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 4 23 OCTOBER 2012 PAGES 203 TO 358

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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Marikana Commission of Inquiry

	Page 203		Page 205
1	[PROCEEDINGS ON 23 OCTOBER 2012]	1	CHAIRPERSON: I'm sorry to interrupt you.
2	[09:12] CHAIRPERSON: Good morning. Commission	2	I must confess, Sir, I can't understand that. I assume
3	resumes. I take it the air-conditioning isn't working yet.	3	that in the case of those who died there will be –
4	We had reached the point yesterday when we were on the	4	depending obviously on, presumably on the findings, but
5	point of hearing from Mr Mpofu to make his opening	5	there will be or may well be dependence claims of some
6	statement on behalf of the injured and arrested protesters.	6	kind.
7	Mr Mpofu.	7	MR MPOFU: Correct.
8	MR MPOFU: Thank you very much,	8	CHAIRPERSON: And the appearance here on
9	Chairperson. Speaking on behalf of my colleagues, they	9	behalf of the dependents could be seen as a necessary
10	took the liberty, since the air-conditioning is not	10	anticipatory action –
11	working, to assume that the dispensation continues,	11	MR MPOFU: Correct.
12	Chairperson.	12	CHAIRPERSON: - or step in regard to
13	CHAIRPERSON: I said we continue until	13	contemplated dependence claims.
14	the air-conditioning was working.	14	MR MPOFU: Ja.
15	MR MPOFU: Thank you, Chair.	15	CHAIRPERSON: Those who were injured
16	Chairperson, I would like upfront to ask you for an	16	would presumably also have claims –
17	indulgence. I know that we have time limits, but for the	17	MR MPOFU: Absolutely.
18	reason that this – and I'll explain later – in my case this	18	CHAIRPERSON: - if it is found, or never
19	might be an opening address, but it might also be a closing	19	mind the finding, if ultimately a court were to find that
20	address. I will seek that indulgence. I say that because	20	they were injured in circumstances where those responsible
21	we find ourselves representing the injured persons in a	21	for the injuries had acted unlawfully.
22	very awkward situation in which, despite the fact that the	22	MR MPOFU: Yes.
23	Terms of Reference of the Commission make it very clear	23	CHAIRPERