, mnr die
5 Voorsitter.
6 CHAIRPERSON: That's what you're talking
7 about. And you looked in that direction, you've explained
8 to Advocate Hemraj what was within your field of vision.
9 BRIGADIER CALITZ: Korrek, mnr die
10 Voorsitter.
11 CHAIRPERSON: Thank you.
12 MR CHASKALSON SC: And can I just
13 clarify, Brigadier, that the vehicle that I'm marking now,
14 which is the group of six vehicles at the bottom of this
15 photograph, the one furthest into the photograph, that
16 vehicle wasn't there when you were making these
17 communications. You – that vehicle arrived much later. So
18 you would have had a field of view that would have
19 encompassed the whole of the koppie through your back two
20 windows.
21 BRIGADIER CALITZ: Ja, ek het vir u gevra
22 die tyd, want daardie Canter dink ek was deel van die groep
23 wat voor by ons was by die arrestasies. U onthou daar was
24 twee Canter voertuie tydens die arrestasie en ek sien op
25 hierdie stadium dit lyk soos die Canter voertuig wat dan

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1 deur beweeg daardie kant toe.
2 MR CHASKALSON SC: Ja, but my point is
3 through those two windows, your field of view would have
4 encompassed the whole of the koppie, subject to obstruction
5 by rocks and bushes inside the koppie?
6 BRIGADIER CALITZ: Ja, die bush, the
7 rocks, the fire on the ground, the smoke, all those, ja,
8 but I can't recall that there was any vehicle. I must go
9 to the photographs taken at that time, but I can't recall
10 any vehicle. I think the one to my far right top, I don't
11 know which time that one, ja, which vehicle.
12 MR CHASKALSON SC: That's perhaps Papa4
13 and that's there from the moment that you arrive until
14 about 5 minutes before you leave.
15 BRIGADIER CALITZ: That is maybe the only
16 one, ja, that will cover the area to, what you call the dry
17 dam.
18 COMMISSIONER HEMRAJ: Can you just
19 clarify for us, I'm not sure if you have. From the
20 position you were in looking towards the koppie, could you
21 see those three vehicles in the centre of the koppie? Did
22 you say you could or you could not?
23 BRIGADIER CALITZ: Kommissaris, nee, dis
24 moeilik om te sê op hierdie foto. Ek probeer kyk op die –
25 COMMISSIONER HEMRAJ: Can you remember,

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1 perhaps, if you could?
2 [10:13] BRIGADIER CALITZ: No, I can't remember
3 inside now which vehicles I can't. Ek probeer nou net my
4 sigveld op, op hierdie foto van 17.1 om te sien waar ek
5 gestaan het en waar hy kan insien. Ek dink 'n ou kan net
6 daardie gedeelte van die opening sien en dan is daar 'n
7 groot bos links voor my voertuig op 17.1 en rotse aan die
8 regterkant. So ek dink hierdie area is baie meer beperk
9 binne na die koppie toe.
10 CHAIRPERSON: Well of course we're going
11 to have another inspection at some stage and possibly at
12 the inspection we can stand in the relevant place and see
13 what can be seen from there.
14 BRIGADIER CALITZ: Dit kan help, ja.
15 CHAIRPERSON: But anyway, we're
16 speculating at the moment.
17 COMMISSIONER HEMRAJ: Do you remember
18 seeing the water cannons spraying the water from inside the
19 koppie?
20 BRIGADIER CALITZ: Sê weer, Kommissaris.
21 Ekskuus?
22 COMMISSIONER HEMRAJ: Do you remember
23 seeing the water cannons spraying the water inside the
24 koppie?
25 BRIGADIER CALITZ: Direk na ek vir hom

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1 gesê het, ek wil amper sê dat ek die – ja, dis nou moeilik
 2 om te sê, if I can remember. In hindsight het ek dit nou
 3 gesien, so dis moeilik wat dan die memory was en wat ek nou
 4 gesien het, maar ek glo so want ek het toe net daarna vir
 5 hulle gesê die mense beweeg, of ek sien 'n groepering van
 6 mense beweeg, so ek het wel in daardie rigting gekyk. So
 7 in hindsight sal ek sê ja, ek kan dit ook sien.

8 COMMISSIONER HEMRAJ: Thank you.

9 MR CHASKALSON SC: And Brigadier, do you
 10 recall seeing vehicles moving around in the koppie, or if
 11 not moving around, then stationary in the koppie from your
 12 position to the northwest?

13 BRIGADIER CALITZ: Nee –

14 MR CHASKALSON SC: Any vehicles, not
 15 these specific ones.

16 BRIGADIER CALITZ: Nee, mnr die
 17 Voorsitter, ek het – van die voertuie wat ek gesien beweeg
 18 het is die Canters en die waterkanonne, ag, die een
 19 waterkanon aan my kant.

20 MR CHASKALSON SC: Can I ask us to go
 21 back to 5130, KKK16.5130, which shows the three vehicles
 22 and your vehicle from a different angle. I'm marking your
 23 vehicle now. There are four vehicles to the top of the
 24 picture in a sort of a cross configuration. Yours is on
 25 the right side of that cross. The two vehicles further to

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1 the right are the Canters that are moving in, one of which
 2 will appear in 5134. The three vehicles that we saw
 3 earlier inside the koppie are being marked now; they are
 4 the three vehicles at the very centre of the photograph
 5 inside the koppie in a group of three. Now if we look at
 6 this right-sided vehicle – or first of all we can see that
 7 there are two gaps into the koppie. There's the one that
 8 you marked, which I'm marking now, which is slightly to the
 9 right of the tail of the helicopter. If one draws a line
 10 down into the koppie from the tail of the helicopter, that
 11 opening would be to the right of that line, but there's
 12 also another one which is almost directly below the front
 13 wheel of the helicopter, and between those two openings is
 14 a very loosely leafed bush or tree, or clump of bushes and
 15 trees through which one presumably can see. Are you saying
 16 that you wouldn't have a line of sight to that vehicle from
 17 your position to the right-hand side of the group of three
 18 in the koppie?

19 BRIGADIER CALITZ: Mnr die Voorsitter, my
 20 getuienis was, as ek reg is, as ek weer my pointer kan
 21 gebruik, van waar my voertuig is aan die linker onderkant
 22 van die wit Oryx helikopter, as ons dan in 'n reguit lyn
 23 afbeweeg het ek gesê hier is 'n groot bos rotse. Daar is
 24 'n bos, en daar, as ek – nou ja, daar, aan, as u van my
 25 voertuig af na die koppie toe kyk dan van my voertuig af op

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1 die regterkant soos jy van my voertuig af kyk, aan my
 2 regterkant sou dan daar 'n bos wees met 'n beperkte ingang
 3 wat ek gesien het. As jy kyk net voor die bos, dit is nou
 4 tussen die, waar die waterkanon nou staan en daar is die
 5 bos, is daar ook rotse of klippe in daardie geval. So dit
 6 lyk amper of hierdie opening meer op 'n 45 angle ingaan
 7 waar hy dan miskien persone kan sien maar ek twyfel of 'n
 8 ou die voertuie daar kan sien. Die groter opening waarvan
 9 ek gepraat het is die een reg onder die helikopter op my
 10 linkerkant as jy kyk van my voertuig af, wat dan met die
 11 groen "water dye" is. Daardie is die groter opening waar
 12 jy kan wel in sien.

13 CHAIRPERSON: There were a lot of "heres"
 14 and "theres" there. I mean I take it –

15 BRIGADIER CALITZ: Ek het probeer –

16 CHAIRPERSON: - the way you describe it
 17 is if one looks at the photograph and looks at your Nyala
 18 and then looks in the direction you were looking to try to
 19 capture your field of vision, in what would have been your
 20 field of vision, on the extreme right-hand side of your
 21 field of vision, obviously on the left, it's in the back,
 22 almost directly in the middle of the photograph on the
 23 left-hand side of the koppie one sees this area with the
 24 bushes that you're referring to and some rocks. Then
 25 there's a gap. Then there's some more bushes, not as thick

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1 I think as the ones, the first lot. Then there's another
 2 gap and then there are some more bushes and rocks. Is that
 3 a description of what you said –

4 BRIGADIER CALITZ: Dit is korrek, dit –

5 CHAIRPERSON: That captures your "heres"
 6 and "theres" and things like that.

7 BRIGADIER CALITZ: Dit is korrek.

8 CHAIRPERSON: Alright, I think we should
 9 take a comfort break at this point and then we'll run on
 10 from after the comfort break until the end of Mr
 11 Chaskalson's cross-examination, which he says will be
 12 before tea.

13 [COMMISSION ADJOURNS COMMISSION RESUMES]

14 [10:29] CHAIRPERSON: - Along but I hope in
 15 future this problem arises we won't have a repetition.
 16 Brigadier, you're still under oath. Mr Chaskalson?

17 MR CHASKALSON SC: Brigadier, maybe we
 18 should play this exchange because when I listened to the
 19 audio I think it's quite instructive. So if we can just go
 20 back to CC22 and play the audio from, let's start with this
 21 whole water cannon exchange which starts at approximately
 22 12:35. So if we can take the audio from 12:30 and we're
 23 interested principally in the audio rather than the video
 24 for this and if we can play the audio, it will start with
 25 around your exchange with Lieutenant Colonel Vermaak about

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1 directing the water cannon and we'll just run it through.
 2 [VIDEO SHOWN]
 3 MR CHASKALSON SC: Just stop there. So
 4 those voices saying very quickly, "shoot again target,"
 5 that's your voice?
 6 BRIGADIER CALITZ: Dit is waarop ek
 7 getuig het.
 8 MR CHASKALSON SC: And you're saying that
 9 was at, an instruction to the water cannon?
 10 BRIGADIER CALITZ: Ja, dis hoekom ek sê
 11 nie die hele gesprek wat ek gesê op die radio het
 12 deurgekom nie. Dit klink vir my of die radio dan daar
 13 afgesny het, of die key van die analoog radio.
 14 MR CHASKALSON SC: And you say shoot
 15 again. When was the first time that the water cannon had
 16 shot?
 17 BRIGADIER CALITZ: Mnr die Voorsitter ons
 18 sal moet gaan kyk op die video, dis die spreke van die
 19 uiteendryf.
 20 MR CHASKALSON SC: That was about nine
 21 minutes previously.
 22 BRIGADIER CALITZ: Ja, ek sal nie vir u
 23 kan sê nie. Ek weet hulle het continuously die mense uit
 24 geflush of uiteengedryf met water so dis, ek het nie die
 25 tyd op dit nie nee.

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1 MR CHASKALSON SC: But you accept it was
 2 a fairly lengthy period before that instruction was issued.
 3 BRIGADIER CALITZ: Ek het nou net vir u
 4 gesê ek kan nie vir u sê wanneer die vorige tyd, ek weet
 5 dit was 'n aanhoudende uiteendryf aksie gewees.
 6 MR CHASKALSON SC: Maybe I should correct
 7 a proposition that I just put to you because you were
 8 talking about the, you were talking about the previous time
 9 being when the water cannon sprayed at the dispersion
 10 action behind koppie 2 and I understood you to be referring
 11 to. Of course there was a subsequent spray by the water
 12 cannon when it reached koppie 3. So it wasn't nine minutes
 13 previously it was a shorter period. But you are saying
 14 that that instruction that you issued was an instruction
 15 which you would have expected to be understood by the water
 16 cannon at that point to fire water?
 17 BRIGADIER CALITZ: Dit is korrek, ek het
 18 met die waterkanon self gepraat en ek het gesê hy het ook
 19 dan direk daarop gereageer.
 20 MR CHASKALSON SC: Sorry you had spoken
 21 directly, you had spoken yourself to the water cannon,
 22 when, when you were directing the water cannon?
 23 BRIGADIER CALITZ: Nee, ek het getuig as,
 24 ek kan onthou in my opdrag daar, shoot again target volgens
 25 my is die hele gesprek nie op die band, ek het verduidelik

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1 dit kan dalk 'n probleem wees met die radio of soos hy
 2 deurgekom het op die recording van die Coin, ek het vir die
 3 waterkanon spesifiek opdrag gegee.
 4 MR CHASKALSON SC: Well -
 5 BRIGADIER CALITZ: Die volgende.
 6 MR CHASKALSON SC: It couldn't have been
 7 a problem with the radio because there's almost no break
 8 between the communication of Lieutenant Colonel Vermaak and
 9 your shoot again target, maybe we can go back three
 10 seconds. Let's go back, say five seconds because we can
 11 hear the whole of Lieutenant Colonel Vermaak.
 12 [VIDEO SHOWN]
 13 MR CHASKALSON SC: So Lieutenant-Colonel
 14 Vermaak in his sort of slow measured tones in his
 15 communication, I don't know I haven't measured it but my
 16 guess is not more than two seconds before yours before we
 17 hear, "shoot again target." Are you saying that in those
 18 two seconds there was some communication from you to the
 19 water cannon that identified that you were speaking to the
 20 water cannon but this wasn't picked up?
 21 BRIGADIER CALITZ: Al wat ek op getuig
 22 het is dat die drie woorde wat hier staan, "shoot again
 23 target," enige iemand wat dit lees kan sien dit maak
 24 eintlik nie sin nie, daar was verdere woorde aan hierdie
 25 selfde sin wat ek sê dan nie audible deur gekom op die

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1 radio nie.
 2 MR CHASKALSON SC: Well maybe let's move
 3 to the next communication relating to shooting.
 4 CHAIRPERSON: I want to ask a question
 5 before we move on. Would it have been clear to other
 6 people at the koppie that you were talking only to the
 7 water people, water cannon people?
 8 BRIGADIER CALITZ: Mnr die Voorsitter, ja
 9 definitief daarom het ek gesê as ek myself net kan
 10 teruggaan, ek het met die waterkanon, water cannon shoot
 11 again target en toe het ek verwys net na die volgende een.
 12 As ek mag, net sekondes daarna het Kolonel Vermaak dan
 13 gereageer op wat ek gesê het. So hy moes gehoor het en
 14 gesê, "ja Papa1 if that water cannon can wait there," met
 15 ander woorde het hy kon gehoor het ek met die waterkanon
 16 gepraat, "the people are encircled now." So sy, ek dink
 17 dit was sekondes later dat hy vir my gesê ja Papa1, wat hy
 18 my adresseer if that water cannon can wait there, met ander
 19 woorde my opdragte en my gesprek met die waterkanon moet
 20 nou eers bietjie stop.
 21 MR CHASKALSON SC: Well let's play the
 22 tape because in fact what Lieutenant Colonel Vermaak seems
 23 to be reacting to is your instruction or your report that
 24 they're coming out in the small koppie, they're coming out
 25 and moving towards the substation. So let's play forward.

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1 [VIDEO SHOWN]
 2 MR CHASKALSON SC: Was that the passage
 3 that you wanted played?
 4 BRIGADIER CALITZ: Ja, mnr die
 5 Voorsitter, dit is waarna ek verwys het en gelees het. U
 6 het dit gevra hulle moet die speel. As ek dan daardie
 7 13:38, u het gesê ek dink dis 16:11:08 as ons net daardie
 8 stukkie net om vir u te wys wat ek bedoel met al die woorde
 9 kom nie deur op die dinges nie. Ek het wel gesê the water
 10 cannon and the vehicles in the small koppie, "they are
 11 coming out, they are moving towards the substation." Dit
 12 is met die voertuie en goed wat ek gepraat het. Maar die
 13 audibility wat op die radio eers deur kom praat eers van,
 14 "to the small koppie," as ek weer verwys na JJJ35. So
 15 miskien net daai eerste deeltjie van 13:38 weer.
 16 COMMISSIONER HEMRAJ: Sorry can you just,
 17 can you just repeat that, where it says inaudible, what do
 18 you say -
 19 BRIGADIER CALITZ: 13:38 dit is op GGG35
 20 heel onder aan die bladsy, Kommissaris.
 21 COMMISSIONER HEMRAJ: And what do you
 22 say you hear there?
 23 BRIGADIER CALITZ: Nee, nee dit is net
 24 wat ek wil deurgee van die breek in die radio wat alles nie
 25 deurkom nie. Ek wil net daarna verwys dat dit net op

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1 rekord is hoe die, alhoewel ek gepraat het hoe die, kan ek
 2 sê recording of die dinges deurkom, as jy daai deel van
 3 13:38 dan sal u net hoor dit is baie onduidelik voor dit
 4 begin het, "to the small koppie." Ek dink op myne is dit
 5 13 -
 6 [VIDEO SHOWN]
 7 BRIGADIER CALITZ: U sal hoor daar daai
 8 voorste gedeelte watter voertuie na wie ek verwys kan nie
 9 gehoor word en dan net to the small koppie is die eerste
 10 keer waar dit duidelik deur kom. So dit is net die
 11 inaudibility wat ek probeer bewys.
 12 MR CHASKALSON SC: I am conscious about
 13 time because I still have some ground to cover. So I'd
 14 like to move to the next communication.
 15 BRIGADIER CALITZ: Ek is met u, ons kan
 16 aangaan.
 17 MR CHASKALSON SC: The next one is at
 18 14:45 of the video, ETV time 16:12:15 where you hear, "live
 19 fire." Do you accept that that's what you hear on the
 20 audio, the video at that point?
 21 BRIGADIER CALITZ: In hindsight now when
 22 I listen to this C2022 yes.
 23 MR CHASKALSON SC: You didn't hear it at
 24 the time?
 25 BRIGADIER CALITZ: Dit is korrek, mnr die

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1 Voorsitter.
 2 MR CHASKALSON SC: If you had heard it
 3 would you have taken steps to investigate what was
 4 happening with the shooting?
 5 BRIGADIER CALITZ: Dit is wat ek voorheen
 6 vir u getuig het. Dit is korrek.
 7 MR CHASKALSON SC: Then going forward to
 8 15:11, 16:12:41 on the radio one hears, "hey they are
 9 firing in the direction of the," and it's indistinct but I
 10 think it is dogs, "they are firing, they are firing in the
 11 direction of the dogs." Do you accept that that's what you
 12 hear on the radio?
 13 BRIGADIER CALITZ: Mnr die Voorsitter,
 14 nee miskien kan ons die gedeelte speel dat mnr die
 15 Voorsitter, dit dalk net self kan hoor. As jy kyk na GGG35
 16 die vertaling daarvan is hey en hulle praat van inside the
 17 chopper, "the chopper they are firing, they are firing the
 18 chopper." Dit is hoe dit vertaal is in die transkripsie
 19 wat ek op u weergawe sien in die directions van die dogs.
 20 Ek het probeer mooi gaan luister met baie naby en ek kon
 21 nie uitmaak wat dit sê nie. Maar miskien as ons dit speel
 22 kan dit dalk duideliker wees.
 23 MR CHASKALSON SC: Let's play it. 15:11,
 24 ja 15:11.
 25 [VIDEO SHOWN]

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1 Can we go back.
 2 [VIDEO SHOWN]
 3 Can we, well the audio speaks or does speak for
 4 itself. My submission if needs be there will be argument
 5 on it later is what one hears is they are firing in the
 6 direction of the dogs. One certainly hears they are
 7 firing.
 8 CHAIRPERSON: Can we increase the
 9 volume, can we play it again with increased volume.
 10 MR CHASKALSON SC: The problem is not the
 11 volume it's because one has to, it's picking up the radio
 12 communication which is not next to the camera. So
 13 amplifying the volume amplifies the background noise and
 14 possibly makes it worse. It's something that one has to
 15 listen to, but this is a particular passage which will be
 16 very easy to enhance and we will get it enhanced.
 17 CHAIRPERSON: Does it make sense if it's
 18 dogs. Were the K9 people in the vicinity, did they have
 19 their, IN hindsight did they have their dogs - I mean
 20 Breedt for example says he, when he moved the weapons away
 21 he wasn't able to make a note where they came from because
 22 he had a dog in one hand and the weapon in the other. So,
 23 and he was one of the people there I take it. So were
 24 there K9 people there on the scene?
 25 BRIGADIER CALITZ: In hindsight, hulle

<p style="text-align: right;">Page 19228</p> <p>1 was beslis op die toneel aan die suide kant, as ek weer kan 2 verwys na die substasie. Die sedan voertuie wat daar was, 3 dit is meerderheid K9 voertuie.</p> <p>4 CHAIRPERSON: There were dog handlers 5 there, there were dogs there to I take it?</p> <p>6 BRIGADIER CALITZ: Sê weer, Kommissaris?</p> <p>7 CHAIRPERSON: There were dogs there as 8 well?</p> <p>9 BRIGADIER CALITZ: Ja, in hindsight het 10 ek -</p> <p>11 CHAIRPERSON: I'm trying to get an 12 objective fact, I'm not interested in -</p> <p>13 BRIGADIER CALITZ: Dit is korrek, mnr die 14 Voorsitter.</p> <p>15 CHAIRPERSON: So they're shooting at the 16 dogs, what exactly, if that's what was said what would it 17 have meant do you think?</p> <p>18 BRIGADIER CALITZ: As ek lees wat hier 19 staan, "they are firing in the direction of the dogs they 20 are firing, they are firing in the direction of the dogs," 21 as dit wel is wat gesê is beteken dit, dit moes deur een 22 van die, ek neem aan die honde manne gesê is en dit was dan 23 dat op hulle rigting geskiet is. Hulle het, in hindsight 24 van die suide kant af die koppie benader. So dit beteken 25 vanuit die koppie of in die rigting daar op hulle geskiet</p>	<p style="text-align: right;">Page 19230</p> <p>1 bewus van my rigting af noord wes dat daar vuur van daai 2 kant, want daar was nie van daai kant af nie maar wel van 3 die ander drie rigtings af moontlik soos u sê.</p> <p>4 CHAIRPERSON: So it's possible that in 5 fact it was not striker fire but police fire that was being 6 discharged in the direction of the dogs, that's a 7 possibility?</p> <p>8 BRIGADIER CALITZ: Dit is definitief 'n 9 moontlikheid, mnr die Voorsitter.</p> <p>10 COMMISSIONER HEMRAJ: What would be the 11 distance from where for example the TRT were stationed to 12 where the K9 unit had been on side, what sort of distance 13 is being spanned there by the koppie because they're on 14 different sides of the koppie.</p> <p>15 BRIGADIER CALITZ: Kommissaris, as ons 16 miskien na die ander foto kan gaan, die een wat nader wys 17 aan die koppie. Ek het hom in hindsight het ons gesien 18 daar waar die K9 se voertuig geparkeer was -</p> <p>19 MR CHASKALSON SC: I don't want to 20 interrupt you, Brigadier, we'll go there but can I just 21 suggest that what we do is we roll the video back about 20 22 seconds so that we can see what the position of vehicles 23 was at the time the communication was -</p> <p>24 BRIGADIER CALITZ: Dan, Kommissaris, sal 25 ek hom -</p>
<p style="text-align: right;">Page 19229</p> <p>1 is, op hulle gevuur is. Dit is wat ek aflei van wat hier 2 gesê word.</p> <p>3 CHAIRPERSON: Now of course now if some 4 of the people on the other side had been firing, and there 5 was a suggestion that shots were being fired from one end 6 of the koppie to the other and the police on the other end 7 were as it were in the firing line, I'm not sure if it 8 happened at this stage but presumably if police had been 9 firing in a southerly direction they could have in effect 10 have been firing at the dogs to? It isn't necessarily the 11 strikers who were -</p> <p>12 BRIGADIER CALITZ: In hindsight -</p> <p>13 CHAIRPERSON: Who were firing at the dogs 14 if in fact that is what happened. I'm just trying to work 15 out what it meant. If that is what is said. It sounds 16 like dogs to me I must tell you but I'm not entirely 17 satisfied that's why, satisfied that's so. That's why I'm 18 trying to work out if it could have meaning if it was dogs. 19 You see that's what I'm busy with.</p> <p>20 BRIGADIER CALITZ: Mnr die Voorsitter, ek 21 stem saam met u, die K9 in hindsight het ons gesien hulle 22 was aan die suide kant en dan as ek onder korreksie my 23 rigting en dit reg kry, aan die weste kant was die TRT, die 24 NIU was aan die, wat is dit, ooste kant. So die drie 25 rigtings. Die K9 het van suid af gekom. So ek was nie</p>	<p style="text-align: right;">Page 19231</p> <p>1 MR CHASKALSON SC: And then we'll have to 2 go to your photo to be able to see in greater detail.</p> <p>3 BRIGADIER CALITZ: Oh, ek wil haar net 4 antwoord, okay.</p> <p>5 MR CHASKALSON SC: We have a very poor 6 quality screen so that theory of mine is not going to work.</p> <p>7 BRIGADIER CALITZ: Dis hoekom ek 8 voorgestel het miskien die foto is 'n beter -</p> <p>9 MR CHASKALSON SC: All, what I didn't 10 want was a photo that shows positions much later which had 11 moved but one does see TRT and K9 on the video in there, 12 broadly in their later positions.</p> <p>13 COMMISSIONER HEMRAJ: Just an approximate 14 distance.</p> <p>15 BRIGADIER CALITZ: Nee, ek wil net na 16 Vermaak se foto, u eie foto wat u na verwys het, 4552 as 17 ons hom miskien kan oproep, exhibit JJJ10 van Kolonel 18 Vermaak se fotos. U het na dit self verwys Dinsdag dink ek 19 4552. Dit is maar net vir my die mees duidelikste foto as 20 ons hom kan oproep.</p> <p>21 MR CHASKALSON SC: It will be JJJ10 4552.</p> <p>22 BRIGADIER CALITZ: Dit is, ja, dit is wat 23 ek sê JJJ10 4552. Mnr die Voorsitter, as u daar sien, of 24 Kommissaris, aan die bokant, nie hier en nie daarop wil ek 25 probeer, aan die bokant van die foto sal u sien daar is 'n</p>

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1 cluster van, ek noem sedan voertuie, dit is op die, aan die
 2 bokant van die foto is 'n Canter voertuig, op sy 6 uur in
 3 ons taal staan daar 'n groep voertuie.
 4 [10:49] Dit sal die posisie van die Honde Eenheid wees,
 5 in hindsight, en dan aan die westelike rigting, hierdie
 6 kant, weet ek Kaptein Kidd se persone, as 'n ou gaan kyk na
 7 hulle – ek wil amper sê wat hulle na die tyd vir ons vertel
 8 het, het hulle stelling ingeneem agter die bos, agter die
 9 klippe, die klippe. So hulle was in hierdie rigting, die
 10 koppie approach. Die – ag, as ek sê hierdie rigting bedoel
 11 ek van die droë dam na die middel van die koppie, kan ek
 12 maar sê, en dan die Honde Eenheid was daar daardie
 13 afstand –
 14 CHAIRPERSON: When you say “Honde Eenheid
 15 was daar” you’re referring back now to the position to the
 16 south –
 17 BRIGADIER CALITZ: Na die cluster van
 18 voertuie –
 19 CHAIRPERSON: The south –
 20 BRIGADIER CALITZ: Die voertuie aan die
 21 suidekant -
 22 CHAIRPERSON: - cluster of sedan
 23 vehicles, yes.
 24 BRIGADIER CALITZ: Dit is korrek. Ek is
 25 baie versigtig met afstande. Gister is die 40 na 55 – die

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1 Nyala is vyf meter, so as ons die Nyala voertuig en dan ook
 2 onthou die angle van die foto, maar as ons dan die inpas
 3 daar sal daar dan, sê nou maar vier, vyf Nyalas inpas, so
 4 dit kan miskien die afstand bepaal. Ek weet nie of dit,
 5 hierdie foto is nou na die tyd geneem, soos mnr Chaskalson
 6 sê, so ek weet nie of dit die aanvanklike posisie was nie.
 7 U sal sien daar agter staan ook voertuie. So dit kan dalk
 8 wees waar hulle begin het. Ek kan dit nie –
 9 CHAIRPERSON: [Microphone off, inaudible]
 10 “agter” –
 11 BRIGADIER CALITZ: O, ekskuus, dit is aan
 12 die –
 13 CHAIRPERSON: Now “agter” is a reference
 14 to further, we referred to them earlier, this cluster of
 15 vehicles right at the top of this photograph on what looks
 16 like a path.
 17 BRIGADIER CALITZ: Aan die suidekant, dit
 18 is korrek.
 19 CHAIRPERSON: On the southern end, ja.
 20 BRIGADIER CALITZ: En dan wat u
 21 verduidelik het, die Nasionale Intervensie Eenheid, dit was
 22 van die – wat het ek gesê? – oostekant het hulle dan die
 23 koppie benader van daardie kant.
 24 MS LE ROUX: Chair, if I could assist,
 25 from the Botha photographs there are contemporaneous

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1 photographs that may be more accurate, given that Brigadier
 2 Calitz, you know, from his recollection couldn't place the
 3 K9 unit. So Botha 5141 in particular may be of assistance
 4 at this point.
 5 MR CHASKALSON SC: KKK16.5141.
 6 CHAIRPERSON: Just have a look at that,
 7 because I was into – of course he was in the other
 8 helicopter, wasn't he? One of the photographs we saw,
 9 which was taken by Lieutenant Colonel Vermaak, we saw
 10 another helicopter in the vicinity. That is the one that
 11 Botha was in, I take it.
 12 MR CHASKALSON SC: That's correct, but
 13 it's got the position of the K9 unit during the operation
 14 in this photograph.
 15 BRIGADIER CALITZ: Mnr die Voorsitter,
 16 ja, ek het die foto ook voor my. As ek dan, ek dink die
 17 foto wat ons nou-nou gesien het was net van die ander kant
 18 af – “ander kant” bedoel ek die foto was net omgedraai.
 19 Die Honde Eenheid, as u aan die onderkant van die foto kyk,
 20 ek sal met die pointer probeer wys – sal u sien hier is aan
 21 die onderkant van die foto 'n wit opruk-trok, wat ons
 22 verwys na Canters, en dan is daar een, twee, drie, vier,
 23 vyf sagte-dop voertuie voor hulle. Agter die linkerkantste
 24 sagte-dop voertuig, ek dink as ons in zoom lyk daardie vir
 25 my soos Honde manne wat dan stelling inneem. Ja, u sal

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1 sien aan die linkerkantste voertuig – ek neem aan die ander
 2 ook, as ons kan – O, daar lê persone in die veld ook
 3 daarso. As ek sê “daarso” bedoel ek net aan die regterkant
 4 van die foto, en as ons nog reg gaan –
 5 CHAIRPERSON: Regterkant? You mean on
 6 the linkerkant?
 7 BRIGADIER CALITZ: Aan die regter – my,
 8 soos ek nou na die skerm kyk, aan die regterkant. Die
 9 regterkant van die foto, daardie. Hier is die voertuig.
 10 Die regterkant van die voertuig lê daar twee – dit sal, is
 11 die foto omgedraai op u skerm? Ekskuus, ek is nou nie – en
 12 dan as u sien agter daardie voertuie ook –
 13 VOORSITTER: Agter daardie voertuie –
 14 BRIGADIER CALITZ: Dit is die –
 15 CHAIRPERSON: What voertuie are those?
 16 Please describe them.
 17 BRIGADIER CALITZ: Dit is die voertuig
 18 reg aan die, op die 12-uur van die Canter voertuig wat ons
 19 verwys, reg voor die Canter voertuig staan daar dan 'n
 20 bakkie wat se linker, lyk of die linkerdeur van die sagte-
 21 dop sedan oop is. Daar is ook 'n groep van polisielede.
 22 Dit is die rigting van die Honde Eenheid. Ek sê nie almal
 23 van daardie is Honde Eenheid lede nie. Dit kan ek nie vir
 24 u getuig nie. En dan –
 25 CHAIRPERSON: That's where the dogs –

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1 BRIGADIER CALITZ: - as ons bietjie
 2 weggaan –
 3 CHAIRPERSON: Sorry to interrupt you.
 4 That's where the dogs would have been.
 5 BRIGADIER CALITZ: Net – ja. As ons regs
 6 gaan, daar lyk dit vir my kan ons 'n hond sien. Ek is – as
 7 ek sê regs, die voertuig wat dan aan die regterkant staan
 8 van die een wat ons nou net na verwys het. Altwee deure
 9 van die voertuig is oop en aan die agterkant lyk soos 'n
 10 hondegeleier met 'n ligte kleur hond en regs van hom is nog
 11 'n persoon wat lyk of daar 'n donkerder kol voor hom is,
 12 wat dan ook 'n hond kan wees. Dit is links –
 13 CHAIRPERSON: There's two vehicles
 14 parallel to each other and there's, it looks like two
 15 people standing between them, one of them more or less in
 16 line with the left front door of the vehicle on the right
 17 and the other one just below the line which joins the back
 18 bumpers of the two vehicles, and certainly it looks as if
 19 that person has got a dog with him. I'm not sure if the
 20 other one has, but there's – so there's at least one dog on
 21 the scene –
 22 BRIGADIER CALITZ: Dit lyk soos een of
 23 twee, ja. En dan as ons miskien net uit zoom, om die
 24 Kommissaris se vraag te antwoord oor die afstand, u kan
 25 sien die veld en dan die TRT weet ek nie as ons in zoom of

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1 ons hulle gaan sien op die foto. In hindsight het ons
 2 geweet hulle was agter die – as ek sê "die" gaan ek nou
 3 beskryf – ja, daarso, aan die linkerkant van die koppie
 4 soos ons na die koppie toe kyk op die foto is daar 'n stel
 5 rotse wat weg is van die groter koppie af, en agter daardie
 6 koppie is ook persone.
 7 Ek weet nie, as ons miskien bietjie boontoe kan
 8 gaan, of daar nog is aan die, bietjie links, bietjie op.
 9 Ja, in hindsight het hulle het gesê hulle het dekking
 10 geneem aan die linkerkant agter die – so dit is wat ek
 11 probeer wys het, en dan aan die regterkant van die foto, as
 12 ons net heeltemal regs kan gaan, net om vir die Kommissaris
 13 – heeltemal regs, en dan op, miskien bietjie uit zoom, as
 14 ons kan uit zoom, dit gaan makliker wees. Nog heeltemal,
 15 nog heeltemal, heeltemal. Dan aan die regterkant van die
 16 foto – en dit beteken die oostekant, ek dink dit is die
 17 vraag wat ek gister gevra is, of ja, Dinsdag of gister oor
 18 die TRT lyn, dit is dan die oostekant –
 19 MR CHASKALSON SC: NIU.
 20 BRIGADIER CALITZ: Ag, ekskuus, ekskuus,
 21 ekskuus, NIU lyn – jammer – wat daar op vorm en as ek nou
 22 kyk, u het gesê ek moet gaan kyk na die foto, miskien as
 23 dit kan help sal ons dan sien die veld brand en daar is
 24 verskeie rook tussen ons en hulle, en ek weet nie of die
 25 rook dan 'n aanduiding kan wees miskien, soos ons nou-nou

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1 gepraat het van die –
 2 CHAIRPERSON: The smoke seems to go up
 3 straight –
 4 BRIGADIER CALITZ: - van die wind, van
 5 die windrigting –
 6 CHAIRPERSON: - straight up in the air,
 7 so it doesn't seem to indicate that there's much wind
 8 blowing, as far as I can see. Isn't that right?
 9 BRIGADIER CALITZ: Ekskuus –
 10 CHAIRPERSON: If you look at the smoke
 11 near the top of the picture next to that group of vehicles,
 12 it looks to me as if it's going up straight in the air. So
 13 it would be an indication that the wind wasn't blowing
 14 strongly in one or other direction. But that's just an
 15 amateur impression.
 16 BRIGADIER CALITZ: Ja, ek dink hy – ek
 17 dink die wind het in 'n suidelike rigting, as ek dit so
 18 kyk, die rook is na ons kant toe. Ons kyk nou van suid af.
 19 Die onderste brand kol se rook - ek dink ons was nou net by
 20 'n vorige foto, ek weet nie of dit die een is waarna ek
 21 verwys het waar daar 'n groter bol rook was, maar dit lyk
 22 of die wind suid gewaai het. Ek is onder korreksie.
 23 COMMISSIONER HEMRAJ: Mr Chaskalson, is
 24 there anything that can assist us with what the distances
 25 are from one end of the koppie to the other?

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1 MR CHASKALSON SC: We can call up Google
 2 Earth and do that in an adjournment and come back to you
 3 with an exact number.
 4 COMMISSIONER HEMRAJ: Thank you.
 5 MR CHASKALSON SC: But getting back to
 6 the communication, Brigadier, I presume you didn't hear it
 7 on the day.
 8 BRIGADIER CALITZ: Het nie wat gehoor
 9 nie?
 10 MR CHASKALSON SC: "They are firing, they
 11 are firing in the direction of the dogs. They are firing
 12 in the direction of the dogs."
 13 BRIGADIER CALITZ: Nee, ek het gaan kyk
 14 na die tyd wat u aangedui het. Die dokument wat ek van u
 15 af gekry het – ekskuus, mnr die Voorsitter, die dokument
 16 wat ek na u, van u af gekry het met die woorde heel bo-aan
 17 "Pretoria Coin Chopper 13:20, Shoot again," het weer nie
 18 melding gemaak van die tyd 16-iets wat ons versoek het die
 19 tye moet by wees. So ek het probeer om my eie tye uit te
 20 werk en as 'n ou dan gaan kyk na daardie drie tye stem dit
 21 meer of een, u kan sê vir my op daardie stadium van die
 22 "live fire" en daardie van die honde was dit dan wanneer
 23 ons besig was met die arrestasies. Dit is in dieselfde
 24 tyd, ek het dit hier 16:12:33 en ons weet die eerste foto
 25 van Adjudant Offisier Nong is geneem 16:12:20. So dit kan

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1 in daardie selfde 10, 15 sekondes afgespeel het wat ons dan
 2 met die arrestasies besig was en waaroor ek getuig het. So
 3 om terug te kom na die antwoord, nee, ek het nie daardie
 4 twee -

5 MR CHASKALSON SC: And if you had heard
 6 them you would have called for a report obviously.

7 BRIGADIER CALITZ: Dit is korrek.

8 MR CHASKALSON SC: Let's move on. I'm
 9 going to finish with this video before we call up the next
 10 video, although it will involve taking us out of sequence
 11 because there's some from Captain Ryland beforehand that
 12 should be interspersed in between, but the last Protea Coin
 13 reference is at 34:40 of that video, CC22. Can we play
 14 from – well, let me give you my, read my transcription that
 15 you've seen, 34:40 to 35:20, which is eTV time 16:32:10 to
 16 16:32:50, and this is a very indistinct communication and
 17 it's one which we will be having properly enhanced, but we
 18 understand it to go as follows. "Chopper 2, can you give
 19 me an indication?" Lieutenant Colonel Vermaak then says,
 20 "Chopper (or it may be Papa) 2, can you give me an
 21 indication of the people wounded there?" A reply comes
 22 back, "We are counting." Then it's indistinct and then
 23 Lieutenant Colonel Vermaak says, "How many are dead?" Have
 24 you listened to this recording?

25 BRIGADIER CALITZ: Nou in hindsight ja,

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1 ek het wel dan die Chopper Coin recording geluister.

2 MR CHASKALSON SC: And you accept that my
 3 transcription is a good transcription of that passage?

4 BRIGADIER CALITZ: Ek weet nie wat u met
 5 "good" –

6 MR CHASKALSON SC: Do you take issue with
 7 anything that I've –

8 BRIGADIER CALITZ: Nee, daar staan net –

9 CHAIRPERSON: "Good" means accurate.

10 BRIGADIER CALITZ: Daar staan net
 11 "indistinct" en ek wil nie – maar die groter deel, dit is
 12 wat gesê is.

13 VOORSITTER: Die strekking is reg?

14 BRIGADIER CALITZ: Ekskuus, Meneer?

15 VOORSITTER: Die strekking is reg. Is
 16 dit wat u sê? The general thrust of it is correct?

17 BRIGADIER CALITZ: Dit is, ek aanvaar dit
 18 as korrek, ja. Dit is nie baie duidelik op die video, maar
 19 ek aanvaar die woorde as korrek.

20 MR CHASKALSON SC: Did you hear this at
 21 the time?

22 BRIGADIER CALITZ: Nee, mnr die
 23 Voorsitter, as u kyk na die tye - of laat ek net sê nee,
 24 mnr die Voorsitter.

25 MR CHASKALSON SC: Then let's look at a

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1 number of communications from Captain Ryland. Can we go to
 2 exhibit I1, which is Captain Ryland's video 25, at 1:14.

3 CHAIRPERSON: Have we had transcripts of
 4 Captain Ryland's video?

5 MR CHASKALSON SC: There is a transcript,
 6 but it's a very poor transcript.

7 CHAIRPERSON: Is it an exhibit?

8 MR CHASKALSON SC: It is an exhibit.
 9 There is a consolidated transcript of Captain Ryland's
 10 video. I'll get an exhibit number. It's GGG36, and then
 11 there's a 36.1 which includes Sesotho communications, but
 12 again these are transcripts which need to be improved and
 13 also to be reformatted so each communication has a time to
 14 it. Before you play Captain Ryland's 45 – actually we do
 15 need to play this one; Captain Ryland's 25, it's exhibit I1
 16 at 1:14, can we play that? Because I'm going to ask you to
 17 identify the voice. Can we maybe go back a second or two
 18 so that we have some – okay, let's play it. Can we play
 19 the audio?

20 [VIDEO SHOWN]

21 Stop. That "Stop shooting, cease fire," do you
 22 recognise that voice?

23 BRIGADIER CALITZ: Mnr die Voorsitter, as
 24 ek nou so vinnig moet – ek dink, dit klink vir my soos
 25 Kaptein Ryland wat dan skreeu. Dit klink of dit na aan sy

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1 selfoon – dit kan dalk sy stem wees. Ons kan dit net
 2 weer –

3 MR CHASKALSON SC: Well, can I ask you a
 4 different question? Do you know the voice of Colonel
 5 Gaffley?

6 BRIGADIER CALITZ: Ek het al met hom
 7 gepraat, maar oor die radio sal ek nie kan sê of dit – ons
 8 klink mos maar anderste as ons "ge-record" word as wat ons
 9 onself hoor. Maar as ons dit net weer speel dan kan ek
 10 miskien hoor.

11 [VIDEO SHOWN]

12 MR CHASKALSON SC: You see, why I asked
 13 whether it was Colonel Gaffley is that Lieutenant Colonel
 14 Scott testified that he heard Lieutenant-Colonel Gaffley –
 15 he heard on the radio because he could only hear on the
 16 radio, he was in the JOC, he heard Lieutenant-Colonel
 17 Gaffley shouting "Cease fire." The reference is page
 18 14718, line 17 to 25, 14718. 14718, line 17 to 25, and
 19 then again on 24 October at 15006, line 6 to 16 -

20 BRIGADIER CALITZ: Sê net weer die tweede
 21 een.

22 MR CHASKALSON SC: 15006, 6 to 16, where
 23 he was under cross-examination by Mr Bizos where he
 24 suggested that the time that he heard it, where he says, Mr
 25 Bizos was asking him when he first found out about

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1 shootings and Mr Bizos says, "4:20 you say," and Colonel
 2 Scott says, "Any time from then possibly on, because I was
 3 listening to the radio as far as I could go. One of the
 4 last reports I can remember hearing was Colonel Gaffley
 5 saying 'Cease fire.'" So Colonel Scott heard on the radio
 6 some time around or before 4:20PM Colonel Gaffley saying,
 7 "Cease fire." Did you hear that?
 8 BRIGADIER CALITZ: Nee, soos ek vir u
 9 getuig het ek het gedog dis Kaptein Ryland se stem. As u
 10 gaan kyk na daardie tyd, dis miskien wat ek vir u voorheen
 11 ook wou verwys het toe ek sê nee, dit stem ooreen met die
 12 tyd wat ons die arrestasies gemaak het. So ek kon dalk vir
 13 daardie oomblik uit die voertuig uit – daar is
 14 moontlikhede, maar nee, ek het dit nie gehoor nie.
 15 COMMISSIONER HEMRAJ: The question
 16 relates to 18 people having been killed. Was that question
 17 not geared towards scene 1?
 18 MR CHASKALSON SC: No, there were 15
 19 people killed at scene 1 and 17 in fact at scene 2. We
 20 initially thought that the four victims who died after the
 21 event had been killed, had all been killed at scene 2, so
 22 the original numbers were 18 and 16, but in fact one of
 23 those victims was killed at scene 1, so the numbers are in
 24 fact 17 and 17. 17 and 17. And just for a further
 25 reference, the statement of Colonel Gaffley himself, FFF8,

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1 paragraph 14 he speaks of "screaming the command 'Cease
 2 fire' at the members who were shooting from behind us."
 3 Now I imagine that if people were shooting from behind you
 4 and you wanted them to hear through that sort of situation,
 5 you'd use your radio to try and tell them to stop.
 6 BRIGADIER CALITZ: Mnr die Voorsitter,
 7 ja, ek het nie sy verklaring voor my nie, so as hy gesê het
 8 hy het vir hulle geskreeu, hy sou seker, seer sekerlik gesê
 9 het ek het my radio, ek het met hulle oor die radio
 10 gepraat. As hy sê hy het vir hulle geskreeu neem ek aan hy
 11 het redelik naby hulle en hy kon met hulle, net op hulle
 12 skreeu.
 13 MR CHASKALSON SC: Well anyway, Colonel
 14 Scott heard him on the radio, so it was on the radio. You
 15 didn't hear it. Can we go to the next one, which is
 16 Ryland's exhibit I3, 4 seconds in.
 17 [11:09] Because there a specific question is addressed to
 18 you. That's 16:35:54, exhibit I3. We can just play it
 19 from the start because it's 4 seconds in. Maybe before we
 20 play it, can I – I've given you the transcript. My
 21 transcript is you hear someone saying "The first people
 22 were shot. Brigadier Calitz, is that area, is it secure
 23 where Charlie2 is now?" and then Lieutenant Colonel Vermaak
 24 says, "Okay, I'm going to fly in the direction of the
 25 koppie." Do you accept that that's what one hears on the

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1 video?
 2 BRIGADIER CALITZ: Ja, more or less, daar
 3 was dotjies voor die "The first people." Ek wil uitmaak,
 4 of sê "We are now at where the first people were shot,"
 5 maar die res van die is audible op die Ryland 27 waarna ek
 6 geluister het, ja.
 7 MR CHASKALSON SC: So you say "We are now
 8 at the area where the first people were shot" –
 9 BRIGADIER CALITZ: Yes –
 10 MR CHASKALSON SC: - is what was there?
 11 BRIGADIER CALITZ: Nee, ek sê ek het
 12 probeer naby luister wat is die woorde wat in daardie
 13 dotjies is en dit klink vir my of dit in daardie rigting –
 14 met ander woorde dis persone wat van toneel 1 af wou
 15 beweeg, as ek dit so kan stel.
 16 MR CHASKALSON SC: And a question was
 17 addressed to you, "Is that area secure?"
 18 BRIGADIER CALITZ: Ja, die stem wat daar
 19 praat het ek herken, as ek reg is, dit is Luitenant Kolonel
 20 Stapelberg, en hy is in beheer van die perde, die Berede
 21 Eenheid, en ek glo hy het my op die radio geroep en dan
 22 gevra "Is that area secure?" waar Charlie2 nou is.
 23 Charlie2 op daardie stadium, ek dink Charlie2 – ek is nie
 24 seker wie se roepsein dit was op daardie stadium nou nie,
 25 en "Okay, I'm going to fly in that direction to the

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1 koppie," so dit is Kolonel Vermaak wat hom dan geantwoord
 2 het en gesê het hy gaan in daardie rigting vlieg en sou vir
 3 hom terugvoer gee.
 4 MR CHASKALSON SC: And did you hear that
 5 communication at the time?
 6 BRIGADIER CALITZ: Nee, mnr die
 7 Voorsitter, as u kyk hierdie tyd - en dit is waarnatoe u
 8 nou-nou beweeg het toe ek gesê het laat ek net sê nee, ek
 9 wou tyd gespaar het – u vorige een, "Pretoria Coin Chopper
 10 34" waar Kolonel Vermaak ook gesê het "How many dead? How
 11 many what?", u sal onthou, mnr die Voorsitter, dit is die
 12 tydperk tussen waar my voertuig staties was om 16:23 waar
 13 ek uitgeklim het, en die tyd wat verloop het tussen dit en
 14 16:46 wat ek vir Generaal Annandale geskakel het. So al
 15 hierdie tye van 32, 32, 37:15, is die tyd wat ek buitekant
 16 die voertuig was by Kolonel Mac, by Kolonel Pitsi, terug
 17 binne-in die koppie in. So ek het nie hierdie gesprekke
 18 gehoor op daardie stadium.
 19 MR CHASKALSON SC: Well, can we then just
 20 quickly run through the last one of this communication,
 21 it's Ryland 28, which is exhibit I4, 2 seconds in, eTV
 22 16:37:16, where it's said, "Okay, now it's a little bit
 23 more quiet. Where do you want to go to? To the General
 24 Naidoo?" "Yes, that's positive." "Where the first
 25 shooting took place?" "Okay, this is where we're circling

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1 now, where we're circling now. That's where they are," and
 2 then at 28 seconds, "Are you with the horses? Okay, I've
 3 got your visuals, go straight, go straight with horses."
 4 You accept that's what one hears on the video?
 5 BRIGADIER CALITZ: Dit is wat ons op
 6 daardie Ryland 28 gehoor het, korrek.
 7 MR CHASKALSON SC: And that's radio
 8 communication.
 9 BRIGADIER CALITZ: Dit was
 10 radiokommunikasie weereens tussen Kolonel Stapelberg en
 11 Kolonel Vermaak.
 12 MR CHASKALSON SC: But again it was radio
 13 communication which you didn't hear because you say you
 14 were with Lieutenant Colonel McIntosh at the scene of
 15 victim C.
 16 BRIGADIER CALITZ: Ja, ek wou net sê ek
 17 was nie – ek het nie gesê ek was daardie tyd by Kolonel
 18 McIntosh nie. Ek het gesê dit is die tyd wat ek uit my
 19 voertuig uit was tussen 16:23 en 16:47 wat ek geskakel het.
 20 U sal sien hierdie is twee sekondes uit mekaar uit, die
 21 twee gesprekke.
 22 MR CHASKALSON SC: Now you see, you were
 23 operational commander. Was it not incumbent on your even
 24 if you were going to take 20 minutes around Lieutenant
 25 Colonel McIntosh to listen to your radio during those 20

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1 minutes?
 2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 ja, as u reg onthou, ek het gesê die hand radio wat in die
 4 voertuig was by Kolonel McIntosh het ons vir die waterkanon
 5 gegee toe ons opgely het, so ek het net 'n basis stel
 6 agter in my voertuig gehad. Ekself, die hand radio was op
 7 die toneel 1 al om geruil omdat daardie hand radio
 8 heeltemal defek was volgens my en nie gewerk het nie. So
 9 ek het die basis stel laat insit en 'n basis stel is nie
 10 iets wat ek kan rondra nie. So die bevelvoerders op
 11 daardie stadium waar ek uitgeklim het, die persone het dan
 12 geweet waarnatoe ek gaan.
 13 MR CHASKALSON SC: So by wandering off to
 14 Lieutenant Colonel –
 15 CHAIRPERSON: "Wandering off" is an
 16 unkind expression. I think you must withdraw that.
 17 MR CHASKALSON SC: By moving off to
 18 Lieutenant Colonel McIntosh and victim C you took yourself
 19 out of radio communication for 23 minutes at the, towards
 20 the end of an operation you were supposed to be commanding.
 21 BRIGADIER CALITZ: Daar was die ander
 22 bevelvoerders rondom my wat wel hulle hand radio's gehad
 23 het. Ek het verskeie name vir u genoem: Kaptein Kidd,
 24 Kolonel Pitsi, die persone daar, en toe ek terugbeweeg het
 25 binne-in die koppie, so daar was persone dat indien daar

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1 enige ernstige iets plaasgevind het hulle seer sekerlik na
 2 my toe kon kom en dit vir my rapporteer.
 3 CHAIRPERSON: You know, you're not
 4 answering the question.
 5 BRIGADIER CALITZ: Ek het nie 'n radio by
 6 my gehad –
 7 CHAIRPERSON: You're giving an
 8 explanation. The question was – simple question – is it
 9 correct that for 23 minutes you took yourself effectively
 10 away from radio communication to attend to this other
 11 matter at the, perhaps it wasn't put this way but what
 12 might be described as an important stage of the operation
 13 of which you were the operational commander. So the answer
 14 to that has got to be yes, you did, didn't you?
 15 BRIGADIER CALITZ: Korrek.
 16 CHAIRPERSON: Right, so now if something
 17 important had come over the radio during that period, how
 18 could it have been brought to your attention?
 19 BRIGADIER CALITZ: Dit is waarna ek
 20 verwys het, daar is senior offisiere op die toneel. Ek het
 21 dadelik beweeg daar na Kolonel, Luitenant Kolonel Pitsi,
 22 wat stadies was by daardie toneel waar ek 'n groot deel van
 23 die tyd gespandeer het. Hulle het voertuie, hand radio
 24 asook 'n voertuig, radio in die voertuig, so ek neem aan hy
 25 sou vir my dan dadelik kon sê. Kaptein Kidd het 'n radio

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1 by hom gehad, so hy sou vir my dadelik kon ingelig het, en
 2 toe ek terugbeweeg het na die koppie toe en inbeweeg in die
 3 koppie, seer sekerlik al die offisiere, persone wat daar
 4 was kon my dan dadelik meegedeel het van enigiets ernstigs.
 5 MR CHASKALSON SC: Would you have
 6 regarded the discovery of 13 dead bodies as something
 7 important?
 8 BRIGADIER CALITZ: Dit is korrek, dit is
 9 baie belangrik, persone wat dood is, dat hulle aan my
 10 rapporteer.
 11 MR CHASKALSON SC: But you say that that
 12 information didn't get communicated to you in those 23
 13 minutes.
 14 BRIGADIER CALITZ: Nie voorheen, terwyl
 15 dit plaasgevind het nie, ook nie in daardie 23 minute wat
 16 ek die grond was nie.
 17 MR CHASKALSON SC: And is there any
 18 reason why you chose not to go into the scene when you
 19 stopped there? Your Nyala arrives at the scene 23 minutes
 20 previously. It's clearly a scene at the very least where
 21 there are multiple arrests taking place, where there are a
 22 lot of your men moving around. It's a scene that you
 23 hadn't previously seen. Did you not think that it was
 24 important to go in to find out what had happened with the
 25 operation in the koppie, whether all your men were alright,

<p style="text-align: right;">Page 19252</p> <p>1 whether there were any injuries to strikers? I mean you 2 had after all heard a report of two bodies down. You 3 didn't think to go in and look? 4 BRIGADIER CALITZ: Mnr die Voorsitter, as 5 ek die vraag reg verstaan, dit is die call wat ek gemaak 6 het toe ek daar gestop het. Ek het gesê ek het persone 7 voor my gesien. Ek het gesien hulle is besig, was besig 8 gewees met arrestasies. Volgens my was dit 'n gewone 9 uiteendrywing proses. Daar is nêrens vir my deurgegee dat 10 iemand beseer of – behalwe die twee bodies wat voorheen 11 gerapporteer is wat ek sê dit is as gevolg van 'n 12 uiteendryf aksie nie. Hoekom ek besluit het om eerste 13 terug te beweeg na Kolonel McIntosh toe was as gevolg van 14 hy het geskreeu daar is 'n persoon onder aanval en daardie 15 persoon storm na die polisieman. So dit is waar ek gedink 16 het daar kon dalk 'n polisieman beseer gewees het. So ek 17 het die call gemaak op daardie stadium dat dit is vir my 18 die, volgens die inligting wat tot my beskikking was 'n 19 belangrike toneel, so ek het gou soontoe gegaan, wetende 20 dat ek sal teruggaan. Dis nie dat ek glad nie teruggegaan 21 het nie. Ek het my vergewis van wat by Kolonel McIntosh 22 aangaan. Verskeie gebeure het daar plaasgevind en daarna 23 het ek in die koppie inbeweeg wel om vas te stel wat daar 24 gebeur het. 25 MR CHASKALSON SC: So you thought</p>	<p style="text-align: right;">Page 19254</p> <p>1 MR CHASKALSON SC: Colonel McIntosh, not 2 Colonel Vermaak. You – 3 BRIGADIER CALITZ: Ekskuus. 4 MR CHASKALSON SC: And that's because you 5 thought that on the basis of the knowledge at your disposal 6 at the time, that of the two scenes the McIntosh scene was 7 going to be the more pressing scene? 8 BRIGADIER CALITZ: Ek sê nie – 9 MR CHASKALSON SC: Or the scene that 10 needed more immediate attention. 11 BRIGADIER CALITZ: Ja, ek sê nie ek het - 12 weereens met die benefit van hindsight, soos ek voorheen 13 gesê het, ek het gedink ek het soontoe gery en toe 14 anderkant toe - dat ek glad nie waargeneem het wat voor my 15 aangaan nie, maar u vraag was het ek vir iemand gevra of 'n 16 sitrap gekry. Op daardie stadium nee, nie daar nie. 17 MR CHASKALSON SC: And you believed at 18 the time that of the two scenes the one that needed your 19 immediate attention was McIntosh, not the koppie itself? 20 BRIGADIER CALITZ: Ek dink dit is die 21 inligting tot my beskikking gewees, dit is korrek. 22 CHAIRPERSON: He's said that several 23 times already. 24 MR CHASKALSON SC: You see my difficulty 25 with that is that if that was your state of mind, it's very</p>
<p style="text-align: right;">Page 19253</p> <p>1 Lieutenant Colonel McIntosh's scene was a more important 2 scene, on the basis of the knowledge that you had at your 3 disposal, than the scene inside the koppie at the time that 4 your vehicle stopped at the koppie? 5 BRIGADIER CALITZ: Met die inligting tot 6 my beskikking, dit is korrek. 7 MR CHASKALSON SC: Did you go into the 8 koppie or ask anyone for a report on what was going on at 9 the koppie? 10 CHAIRPERSON: When? You mean before he 11 went off to the Colonel McIntosh scene – 12 MR CHASKALSON SC: Before you went off to 13 Colonel McIntosh. 14 BRIGADIER CALITZ: Nee, op daardie 15 stadium, u kan sien ek is 'n hele entjie weg. Ek probeer 16 net kyk, die foto, miskien weereens die foto van Kolonel 17 Vermaak, 4552, is dalk 'n aanduiding dat ek nie binne-in 18 die koppie gestop het nie maar sekere aantal meters – 19 MR CHASKALSON SC: So you didn't after 20 you got out of the vehicle go into the koppie itself to ask 21 for a report? 22 BRIGADIER CALITZ: Nee, ek dink nie ek is 23 eers koppie toe nie. Ek is eers na Kolonel Vermaak toe en 24 daarna is ek terug koppie toe, wat ek dan verder in my 25 verklaring verduidelik het waar ek die situasie rapport –</p>	<p style="text-align: right;">Page 19255</p> <p>1 difficult to understand why you didn't just ask for the 2 Nyala to go to Colonel McIntosh. Why did you let the Nyala 3 stop 55 metres away and then at a – 55 metres away at the 4 one scene, which wasn't the scene that needed your 5 immediate attention, and then not tell it to go to the 6 other scene, which was the scene that needed your immediate 7 attention? You were in command of it. 8 BRIGADIER CALITZ: Ek wil nou net seker 9 maak watter is die 35 meter waarna u verwys. 10 MR CHASKALSON SC: 55, not 35. 55 metres 11 between the point at which your Nyala stopped and where 12 body C is, or was. 13 BRIGADIER CALITZ: Ja, ek dink dit is 14 waar die voertuig tot stilstand kom, as ons kan kyk na 15 daardie foto, die afstand na die persone voor my en die 16 afstand, ek dink dit is meer, of min of meer dieselfde 17 afstand. 18 MR CHASKALSON SC: My question remains, 19 if you thought that you had to get to Lieutenant Colonel 20 McIntosh because that was an urgent, it demanded your 21 urgent attention, why didn't you say to the driver of the 22 vehicle, "Nong, why have you stopped here? I want to go to 23 McIntosh; turn right." 24 BRIGADIER CALITZ: Mnr die Voorsitter, al 25 wat nou kan deur my verstand gaan is dat die afstand van 30</p>

<p style="text-align: right;">Page 19256</p> <p>1 – ek het gesê 40 meter, u sê 55 meter, toe die voertuig tot 2 stilstand kom het ek gesien, daardie afstand het ek oor 3 gestap. Ek kan geen rede dink waarom ek vir Kolonel – ag, 4 Adjudant Offisier Nong gevra het ry vir my soontoe of ry 5 vir my soontoe nie. Dit kan ek nie nou op getuig nie. Ek 6 kan glad nie onthou dat daardie gesprek plaasgevind het 7 nie.</p> <p>8 CHAIRPERSON: You asked him this 9 yesterday and he said he couldn't remember why, perhaps 10 Warrant Officer Nong would tell us. He obviously made a 11 priority call, if one can call it that, as to which of the 12 two was more important at the time. The question may well 13 be at what time did he make that priority call. If he made 14 the priority call only when Nong started driving and had 15 got to the place where the vehicle stopped, he would then 16 have had to walk back to where, either walk back to where 17 McIntosh was or asked Nong to drive there, but if he 18 thought it was a relatively unimportant distance he could 19 easily walk there, and besides which, the other people 20 would be near the position at koppie 3 and if any problem 21 arose they could deal with it. Who was with you in the 22 Nyala?</p> <p>23 BRIGADIER CALITZ: Dit was – 24 CHAIRPERSON: Apart from Nong. 25 BRIGADIER CALITZ: Dit was omtrent my</p>	<p style="text-align: right;">Page 19258</p> <p>1 scene? 2 BRIGADIER CALITZ: Ja, glad nie lank nie, 3 mnr die Voorsitter, want op daardie stadium het ek nie 4 geweet die persoon is oorlede nie. So ek het gedink ek sal 5 net gaan stap, my vergewis wat aangaan, en dan terugkom en 6 dan in die toneel inbeweeg, maar ongelukkig toe ek daar 7 kom – 8 CHAIRPERSON: You've explained there were 9 things you had to attend to – 10 BRIGADIER CALITZ: Toe het al daardie 11 ander – 12 CHAIRPERSON: - inter alia giving therapy 13 to the person to – 14 BRIGADIER CALITZ: Dit is die delay wat 15 plaasgevind het, ja. 16 CHAIRPERSON: Ja. 17 MR CHASKALSON SC: I have one more radio 18 communication that I want to put to you. It isn't a 19 communication that was picked up on the audio that we have, 20 but it was picked up in the JOC. It comes from JJJ168 and 21 I wonder if we can call up JJJ168, Captain Van Heerden's 22 notes. JJJ168. Maybe if I can just read it to you because 23 it's relatively short. There's – 24 CHAIRPERSON: We're nearly there. 25 MR CHASKALSON SC: After all that I've</p>
<p style="text-align: right;">Page 19257</p> <p>1 hele groep, as ek reg onthou. Luitenant Kolonel – ag, 2 Kaptein Greyling, die ander getuie – 3 CHAIRPERSON: Ja, okay. So there was 4 quite senior – there was at least one senior person – 5 BRIGADIER CALITZ: Persoon van Lonmin, 6 die – 7 CHAIRPERSON: Never mind the Lonmin 8 person. There was a senior policeman there with you, 9 Captain Greyling. 10 BRIGADIER CALITZ: Kaptein Greyling was 11 daar saam met my gewees en dan daar is nog 'n kaptein, 12 Malatsi, ek dink dis die ander – 13 CHAIRPERSON: Ja, okay – 14 BRIGADIER CALITZ: - en dan die lede. 15 CHAIRPERSON: Ja, alright. How long did 16 you think you would be away when you decided to walk 17 towards what is called, to where body C, Lieutenant Colonel 18 McIntosh was, how long did you think when you walked there, 19 how long did you think you'd be away? In other words, how 20 long did you think you would spend dealing with that scene 21 before you went back to where the – 22 BRIGADIER CALITZ: Nee, glad nie – 23 CHAIRPERSON: - Nyala was – 24 BRIGADIER CALITZ: Glad nie lank nie. 25 CHAIRPERSON: - to deal with the koppie 3</p>	<p style="text-align: right;">Page 19259</p> <p>1 got the wrong reference. 2 CHAIRPERSON: No, this is – 3 MR CHASKALSON SC: It is at the end of 4 this, it's in handwriting and in typescript right at the 5 end of this, the last page. Second-last entry from the 6 bottom says, "30 people lying down, some dead, some 7 injured." Now by looking at the communications that are 8 recorded around it we – "Instruction for medics; Go in at 9 holding area, 30 people lying down, some dead, some 10 injured." Now we look at the one immediately above, 11 "People in circles, arrests can be made." That looks very 12 much like Captain Van Heerden's annotation of the exchange 13 between you and Lieutenant Colonel Vermaak. It's close to 14 what Lieutenant Colonel Vermaak says, "The people are 15 encircled. You can make arrests there," and "The water 16 cannon must stop spraying," we hear from Lieutenant Colonel 17 Vermaak at 30 seconds into exhibit I1, which is 16:13:50 18 eTV time. So we can place that communication, "30 people 19 lying down, some dead, some injured," roughly between eTV 20 time 16:13:50 and eTV time 16:11:18. Did you hear anything 21 like that? 22 BRIGADIER CALITZ: Nee, dit is – ek het 23 gedink dit is miskien die tyd wat hulle vir Kolonel Vermaak 24 gevra het om te gaan vlieg en vas te stel, in daardie tyd. 25 U mention 'n ander tyd, so nee, ek het glad nie – daar het</p>

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1 wel vroeër, ek weet nie of sy die – O nee, ek sien daar bo
 2 is "18 bodies." Ek wou sê Kolonel Vermaak het op 'n
 3 stadium getel 25 mense "lying down," maar hierdie "some
 4 dead, some injured," dit moes later, baie later gewees het.
 5 MR CHASKALSON SC: But you didn't hear
 6 it?
 7 BRIGADIER CALITZ: Nee, dit is – sy kan
 8 maar kom getuig hieroor.
 9 MR CHASKALSON SC: Brigadier, I made a
 10 promise to end by teatime. If we do that we can – I have
 11 one last relatively short topic to deal with you, which is
 12 the movements of Papa11. Chairperson –
 13 CHAIRPERSON: If you undertake to deal
 14 with it fairly crispy, both of you. We will take the tea
 15 adjournment now.
 16 [COMMISSION ADJOURNS COMMISSION RESUMES]
 17 [11:52] CHAIRPERSON: The Commission resumes. You're
 18 still under oath, Brigadier. Last lap, Mr Chaskalson.
 19 ADRIAAN CALITZ: s.u.o.
 20 CROSS-EXAMINATION BY MR CHASKALSON SC: I hate to
 21 keep doing this but Brigadier, you say you didn't have a
 22 hand-held radio when you were with Lieutenant-Colonel
 23 McIntosh?
 24 BRIGADIER CALITZ: At that time when I
 25 walked there?

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1 MR CHASKALSON SC: Yes.
 2 BRIGADIER CALITZ: At the river, ja. No,
 3 it was a base radio at the back of my vehicle.
 4 MR CHASKALSON SC: Yes. Did you not ask
 5 anyone for a hand-held radio?
 6 BRIGADIER CALITZ: Mnr die Voorsitter,
 7 onthou ek het weer eens getuig ek het nie gedink ek gaan
 8 daardie hoeveelheid tyd weg wees, ek het gedink ek gaan
 9 soontoe en dan gaan ek terug na my voertuig toe en van daar
 10 af sal ek dan inbeweeg.
 11 MR CHASKALSON SC: But once you got
 12 there, I mean, and once it became clear that this wasn't a
 13 sort of two minute stop, it was going to be longer, did you
 14 not ask anyone for their radio?
 15 BRIGADIER CALITZ: Nee, ek het nie enige
 16 van die bevelvoerders van hulle radio's ontnem nie, nee.
 17 MR CHASKALSON SC: So you didn't get a
 18 radio from anyone. Did you ever have a hand-held radio on
 19 the 16th at scene 2?
 20 BRIGADIER CALITZ: Ek dink toe ons
 21 binnekant kom het ons van die hand-radio gebruik gemaak, ek
 22 kan nie onthou wie – toe ek by Generaal Naidoo kom en wel
 23 die persoon in die detail binnekant kry, het Generaal
 24 Naidoo vir my opgemerk dat hy wel die JOC gekontak het met
 25 die radio en daar – en ek onthou ek het van daar af et die

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1 JOC gekontak om water te reël, om beligting te reël, daar
 2 was several goeters gewees. Ek dink, ek kan nie vir u sê
 3 met watter radio dit was nie, nee.
 4 MR CHASKALSON SC: And when would you say
 5 you got this radio?
 6 BRIGADIER CALITZ: Mnr die Voorsitter,
 7 nee, dit sal seker teen die tyd wees in daardie stadium na
 8 ek daar gestop het.
 9 CHAIRPERSON: Let me just understand it.
 10 You had given your hand radio to the water cannon people
 11 because their radio wasn't working, is that right?
 12 BRIGADIER CALITZ: Die een van Kolonel
 13 McIntosh, dit is korrek.
 14 CHAIRPERSON: So did you give McIntosh's
 15 hand radio to the water cannon people?
 16 BRIGADIER CALITZ: Ja, daar was een hand-
 17 radio by ons van Kolonel McIntosh voor –
 18 CHAIRPERSON: Yes.
 19 BRIGADIER CALITZ: En hy het uitgespring
 20 en hom vir die –
 21 CHAIRPERSON: The water cannon people,
 22 the water –
 23 BRIGADIER CALITZ: Dit is korrek, ek het
 24 –
 25 CHAIRPERSON: When was that? When was

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1 that?
 2 BRIGADIER CALITZ: Dit was toe ons
 3 opgelyn het langs koppie 2 met die –
 4 CHAIRPERSON: Okay.
 5 BRIGADIER CALITZ: - the riverbed.
 6 CHAIRPERSON: By the dry riverbed.
 7 BRIGADIER CALITZ: Dis korrek.
 8 CHAIRPERSON: Okay. Now, you obviously –
 9 and you got the other radio that you're now talking about
 10 from General Naidoo.
 11 BRIGADIER CALITZ: Nee, mnr die
 12 Voorsitter, ek is net gevra of ek op enige stadium op radio
 13 gepraat het –
 14 CHAIRPERSON: Yes.
 15 BRIGADIER CALITZ: - en ek het gesê dit
 16 het gebeur toe ons binnekant kom. Ek kan nie onthou is dit
 17 van die lede van wie, ek dink dit was iemand se hand-radio
 18 daar naby wat ons net gebruik het.
 19 CHAIRPERSON: When you went where?
 20 BRIGADIER CALITZ: Dit is toe ek inbeweeg
 21 het, toe ek by Generaal Naidoo was binne –
 22 CHAIRPERSON: Yes, okay. So it was when
 23 you, after this 23 minute interlude when you went back to
 24 the Nyala and passed it into koppie 3 where you met Naidoo
 25 and you saw the people who had been arrested, is that

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1 right, it was after that, is that right?

2 BRIGADIER CALITZ: Na die beste van my,
3 wat ek kan onthou.

4 CHAIRPERSON: Well, it couldn't have been
5 earlier, could it?

6 BRIGADIER CALITZ: Nee, ek kan nie onthou
7 dat ek 'n hand-radio gehad het toe ek by Kolonel McIntosh
8 was nie.

9 CHAIRPERSON: No, I say it couldn't have
10 been earlier, on what you've told us up to now.

11 BRIGADIER CALITZ: Dit is – ja.

12 CHAIRPERSON: So it has to be when you
13 went back, at the end of the 23 minute interlude when you
14 went back to your Nyala and beyond into koppie 3, is that
15 correct?

16 BRIGADIER CALITZ: Ek, ek – na die beste
17 van my vermoë hoe ek dit onthou, dit is korrek.

18 CHAIRPERSON: Right. And how long was
19 that approximately before you phoned, before you
20 established contact, by radio I take it, with General
21 Annandale which was at 16:47, wasn't it?

22 BRIGADIER CALITZ: Ja. Mnr die
23 Voorsitter ja, ek het verduidelik die verskeie gebeure wat
24 daar gebeur het en toe ek terugstap, ek dink dit was op pad
25 terug toe het ek General Annandale geskakel, met hom

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1 gesels.

2 CHAIRPERSON: That was 16:47.

3 BRIGADIER CALITZ: Dit was, ja, en daarna
4 is ek in die koppie in en toe het ek met Generaal Naidoo
5 ontmoet.

6 CHAIRPERSON: So you spoke to General
7 Annandale in fact before you went into koppie 3.

8 BRIGADIER CALITZ: Ja, ja, dit is, dit is
9 –

10 CHAIRPERSON: Did you use your radio on
11 the Nyala to speak to him?

12 BRIGADIER CALITZ: Nee, nee, selfoon.

13 CHAIRPERSON: Oh, you spoke to him by
14 cell phone.

15 BRIGADIER CALITZ: Dit is korrek.

16 CHAIRPERSON: I see. Alright, no, thank
17 you.

18 MR CHASKALSON SC: Can I ask that we go
19 back to CC32, sorry, CC22 to a point at 30 minutes and five
20 seconds into that video. 30:05, can we play the audio from
21 30:05?

22 [VIDEO IS SHOWN]

23 MR CHASKALSON SC: Do you recognise that
24 as your voice?

25 BRIGADIER CALITZ: Ek het nou nie, ek kon

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1 nie hoor wat eers gesê is nie, as u dalk vir my sê na
2 watter deel of wat gesê word dan kan ek probeer luister.

3 MR CHASKALSON SC: It seems to be saying
4 let them go through, the area is secure, but let's go back
5 again and play it again.

6 [VIDEO IS REPLAYED]

7 MR CHASKALSON SC: Can we stop? Let them
8 go, area is secure, let them go through. Is that your
9 voice?

10 BRIGADIER CALITZ: Nee, ek kan nie sê dit
11 is nie. Ek – dit is nie vir my so duidelik soos die vorige
12 dat ek my stem herken nie, nee.

13 MR CHASKALSON SC: Maybe we should play
14 it a third time. Can we go back just to give you, yourself
15 an opportunity.

16 [VIDEO IS REPLAYED]

17 MR CHASKALSON SC: Does that help at all?

18 BRIGADIER CALITZ: Nee, glad nie, jammer.

19 MR CHASKALSON SC: You see it sounds very
20 much like your voice to me.

21 BRIGADIER CALITZ: Ek verskil van u, mnr
22 die Voorsitter.

23 MR CHASKALSON SC: You must know your own
24 voice better than me. For the record, that time is
25 16:27:37 ETV time, 16:27:37 which is approximately four

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1 minutes after your Nyala stopped at scene 2 and if it was
2 you speaking, you were saying that the area is secure and
3 someone could go through. It seems to be the medics who
4 could go through because at that stage the medics were
5 being brought to the scene and a request had been made in
6 that regard, but you say it wasn't your voice.

7 BRIGADIER CALITZ: Mnr die Voorsitter,
8 ja, ek – op geen stadium het iemand met my kontak gemaak
9 oor enige mediese hulp, of die medics kan deurkom of niks
10 nie want dit was nie onder my beheer nie. Ek het van die
11 medics bewus geword die eerste keer toe ek binnekant die
12 koppie kom, so dit is hoekom ek sê ek het glad nie – ek kon
13 ook nie gesê het die area is secure want ek het glad nie
14 geweet wat binne aangaan op daardie stadium, op daardie tyd
15 wat u na verwys net na ek daar gestop het nie.

16 MR CHASKALSON SC: You see if you'd gone
17 into koppie 3 at that stage you would've known that area
18 was secure.

19 BRIGADIER CALITZ: Ja, maar ons weet ek
20 het eers baie later ingegaan.

21 MR CHASKALSON SC: That at least is your
22 version. Warrant Officer Nong went in immediately. He was
23 the man with the camera in your team, is that correct?

24 BRIGADIER CALITZ: Ek weet nie of hy
25 eerste ingegaan het nie maar hy was in die toneel in, dit

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1 is korrek.

2 MR CHASKALSON SC: We know that he was

3 taking photographs less than two minutes after your Nyala

4 stopped because we've done that exercise already. Did he

5 do that of his own volition or was it on your instruction

6 that he went into the scene?

7 BRIGADIER CALITZ: Dit was deel van die

8 briefing van die begin af gewees. Hy was die kamera, in sy

9 teenwoordigheid, ag, in sy besit en dan het hy deurentyd al

10 die persone wat gearresteer was, sou dan deur hom verfilm

11 geword het.

12 MR CHASKALSON SC: But wouldn't it have

13 been important for him to come with you to the scene of a

14 possible dead body of someone who had apparently attacked a

15 policeman where Lieutenant-Colonel McIntosh was?

16 BRIGADIER CALITZ: Ek het nou net vir u

17 gesê dit is sy werk om die persone wat besig is om

18 gearresteer te word te fotografeer. Daardie persoon waarby

19 Kolonel McIntosh gesit het, hy het gekniel, die persoon het

20 stil gelê, daardie persoon het nie vir my gelyk of hy enige

21 arrestasie was op daardie stadium nie. So adjudant-

22 offisier Nong kan self kom getuig, maar hy het die persone

23 wat gearresteer is gaan afneem en ek is na die persoon toe

24 wat stil gelê het in die veld.

25 MR CHASKALSON SC: And you didn't direct

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1 him to do that, you didn't – he did that in terms of an

2 earlier briefing?

3 BRIGADIER CALITZ: Ek het reeds daaroor u

4 vraag geantwoord.

5 MR CHASKALSON SC: Well, let's then go to

6 papa11. You will recall that papa11 was part of the team

7 that went to the north where you, the north-west where you

8 were doing the arrests. You recall that?

9 BRIGADIER CALITZ: Ek dink nie ek het

10 getuig oor die voertuie wat saam met my beweeg het

11 noordwes, ek dink ek het na papa11 verwys as die voertuig

12 wat voor ons was toe ons by toneel 1 was. Ek dink dit is

13 waar ek na verwys het.

14 MR CHASKALSON SC: Well, maybe let's –

15 can I ask that GW6C, JJJ178, GW6C is called up. Or in fact

16 I put all of the individual exhibits that I need into that

17 PowerPoint presentation you took earlier called "Movement

18 of papa11." If you can call that up and go to the first

19 slide.

20 CHAIRPERSON: This is a PowerPoint

21 presentation, it's not an exhibit, is it? Does it have to

22 be an exhibit?

23 MR CHASKALSON SC: We can make it an

24 exhibit.

25 CHAIRPERSON: If it contains material

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1 from other exhibits then you simply have to identify the

2 other exhibits but if it's important and useful to have

3 them altogether – I've been handed a document which perhaps

4 we can make an exhibit. What's the next exhibit? We

5 haven't got – Ms Pillay must come back as a matter of

6 urgency, we need her.

7 MR CHASKALSON SC: My team has stepped

8 into the breach behind her and it's KKK19.

9 CHAIRPERSON: KKK19, movement of papa11,

10 alright.

11 MR CHASKALSON SC: And sorry, there was a

12 sub-title which I'm afraid has just been deleted on screen

13 because it had the key. That's the key, so I have

14 annotated on this, on these slides of which I think colour

15 copies will be made available in due course but for present

16 purposes can we just look at the screen where colour will

17 come out.

18 CHAIRPERSON: We've got colour on our

19 copies or is there some colour that we haven't got?

20 MR CHASKALSON SC: No, no, if you have

21 colour, you have colour. I didn't realise we had time to

22 do colour printing. Papa1 will be circled in red, papa5 in

23 blue, papa11 in yellow and papa4 in green. So if we go to

24 the first slide, that's the slide we've seen several times

25 before, it's annexure GW6C, page 17 of exhibit JJJ178. For

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1 present purposes I'm interested in your group of vehicles

2 to the north-west so if we can zoom into the top left-hand

3 corner of that and you'll see that at 11:22 on the Protea

4 Coin chopper, which was 16:08:52, we have what we can call

5 the original configuration of vehicles to the north. So we

6 have your papa1, papa1 as marked on the diagram, I'll just

7 identify it quickly with the pointer - papa4 against the

8 bush to your south-east, papa11 to your west/south-west and

9 papa5 to your north-west. Papa11 was that vehicle that

10 was, that I'm marking now, that was part of your group of

11 four vehicles and with the possible exception of papa5, was

12 the vehicle closest to you. Do you recall that the vehicle

13 that I've identified was part of your team up there?

14 BRIGADIER CALITZ: Papa11 was definitief

15 deel van die span van papa voertuie wat opgevolg het. Ek

16 het net nie vir u gesê dat ek was bewus dat hy op daardie

17 stadium in daardie area was nie maar ja, hy was deel van

18 die –

19 MR CHASKALSON SC: And you accept, were

20 you aware at that stage that there were four Nyalas in

21 addition to the Casspir up to the north with you?

22 BRIGADIER CALITZ: Ek dink, mnr die

23 Voorsitter, hoekom ek nou-nou gesê het nee, ek was nie

24 seker, omdat ons tot nou toe het ons al die foto's wat u

25 vir my gewys het, was dit papa1 wat myself was, papa5 wat

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1 Kolonel Pitsi was en dan die Casspir met die twee Canters.
 2 Dit is die voertuie wat daar rondom die arrestasie gestaan
 3 het en dit is die enigste foto's wat ons op hierdie stadium
 4 nog hanteer het. Ek dink nie in daardie stadium op daardie
 5 foto's was papa11 in daardie foto's nie. So dis hoekom ek
 6 net nie kon erken dat, of geweet het hy was ook daar nie
 7 maar ek sien in die foto hy is daar.
 8 MR CHASKALSON SC: So let's go to the
 9 next slide which is sometime later, ETV time 16:13:51 and
 10 papa11 is still in the same position and the configuration
 11 of the four papa vehicles is identical. They've been
 12 stationary over that period, do you accept that?
 13 CHAIRPERSON: You say it's papa11, of
 14 course. Are we going to see something in due course which
 15 makes it clear that it is papa11? To zoom in on that one,
 16 will the clarity be sufficient for us to make –
 17 MR CHASKALSON SC: No, but we'll follow
 18 its movements to its final position and then we will zoom
 19 in then.
 20 BRIGADIER CALITZ: Ek wil net weer die
 21 tyd van hierdie een – is dit korrek, die ETV tyd is 16:13?
 22 MR CHASKALSON SC: That's correct.
 23 BRIGADIER CALITZ: Okay, ek wou ook net
 24 gevra het of ons kan in-zoom want op 'n vorige foto was dit
 25 op dieselfde tyd en daar was 'n voertuig tussen ons en die

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1 koppie so ek – maar dis reg, ek sal u volg en dan kan ons
 2 net kyk. Ons kan nie in-zoom op hierdie foto dat ek net
 3 kan sien? Nee, ek wou net vra want op 'n vorige foto het u
 4 gewys dat my voertuig was die een wat die naaste aan die
 5 koppie was, so ek was net onseker oor die tyd van daardie
 6 foto en hierdie een.
 7 MR CHASKALSON SC: Well, if we go back,
 8 if we zoom back out we'll see, these are stills that are
 9 taken out of the Protea Coin chopper video CC22. Go up a
 10 little – no, sorry, down a little and there's the time,
 11 16:21, of the video.
 12 CHAIRPERSON: The ETV time has been
 13 established or calculated, I take it using the conversion
 14 table and as you heard this morning, we're going to have –
 15 a record is going to be compiled because I've said it must
 16 be done –
 17 BRIGADIER CALITZ: Ek aanvaar so.
 18 CHAIRPERSON: Setting out how each of the
 19 key times is established but it take it we can
 20 provisionally accept –
 21 BRIGADIER CALITZ: Ek aanvaar dit so.
 22 CHAIRPERSON: - that they've got it
 23 right.
 24 BRIGADIER CALITZ: Dankie, mnr die
 25 Voorsitter.

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1 MR CHASKALSON SC: Now were you in
 2 command of all of the armoured vehicles at that scene?
 3 When I say at that scene I mean the four, or let's just
 4 confine ourselves to the four Nyalas that we see there.
 5 Would you have been in command of that team of four Nyalas?
 6 BRIGADIER CALITZ: Onthou wat ons
 7 voorheen getuig het, dat ek is nie, die operasionele
 8 bevelvoerder, ja, maar elke voertuig het sy eie seksie-
 9 bevelvoerder en dan was daar groep bevelvoerders gewees wat
 10 dan ingedeel was oor hierdie seksie-bevelvoerders. So op
 11 elke voertuig is daar dan ook 'n seksie-bevelvoerder.
 12 MR CHASKALSON SC: Well, if papa11 at
 13 this point decided that it wanted to go into the koppie to
 14 investigate what was happening there, is this something
 15 that it would have done independently or on your command?
 16 BRIGADIER CALITZ: Mnr die Voorsitter,
 17 nee, al die beweging van al die voertuie sal nooit op my
 18 bevel kan wees nie want die hele gebied – weer eens wil ek
 19 nou nie skat nie maar dit kan 'n kilometer wees, twee
 20 kilometer of 'n paar honderd meter, dit is onmoontlik vir
 21 my om elke voertuig te taak waarnatoe om te gaan. So die
 22 seksie-bevelvoerder sal dan wat voor hom gebeur, 'n besluit
 23 neem en in daardie rigting gaan en as dit dan iets is van
 24 belang of hy kom op iets af is dit dan die plig dat hulle
 25 my sal kontak.

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1 MR CHASKALSON SC: So if papa11's section
 2 head decided papa11 would be better used in the heart of
 3 the koppie, that was a decision that he could take without
 4 reference to you?
 5 BRIGADIER CALITZ: Dit –
 6 MR CHASKALSON SC: Even though papa11 was
 7 right next to you?
 8 BRIGADIER CALITZ: Dit is korrek. As hy
 9 gesien het daar is beweging of hy het iets in daardie
 10 rigting gesien en hy wou daarop reageer op hierdie stadium,
 11 dis hoekom ek gevra het die tyd 16:13, ek onthou die foto's
 12 wat geneem was van adjudant-offisier Nong was 16:12 so hy
 13 kon dalk – daar is legio moontlikhede.
 14 [12:12] Hy kon dalk gesien het dat hierdie persone is
 15 genoegsaam om hierdie persone wat gearresteer is te hanteer
 16 en hy het dalk iets anders waargeneem en verder beweeg in
 17 daardie rigting.
 18 MR CHASKALSON SC: And you'd have no
 19 difficulties with that even if he didn't tell you what he
 20 was doing, why he was doing it?
 21 BRIGADIER CALITZ: Mnr die Voorsitter,
 22 weereens al die Papa voertuie, Papa 7, 9 elkeen het beweeg
 23 in 'n rigting soos dit voor hulle afgespeel is. Toe ons by
 24 die river bend vorentoe gegaan het, het ons vir die Papa
 25 voertuie duidelik gebrief dat ons gaan vorentoe met 'n

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1 dispersion action en elke seksie bevelvoerder het daai
2 opdrag dan so gekry.

3 MR CHASKALSON SC: But you're supposed to
4 be coordinating all of these movements. Now presumably if
5 someone notices something that has to be attended in the
6 heart of the koppie that's something to report to the
7 operational commander because it may make sense in terms of
8 the operation for another vehicle to attend to it.

9 BRIGADIER CALITZ: As hierdie persoon van
10 hierdie afstand iets kon sien wat in die, soos u sê die
11 hart van die, die senter van daardie koppie gebeur het en
12 hy het soontoe gegaan, nee ek stem saam met u, dan moet hy
13 dit aan my gerapporteer het.

14 CHAIRPERSON: He should as a matter of
15 courtesy if nothing else, had told you where he was going
16 so that you'd know where he was and what he was doing,
17 isn't that right. So one would have expected him -

18 BRIGADIER CALITZ: Korrek.

19 CHAIRPERSON: To have said to you
20 Brigadier I've seen something down there, I'm going off to
21 deal with it and you would have said fine go ahead, isn't
22 that right?

23 BRIGADIER CALITZ: Korrek, mnr die
24 Voorsitter. As hy iets gesien het dan sou hy my so
25 meegedeel het.

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1 MR CHASKALSON SC: But it goes a little
2 beyond that. I mean you're dealing with a situation which
3 you at any rate seem to be a situation involving some
4 threats, correct, to the northwest of the koppie there.

5 BRIGADIER CALITZ: Ek verstaan nie, as u
6 die vraag sal herhaal.

7 MR CHASKALSON SC: You're attending, you
8 were attending to some arrests and remember we had this
9 exchange where I used the word relaxed and you took issue
10 with that and you said this was a very tense situation and,
11 so you were dealing with a situation which you understood
12 to involve some material threats to your team and the SAPS
13 people there.

14 BRIGADIER CALITZ: Ek het wel getuig dat
15 op daardie stadium die threats waarna u verwys is, daar's
16 'n moontlikheid van wapens en dit is hoekom ons in daardie
17 rigting die rondom verdediging ook gehad het by daardie
18 arrestasie van die TRT lede.

19 MR CHASKALSON SC: But you thought that,
20 that while you were at that arrest position this was not a
21 relaxed situation?

22 BRIGADIER CALITZ: Mnr die Voorsitter,
23 dit is waaroor ons getuig het. Ek dink u het my verwys na
24 die foto waar die persone besig was op die grond om
25 gearresteer te word en ek het verwys na die genoegsame TRT

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1 mense wat dan rondom verdediging gegee het. Dit is omdat
2 daar altyd 'n moontlikheid is van enige voorval wat kan
3 plaasvind. So mens moet pro-aktief wees.

4 MR CHASKALSON SC: So presumably - I find
5 it difficult to accept that if you have four armoured
6 vehicles there and it's a situation which you perceived to
7 be a situation fraught with risk and threat one of those
8 armoured vehicles can just drive off in its own direction
9 where it thinks it would be better used without reference
10 to the operational commander? Are you saying that if the
11 section head thought that was right that was alright?

12 BRIGADIER CALITZ: Mnr die Voorsitter, ek
13 dink ek het reeds hieroor getuig. Ek kan dit maar net weer
14 sê. Dat indien hy wel iets opgemerk het in 'n verdere
15 afstand was dit dan vir hom om vir my te sê, Brigadier, ek
16 sien iets op die 9 uur, ek gaan kyk wat dit is en dit is
17 wat dan hy kon gedoen. Op daardie stadium het ek vir u
18 gesê dit was my Papa1, Papa5, die Casspir, ek is nie seker
19 oor sy roepsein, asook die twee Canters wat by daardie
20 persone was wat op die grond was. So as jy die polisielede
21 vergelyk met die aantal persone wat op die grond lê wat
22 besig is gearresteer te word dink ek daardie situasie was
23 onder beheer daar.

24 MR CHASKALSON SC: Well the photos that
25 we saw come a little later but did you notice Papa 11

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1 driving off while you were at the scene there?

2 BRIGADIER CALITZ: Nee, mnr die
3 Voorsitter.

4 MR CHASKALSON SC: So there were four
5 armoured vehicles, one of them left but, left without
6 reference to you and you didn't see it going?

7 BRIGADIER CALITZ: Ek het hom glad nie
8 gesien op daardie stadium, wat hier aangedui is om weg te
9 ry nie nee.

10 CHAIRPERSON: Do you accept that later
11 on, a few minutes after the time that's been talked about,
12 before, has been talked about, before you went down towards
13 koppie 3 that you had three vehicles there, three armoured
14 vehicles, three Nyalas.

15 BRIGADIER CALITZ: Ja, op die foto
16 waarvan ons bewus was, toe ek sê -

17 CHAIRPERSON: The three.

18 BRIGADIER CALITZ: Toe ons uitgeklim was
19 dit myself, Papa5 Kolonel Pitsi gewees en ek dink dit wit
20 Casspir waarna ek verwys het en dan twee Canters.

21 CHAIRPERSON: Okay.

22 BRIGADIER CALITZ: Waaraan die verdagtes
23 gelaai was.

24 CHAIRPERSON: Now if we look at the
25 second photograph that we've been shown here, the one

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1 that's one the scene. There we see there's four vehicles,
 2 four Nyalas, is that correct, do you accept that?
 3 MR CHASKALSON SC: There are in fact five
 4 because –
 5 CHAIRPERSON: Five.
 6 MR CHASKALSON SC: There's four Nyalas
 7 plus the Casspir, the Casspir hasn't been circled.
 8 CHAIRPERSON: Yes, I know there's four
 9 Nyalas, what's been put to you you see is there were four
 10 Nyalas here on this picture and a little bit later on there
 11 were three. So there was obviously one there that had
 12 gone. Now Mr Chaskalson says it was Nyala11, you didn't
 13 see Nyala11, you don't remember seeing Nyala11. You also
 14 don't remember anybody coming to you and saying I'm going
 15 off now but I've seen something I'm going to deal with it,
 16 in which you would have, wouldn't have objected, you would
 17 have said fine. But no one said that to you. That's your
 18 evidence.
 19 BRIGADIER CALITZ: Dit is korrek, mnr die
 20 Voorsitter.
 21 CHAIRPERSON: But what does seem to be
 22 clear if one looks at these photographs is that initially
 23 there were four Nyalas and now there were three. You
 24 accept that?
 25 BRIGADIER CALITZ: Dit is korrek, volgens

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1 die fotos, dit is hoekom ek gevra ek wou net die tyd gehad
 2 het, mnr die Voorsitter.
 3 COMMISSIONER HEMRAJ: Who was in command
 4 of Papa11?
 5 BRIGADIER CALITZ: Kommissaris, kan ek
 6 terug kom na u toe, ek het nie op hierdie stadium dit by my
 7 nie, maar dis maklik om vas te stel. Ek sal vir u kan
 8 daardie antwoord gee.
 9 MR CHASKALSON SC: So you didn't notice
 10 the movements of Papa11?
 11 BRIGADIER CALITZ: Dit is korrek. Ek het
 12 glad nie op daardie stadium was my aandag daar by die
 13 groep, by die arrestasies en nie met die beweging van
 14 daardie voertuig nie nee.
 15 MR CHASKALSON SC: But I would imagined
 16 that that vehicle was there because it was part of the
 17 operation to attend to those arrests, is that not the case?
 18 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 19 weet nie meer, dit klink asof ek dieselfde antwoord vir u
 20 gee. Soos ek vir u gesê het die voertuie het beweeg. Dit
 21 wat voor ons afgespeel het, daardie groepe wat ons gesien
 22 het, daardie groepe is benader, hulle is gewaarsku. Hulle
 23 is in kleiner groepies op-gesplit. Hulle is omsingel,
 24 ontwapen en gearrester. So op hierdie geval is teen 16:13
 25 weet ons dat die arrestasies en die optrede deur die

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1 polisie moes net voor hierdie foto wees het. Ek gaan
 2 suiwer op die tyd van Adjudant Offisier Nong se foto wat
 3 16:12 was. So die arrestasies of die benadering van die
 4 voertuie moes dan net miskien twee minute, drie minute voor
 5 hierdie foto gewees het.
 6 MR CHASKALSON SC: Well you say you
 7 didn't follow the movements of Papa11. I'm not going to
 8 question you on this, but I just want to put to you that
 9 what the stills that we've taken out from the various
 10 videos shows that is that Papa11 drove from that point
 11 right into the heart of the koppie. Maybe if we can go to
 12 the last photograph in that, sorry 7, slide 7. We've been
 13 tracking the movement of Papa11 through the previous ones
 14 in time. By 16:15:01 Papa11 is in the heart of the koppie
 15 and if we go back up to the, sorry this is 16:11:01 and
 16 there's your Papa5, your Papa1, that I'm marking now,
 17 circled in red, in blue is Papa5, in green is Papa4. If we
 18 can go to the next slide which zooms in that's Papa11 at
 19 16:15:01 and we've plotted Papa11's position on the next
 20 slide, can we go to the next slide on page, on a still that
 21 we took from page 46 of exhibit B which is Captain Mohlaki,
 22 it's marked Google Earth map of scene 2 and if we zoom in
 23 there, can we zoom further in. Now all of the little
 24 yellow men are dead bodies, in fact the little yellow man
 25 that I'm marking now, sorry D and E should be two yellow

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1 men because there's two dead bodies there. Now on Google
 2 Earth we've worked out that there were ten dead bodies
 3 within a 30 metre radius of where Papa11 was by 16:15:01.
 4 Did Papa11 never make any reports to you about what it
 5 could see from the heart of the koppie?
 6 BRIGADIER CALITZ: Nee, mnr die
 7 Voorsitter. Dit is hoekom ek gesê het ek het hom nie
 8 gevolg daar nie en hy het ook geen verslag aan my gegee op
 9 daardie stadium waar hy daar is nie. Ek kan miskien net sê
 10 dat die foto waar hy nou is, ek weet nie as 'n mens op die
 11 toneel self kyk of op 'n ander foto of die body D en E of C
 12 soos u dit noem sigbaar is en of hulle agter die rotse,
 13 agter die bosse, ek weet glad nie of Papa11 uitgeklim het
 14 op daardie toneel nie. Ek weet nie of hy homself vergewis
 15 het wat daar aangaan. Ek kan nie sê wat Papa11 gedoen het
 16 nie.
 17 MR CHASKALSON SC: I'm maybe a, the
 18 proposition I put to you earlier was insufficiently, was
 19 framed with insufficient precision. I'm not suggesting
 20 that at the point that Papa11 moved in there, there were
 21 ten bodies. I think most of the ten bodies were killed
 22 after Papa11 moved in there. But the point is that Papa11
 23 was in the heart of the koppie, at the very heart of the
 24 area where people were being killed by 16:15:01 and you are
 25 saying that you never received –

<p style="text-align: right;">Page 19284</p> <p>1 CHAIRPERSON: Before you carry on, Mr 2 Chaskalson, Mr Semenya wants to say something. 3 MR SEMENYA SC: Chair, throughout the 4 cross-examination Mr Chaskalson is putting factual 5 statements to the witness. I wonder whether he's going to 6 be producing this evidence. Like the statement he now 7 makes that Papa11 came in or the people were killed 8 subsequent, where does he get these things. 9 MR CHASKALSON SC: I cannot prove that 10 people were killed subsequent. I can't prove that. I 11 would imagine – 12 CHAIRPERSON: You did put it as a fact 13 you know. 14 MR CHASKALSON SC: Did I put it as a 15 fact, did I not say we think? 16 CHAIRPERSON: Well even we think, I mean 17 what's the point of telling us what you thought. 18 MR CHASKALSON SC: No, no – 19 CHAIRPERSON: You're putting the basis 20 of, I mean I would have thought that there's substance in 21 the contention raised by Mr Semenya, possibly the question 22 can be formulated differently. The fact is that if you, if 23 one looks at I take it the photograph taken 16:15:01 we do 24 see an Nyala there, we haven't yet been shown it's Nyala 11 25 but there's a Nyala there and I don't see any bodies there</p>	<p style="text-align: right;">Page 19286</p> <p>1 completely. Yes, if one looks at the photograph it's the, 2 it's clearly the vehicle on the extreme right hand side of 3 the photograph and we've now zoomed into it and, can we 4 zoom back into it please. You've got to go to the right 5 now to see it and one does see the letters P11 painted on 6 the top. The question arises of course if the place where 7 we now see it is that the place which is depicted on the 8 photograph taken, Botha's photograph KKK16 5130. 9 MR CHASKALSON SC: It is the same place, 10 Chairperson, we can call up the previous photograph. I 11 should just indicate that the ETV time of the JJJ6 12 photograph was 16:22:21, approximately seven minutes later. 13 But there is no movement of this vehicle over those seven 14 minutes. 15 CHAIRPERSON: Mr Semenya, do you want to 16 say something? 17 MR SEMENYA SC: What is the missing link 18 to me, Chair, is I see on that photograph there are people 19 already arrested where Papa11 is clearly identifiable. I 20 don't know necessarily that as you see it on the subsequent 21 one it never shifted throughout that period. 22 MR CHASKALSON SC: I'd invite Mr Semenya 23 and his team to study the Protea Coin video and to see if 24 there is any movement of vehicles from that position. If 25 they have a problem in that regard they should come back to</p>
<p style="text-align: right;">Page 19285</p> <p>1 at the time. If it's correct that that spot in which the 2 Nyala is to be found in the photograph to which I referred 3 is correctly plotted onto the Google Earth map then 4 according to Captain Mohlaki there were a number of dead 5 bodies there later. One can't take it any higher than that 6 but I presume on that basis the point to proceed but Mr 7 Semenya's right you know it doesn't help to say what you 8 think. Tell us what you think, facts must be put but the 9 photograph to which I referred plus the Google map thing 10 would go some of the way to establishing the point being 11 made. Any way it doesn't look as if you can help us on 12 that, am I right? 13 BRIGADIER CALITZ: Mnr die Voorsitter, ek 14 kan u glad nie daar help nie, dit is korrek, ja. 15 CHAIRPERSON: And do we know, Mr 16 Chaskalson, that this is indeed Nyala11, can that be 17 established? 18 MR CHASKALSON SC: Yes, can we go to JJJ6 19 1270, JJJ6 1270. I'm marking Papa11 now which is in the 20 same position that we saw it in the previous photograph, if 21 we'll zoom in we'll see the call sign on the roof. 22 CHAIRPERSON: So if one looks at this 23 photograph one sees on the right hand side an Nyala. Can 24 we zoom out first please so that I can identify the exact 25 position on the photograph, can we zoom out please</p>	<p style="text-align: right;">Page 19287</p> <p>1 us and we can flesh it out. 2 CHAIRPERSON: It's all and well Mr 3 Semenya must study it but the fact is it doesn't appear 4 from the evidence before us that that's the case. But that 5 can be done presumably later. We do see, we see some dye 6 on the rocks, we see some rock formations. It may be 7 possible by looking at some of the other earlier 8 photographs to see whether the spot can be identified by 9 reference to the physical features of the ground round 10 about. But maybe we can, that's something that can be done 11 later if it's an issue. Maybe it will have to be done to 12 persuade us that this is, that indeed we've been looking at 13 P11 all the time but – 14 MR CHASKALSON SC: Chairperson, if you 15 want persuasion that the position is the same I can do that 16 now. The separate issue to show that there's no movement 17 is a very laborious issue. 18 CHAIRPERSON: You've got your light on 19 now, do you want say – 20 MS LE ROUX: Yes. 21 CHAIRPERSON: Contribution to the 22 debate? 23 MS LE ROUX: Thank you, Chair, just two 24 contributions. The first is that, to assist my learned 25 friend Mr Chaskalson Botha 5139 which is ETV time 16:16:51,</p>

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1 so it's earlier than this, if he wants to use that one
 2 then, if you zoom in on that I believe you see members
 3 outside of Papa11 and there are what appear to be bodies.
 4 So that's closer to the time of the shootings at scene 2
 5 and then my second contribution –
 6 CHAIRPERSON: Can one see from this if
 7 one zooms in that, from the rock formation to the vicinity
 8 that is exactly the same place?
 9 BRIGADIER CALITZ: Mnr die Voorsitter,
 10 ekskuus tog, as ek net weer daai foto se verwysing kan kry
 11 asseblief. Botha, u het gesê Botha?
 12 MS LE ROUX: 5139.
 13 BRIGADIER CALITZ: Baie dankie.
 14 MS LE ROUX: And then, Chair, if we zoom
 15 in on Papa11 which is the vehicle on the right of the
 16 screen at present –
 17 CHAIRPERSON: Well that certainly does
 18 look as if it's in the same position as the other one if
 19 one has regard to the dye marks on the rocks –
 20 MS LE ROUX: And if we zoom in further –
 21 CHAIRPERSON: And so on.
 22 MS LE ROUX: And if we can zoom in
 23 further –
 24 CHAIRPERSON: If we zoom in further
 25 we'll see the 11?

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1 MS LE ROUX: I believe you can see
 2 members that appear to be standing next to the vehicle and
 3 in the foreground you can see what end up being bodies.
 4 But Chair, before I, just quickly the second contribution I
 5 wanted to make is in response to Mr Semenya regarding
 6 movements. The Human Rights Commission submitted a
 7 document on the movements of the vehicles months ago. The
 8 SAPS have had the document were repeatedly invited to make
 9 any corrections, objections –
 10 CHAIRPERSON: That's the debate we've,
 11 that's a debating point you're making now. Do we know this
 12 is P11, it certainly appears to be in the position in which
 13 P11 was a few minutes later judging by the other
 14 photograph, so it looks as if we can provisionally accept
 15 that it was P11 and so it, we have a situation, you had
 16 four Nyalas then you had three and the fourth one appears
 17 to, at an earlier stage, while you people were still busy
 18 with the arrested people and so on appears to have moved
 19 down to the, to koppie 3 and it appears from what we've
 20 seen to have gone into the, what is described as the heart
 21 of koppie 3 and come to rest in this position near the dyed
 22 rocks and so on.
 23 [12:32] That seems provisionally to be the case, so
 24 perhaps Mr Chaskalson can then ask you the question he
 25 wants to ask you on the basis of that, which you can

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1 provisionally accept and if need be we can, you can
 2 withdraw the acceptance if it turns out to be incorrect,
 3 but it looks right to me at the moment, I must say.
 4 BRIGADIER CALITZ: Mnr die Voorsitter,
 5 voorlopig aanvaar ek dit so. Ek glo die, al wat ek gemis
 6 het net, as ek miskien net mag vra, die tyd van daardie
 7 foto 5139.
 8 MS LE ROUX: 16:16:51.
 9 BRIGADIER CALITZ: 16:16:51. Voorlopig
 10 ja. Nee, ek sal –
 11 CHAIRPERSON: Now you've got provisional
 12 acceptance, which is not the same as provisional sentence.
 13 You can proceed, Mr Chaskalson.
 14 MR CHASKALSON SC: Chairperson, the only
 15 question – well, let me take a step back. The presentation
 16 tracks the movements of Papa11 on stills, on videos, into
 17 that position. So we can accept that the vehicle –
 18 CHAIRPERSON: He's provisionally accepted
 19 that, so we don't have to spend time on that at the moment.
 20 While you've got his provisional acceptance on the table,
 21 take it. Don't –
 22 MR CHASKALSON SC: Can I just make this
 23 point; what we can show beyond any reasonable doubt is that
 24 the vehicle that ends there is the vehicle that starts up
 25 next to Brigadier Calitz's vehicle to the north. That is

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1 charted on the videos.
 2 CHAIRPERSON: I think he's provisionally
 3 accepted that.
 4 MR CHASKALSON SC: The only question that
 5 I want to put to you is that would you not have expected
 6 one of your commanders who takes his vehicle into the heart
 7 of the koppie without reference to you and who ends up in
 8 the position that Papa11 ends up, to have made some sort of
 9 report to you so that you as operational commander would
 10 know that there is something of a fire-fight taking place
 11 around this koppie?
 12 BRIGADIER CALITZ: Mnr die Voorsitter,
 13 ja, dit is presies wat ek voorheen getuig het, dat ek het
 14 gesê dit hang af wat hy gesien het op hierdie stadium.
 15 Soos dit vir my lyk en soos wat ek hoor, die Advokaat het
 16 gesê hier lê bodies aan die voorkant. Ek sê ons moet gaan
 17 kyk na die foto's. Indien dit wel so is en hy het enige
 18 persone gesien wat dan gedood is moet dit aan my
 19 gerapporteer wees, yes.
 20 CHAIRPERSON: And you did say it wasn't.
 21 You say it wasn't. It wasn't reported.
 22 BRIGADIER CALITZ: Dit was nie, nee. Dit
 23 was nie.
 24 CHAIRPERSON: So what we have to do – you
 25 don't have to do it; I'm sure Mr Semenya will tell us on

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1 Monday who was in charge of Nyala P11 and we will then see
 2 if there's a statement from the person concerned and if
 3 there isn't, we'll obviously have to get one. But that's a
 4 matter that can be dealt with in due course, I take it.

5 MR CHASKALSON SC: Chairperson, I just
 6 want to put my position in relation to these people who can
 7 be seen there. We do not believe, or our analysis does not
 8 suggest that any of these three people were ultimately
 9 killed. In fact if you track the photographs further they
 10 appear to move. I think they were probably arrested at
 11 that point. They may have been injured.

12 CHAIRPERSON: The important point that's
 13 hanging in the air at the moment, if I can put it that way,
 14 is what happened exactly in relation to P11, who the
 15 commander was, what they did, why the commander didn't
 16 report to the operational commander, if what the
 17 operational commander says in that regard is correct.
 18 These are all matters which he can't help us on. These are
 19 matters that have to be explored with the commander of P11
 20 and I would imagine the way forward – we'll find out who he
 21 is; we'll have a look at his statement and we'll take it
 22 from there. Is that correct?

23 MR CHASKALSON SC: Thank you,
 24 Chairperson, and that finally concludes my cross-
 25 examination. But before I do conclude the cross-

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1 examination I do want to acknowledge that most of the data
 2 that I have ended up using in relation to vehicle movements
 3 is the product of very detailed research that the South
 4 African Human Rights Commission did in relation to plotting
 5 positions of vehicles on a range of different photographic
 6 and video sources and drawing that to our attention, and I
 7 want to thank them for that because there is a formidable
 8 amount of work that has gone into it. Sorry, Chairperson,
 9 and also in relation to radio communications, they have
 10 been of great assistance.

11 CHAIRPERSON: Yes, and I take it that
 12 acknowledgement has been duly noted by those to whom it has
 13 been addressed. Ms Le Roux, as one of the persons to whom
 14 that acknowledgement was addressed, I understand you have
 15 some questions for the witness. But before you ask them,
 16 sorry, I'm reminded – I've forgotten – that Adv Hemraj
 17 wants to ask a few questions first.

18 COMMISSIONER HEMRAJ: Brigadier, you
 19 indicated that you had received a report from Colonel Pitsi
 20 about his Nyala being fired at. Did you receive any other
 21 reports about live ammunition, ammunition being fired prior
 22 to scene 1 taking place?

23 BRIGADIER CALITZ: Kommissaris, ekskuus,
 24 ek is net bietjie deurmekaar – "prior to scene" 1 of
 25 scene –

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1 COMMISSIONER HEMRAJ: Prior to scene 1.
 2 Prior to the shooting at scene 1.

3 BRIGADIER CALITZ: Nee. Nee, daar was
 4 geen skietvoorval voor toneel 1 plaasgevind het nie.

5 COMMISSIONER HEMRAJ: Did you –
 6 BRIGADIER CALITZ: As ek u reg verstaan
 7 nou. Ekskuus, ek is dalk –

8 COMMISSIONER HEMRAJ: Yes, prior to the
 9 firing –

10 CHAIRPERSON: There are a couple of
 11 possibilities. Sorry, forgive my interrupting. Were shots
 12 fired on the 16th of August prior to the firing at scene 1?
 13 Shots fired, sharp ammunition fired by anybody to your
 14 knowledge, reported to you, of which you're aware.

15 BRIGADIER CALITZ: Nie gerapporteer nie,
 16 maar in hindsight het ons dit wel gesien op die video's wat
 17 ons gesien het van die persone wat geskiet het op die
 18 polisie.

19 CHAIRPERSON: Ms Le Roux, you can now
 20 commence your cross-examination.

21 CROSS-EXAMINATION BY MS LE ROUX: Thank
 22 you, Chair and Commissioners. Good afternoon, Brigadier
 23 Calitz.

24 BRIGADIER CALITZ: Good afternoon. Can I
 25 just, maybe just get a moment. You gave me a bundle, I

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1 think it's two files, so that I can just take them out
 2 and –

3 MS LE ROUX: Sure. Chair, perhaps if I
 4 can then start with something which is not for the –

5 CHAIRPERSON: I'm sorry, before you get
 6 there –

7 MS LE ROUX: Yes.

8 CHAIRPERSON: There's a point I think you
 9 have to put on record, do you not? And that is you gave us
 10 some documents, some of which are going to be handed in as
 11 exhibits, statements that were not previously before us.
 12 They are typed versions of affidavits which are in
 13 manuscript. The manuscript copies I understand are not
 14 available today, but will be made available next week. The
 15 typed versions are given to us to make it easier for us to
 16 read the statements, easier to read the manuscript.
 17 They're all headed "Warning statement." I understand that
 18 that's incorrect, that they were not warning statements;
 19 they were simply affidavits in manuscript which were typed
 20 out I think by someone from the attorneys representing the
 21 SAPS. Is that correct?

22 MS LE ROUX: Chair, those are my
 23 instructions on that and we will make the manuscript
 24 versions available. As you said, we provided the
 25 typescript versions since they are more legible than the

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1 handwritten ones, but the content should be identical.
 2 CHAIRPERSON: Yes, and the manuscript
 3 versions are actually affidavits.
 4 MS LE ROUX: Correct.
 5 CHAIRPERSON: Alright.
 6 MS LE ROUX: Correct.
 7 CHAIRPERSON: Now I see you've got some
 8 statements which you describe in the bundle you gave us all
 9 as new exhibits. Would it be sensible for us to do some
 10 housekeeping and mark them all now as exhibits, rather than
 11 numbering them as you go along? What do you want me to do?
 12 MS LE ROUX: Chair, I'm in your hands.
 13 We could mark them all now. That would probably make
 14 Monday go a little quicker.
 15 CHAIRPERSON: Well, I'm interested in
 16 making things go as quickly as they can possibly go. So
 17 the first one that's new is Lieutenant Colonel Mtimkulu.
 18 Now what are we going to call your exhibits? LLL?
 19 MS LE ROUX: I think we're on KKK. I
 20 think we just continue the KKK-series.
 21 CHAIRPERSON: Are we staying with – I beg
 22 your pardon, I'm sorry.
 23 MS LE ROUX: If the evidence leaders –
 24 CHAIRPERSON: This witness is the K-K-K
 25 witness, so we'll stick with that, and we're at the moment

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1 – ja, u is die K-K-K getuie, u sien, en ons bly daar.
 2 BRIGADIER CALITZ: Ek het al menige
 3 opmerking daaroor gehoor. Dit is reg.
 4 CHAIRPERSON: Alright, so Lieutenant
 5 Colonel Mtimkulu is KKK20. Sergeant F Baloyi is KKK21.
 6 Warrant Officer Mokoena is KKK22. Constable Mjefi is
 7 KKK23. The anonymous Lonmin interpret, I don't know
 8 whether his statement, well I suppose it will have to go –
 9 is it not in already?
 10 MS LE ROUX: Chair, I believe that may be
 11 in the JJJ series.
 12 CHAIRPERSON: Alright, well we won't mark
 13 that one. I think it's been marked already. Warrant
 14 Officer Nong will then be KKK24. Warrant Officer Shange
 15 will be KKK25. Constable Seeko is KKK26, and Warrant
 16 Officer Kgosana is KKK27. Statement of the commander of
 17 Papa4, that's Warrant Officer Malutswena, is KKK28. The
 18 statement of Warrant Officer Makanye, the driver, is KKK29.
 19 Constable Mabena is KKK30. Captain Msiza is KKK31.
 20 Sergeant FK Baloyi is KKK32 –
 21 BRIGADIER CALITZ: Mnr die Voorsitter,
 22 ekskuus tog as ek u net daar kan – wat my administratiewe
 23 personeel meegedeel het is dat KKK21 en hierdie Sergeant FK
 24 Baloyi, ons kry net een Foxtrot Kilo Baloyi op ons rekords,
 25 so ek weet nie of u dit dalk twee keer geplaas het nie. Ek

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1 is nou net bang ons gee twee verwysings. As u vir my sê
 2 dis twee verskillende persone –
 3 CHAIRPERSON: Well, either different
 4 people or either different people or different statements.
 5 I mean the same man may have made two statements.
 6 BRIGADIER CALITZ: Ons het net een gekry.
 7 Dit is my meegedeel. So ek wil maar net sê as dit 'n –
 8 MS LE ROUX: Chair, I believe they are
 9 the same person. We shouldn't mark Baloyi a second time.
 10 CHAIRPERSON: Sorry, are they the same
 11 statement and the same person?
 12 MS LE ROUX: As the statement we've just
 13 marked on the first –
 14 BRIGADIER CALITZ: Dan kan hy 21 wees.
 15 CHAIRPERSON: So the second statement,
 16 the one I've marked KKK32, that's a separate statement by
 17 Sergeant F –
 18 MS LE ROUX: No, it's the same statement
 19 as what we've marked KKK21.
 20 CHAIRPERSON: Oh, I see. So I'll just
 21 keep the number then which we have already for him, which
 22 is KKK21.
 23 MS LE ROUX: Yes.
 24 CHAIRPERSON: Okay. And then we've got
 25 Constable Mbatsane, he will be KKK22, his statement rather.

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1 Sorry, I beg your pardon, 32, yes. Ja, then the statement
 2 of Lieutenant Malobe is KKK33. Constable PS Dlamini is
 3 KKK34. Constable Mahume –
 4 MS LE ROUX: Is already an exhibit HHH31.
 5 CHAIRPERSON: Sorry, HHH?
 6 MS LE ROUX: 31.
 7 CHAIRPERSON: 31, thank you. And
 8 Constable Bhika, IZ Bhika, his statement will be KKK35.
 9 Constable Mokedani is KKK36, his statement, rather, KKK36.
 10 Sergeant Monokwane, KKK37, and Warrant Officer Tuwana,
 11 KKK38, and then there's a statement which is listed which I
 12 didn't get, but that's the fault of someone who's got to
 13 provide a cake to the counsel, that's the statement of
 14 Warrant Officer Kruger and that will be KKK39.
 15 MS LE ROUX: And Chair, that has been
 16 delivered to your chambers.
 17 CHAIRPERSON: Oh well, I see. But –
 18 BRIGADIER CALITZ: Mnr die Voorsitter, as
 19 ek –
 20 CHAIRPERSON: I think the need for a cake
 21 to be given to the counsel is still there.
 22 BRIGADIER CALITZ: Mnr die Voorsitter,
 23 ekskuus tog, as ek weer hier kan inkom net onder korreksie,
 24 Adjutant Offisier Kruger, daar is 'n getikte en
 25 handgeskrewe, is dit meer as een verklaring of gaan u net

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1 die een gebruik? Ek dink ek het drie van hom.
 2 MS LE ROUX: Brigadier Calitz, I'll have
 3 a look at the three you've got. We have two handwritten
 4 statements –
 5 BRIGADIER CALITZ: I received them – it's
 6 the ones that I received from you.
 7 MS LE ROUX: We should have just given
 8 you two handwritten statements, but we can check it when we
 9 adjourn.
 10 CHAIRPERSON: Sorry, are there two
 11 statements by Warrant Officer Kruger?
 12 MS LE ROUX: Yes.
 13 CHAIRPERSON: So we'll call them KKK39.1
 14 and 39.2.
 15 BRIGADIER CALITZ: Dankie.
 16 CHAIRPERSON: Point 2, and then there's a
 17 CALS documents, that's already an exhibit, exhibits
 18 actually, JJJ194, JJJ197, and then there's a –
 19 MS LE ROUX: No, Chair, sorry, that CALS
 20 document analyses JJJ194 and 197. It needs an exhibit
 21 numbers which would then –
 22 CHAIRPERSON: Oh, I see. It needs a new
 23 number then. So that will be KKK40, and then the
 24 chronology opportunities will be KKK –
 25 MS LE ROUX: 41.

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1 CHAIRPERSON: 41. Fine. Now that the
 2 housekeeping has been done, we can carry on with the cross-
 3 examination.
 4 BRIGADIER CALITZ: Mnr die Voorsitter,
 5 miskien die laaste van my af, as u my toelaat; ek het al
 6 die dokumente ontvang behalwe dan die laaste een, KKK41.
 7 MS LE ROUX: That's correct, Brigadier.
 8 I'll hand it up to you when we get there in the cross-
 9 examination.
 10 BRIGADIER CALITZ: Okay, nee ek wil net
 11 sê ek – net voor die tyd dat ek dit kan deurgaen,
 12 asseblief.
 13 MS LE ROUX: Yes.
 14 BRIGADIER CALITZ: Dankie.
 15 CHAIRPERSON: Is there a reason why he
 16 can't get it now?
 17 MS LE ROUX: Well, Chair, in light of
 18 today's cross-examination I now need to revise it –
 19 CHAIRPERSON: Oh, I see. Okay.
 20 MS LE ROUX: - over the weekend. So I
 21 will do that.
 22 CHAIRPERSON: You'll waste your time
 23 looking at an unrevised document if you're going to get a
 24 new one on Monday – Monday morning?
 25 BRIGADIER CALITZ: Mnr die Voorsitter, ek

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1 is net bang as ek dit Maandag kry dan, en ek word gevra
 2 daarop, maar dit is nou nie 'n groot –
 3 CHAIRPERSON: I take it that – how
 4 extensive is the revision going to be? I mean is there a
 5 reason why he can't see it now?
 6 MS LE ROUX: Chair, there are some
 7 revisions that I do need to make and will –
 8 CHAIRPERSON: No, I understand that, but
 9 is there any harm in his seeing the unrevised one?
 10 MS LE ROUX: I'd prefer that he didn't
 11 and I'd prefer to conduct my cross-examination with the
 12 correct document –
 13 CHAIRPERSON: Alright.
 14 MS LE ROUX: - because I may make some
 15 significant edits to it once I've taken some instructions.
 16 So I'd rather just hand it to him when we get there in the
 17 cross-examination.
 18 CHAIRPERSON: You see, it may cause us
 19 problems on Monday because when you give him the new
 20 document he'll need time to study it.
 21 MR CHASKALSON SC: Can I suggest that we
 22 might resolve this problem by arranging through email for a
 23 revised document to be made available to Brigadier Calitz
 24 by Saturday afternoon at the latest?
 25 CHAIRPERSON: I take it you wouldn't

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1 object to that, Brigadier?
 2 BRIGADIER CALITZ: Mnr die Voorsitter, as
 3 ek net 'n comment kan gee, blykbaar was die dokument ge-
 4 email en volgens wat ek verstaan het is hy te groot gewees,
 5 of die aanhangsel, om deur te kom.
 6 MS LE ROUX: No, no, no Brigadier Calitz,
 7 that was the field of view documents. The chronology is a
 8 two-pager. We'll make the revisions and we can provide
 9 them to the SAPS –
 10 CHAIRPERSON: So if you get it by
 11 tomorrow afternoon it will spoil some of your weekend but
 12 at least you won't be taken by surprise on Monday morning.
 13 That's fair, is it?
 14 BRIGADIER CALITZ: As ek dit kan kry teen
 15 more sal – ek is heeltemal bereid, dan kan ek daardeur
 16 gaan.
 17 CHAIRPERSON: Okay, you're being very
 18 cooperative. Thank you.
 19 BRIGADIER CALITZ: Baie dankie.
 20 CHAIRPERSON: I appreciate it. Right,
 21 let's carry on, Ms Le Roux.
 22 MS LE ROUX: Thanks, Chair, but before we
 23 start I do need to raise one concern which the Human Rights
 24 Commission team have and I must raise it on the record,
 25 which is that we've noted during the evidence leaders'

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1 cross-examination of Brigadier Calitz two issues that have
 2 arisen that we would seek the Commission's guidance and
 3 direction on.
 4 The first is that objections have been made and
 5 doubt seems to have been cast during the testimony on some
 6 conclusions reached in the analysis of objective evidence,
 7 documents that the evidence leaders were using during their
 8 cross-examination, and then the transcript for both the
 9 Ryland video and the Protea Coin Chopper video, there still
 10 seems to be some discrepancies about who's speaking and
 11 what is being said.
 12 Now of course these documents have been
 13 previously circulated and provided to all parties and the
 14 evidence leaders have repeatedly requested that parties
 15 make any corrections, suggest any modifications and the
 16 like, but it's more than merely coming to an agreement
 17 between the parties in the room as to what is there because
 18 this needs to become the evidence before the Commission,
 19 and there is only one party that can prove the contents of
 20 those documents to this Commission and that is the SAPS.
 21 So while SAPS has repeatedly been requested to
 22 perform the analysis and listen to the transcript,
 23 undertake the exercise to identify all the voices, put down
 24 in a transcript to their best possible recollection what
 25 the words are, similarly with the documents like the

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1 movement analyses, there's only the SAPS can tell us if
 2 anything is wrong there and point us to other objective
 3 evidence that contradicts those conclusions. Repeated
 4 requests have been made and we would ask that the
 5 Commission direct the SAPS to do that, and if it can be
 6 done with a similar deadline to when they will be provided
 7 the witness statements by next Friday, that would be most
 8 helpful because we keep using these documents and there
 9 still seems not to be agreement on it.
 10 CHAIRPERSON: Alright, okay. Let's see
 11 what Mr Semanya says about it. Mr Semanya?
 12 MR SEMENYA SC: Chair, this is a very
 13 curious way - and I'm using that word politely - of
 14 treating evidence. The last time when we went to ask Mr
 15 Lubbe to do the exercises that informed these conclusions,
 16 we are just being given documents. We are not told how
 17 those conclusions are arrived at and we are invited to
 18 admit them, or to show error in them. That's not how it
 19 works. If they want an admission from us they must then
 20 sit with us and say we've come to this conclusion using
 21 material A, B, C, D, E, F, G, and that's why we come to
 22 this conclusion. Then we can make an admission, not give
 23 us conclusions and -
 24 CHAIRPERSON: That sounds fair -
 25 MR SEMENYA SC: - to make admissions.

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1 CHAIRPERSON: But that's something that
 2 can be sorted out outside the chamber. I understand the
 3 situation. You're asked to make a whole series of
 4 admissions. You'd like to know how the requested admission
 5 is arrived at. It doesn't seem to be unreasonable but
 6 that's something that you can sort out outside the chamber
 7 I think.
 8 [12:52] MS LE ROUX: Chair, the difficulty is
 9 that -
 10 CHAIRPERSON: Yes, let's be patient. I
 11 can understand the point you make and I can understand Mr
 12 Semanya's one, but this isn't something really that take up
 13 our time here in the Commission. I would have thought
 14 parties can get together. I know you've asked for
 15 admissions and they haven't replied and all that kind of
 16 thing, but I'm sure that they had a number of other things
 17 to attend to as well, but Mr Semanya may I ask you, when we
 18 adjourn today, to arrange a meeting with Ms Le Roux, you
 19 and your attorney, to arrange a meeting with Ms Le Roux and
 20 those instructing her and see whether a practical solution
 21 can't be found to this problem. In the meanwhile, we'll
 22 proceed on the basis that we're proceeding on so far, that
 23 these things are provisionally accepted as correct and we
 24 will proceed on that basis. As far as conclusions in
 25 relation to movements of vehicles is concerned, I'm not

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1 sure how much of that we're going to deal with today
 2 anyway, but I would hope that - yes, it's been drawn to my
 3 attention that we've been having so much fun that I lost
 4 track of time. It's actually five to one already. So I
 5 don't know if there's any point actually in him flying off
 6 your first knockout blow question.
 7 MS LE ROUX: Probably not, Chair.
 8 CHAIRPERSON: So keep your first knockout
 9 blow question for Monday morning, but in the meanwhile that
 10 means there are five sitting minutes that you can devote
 11 talking to Mr Semanya on the topic I discussed with you and
 12 we will now adjourn until 9 o'clock Monday morning.
 13 [COMMISSION ADJOURNED]
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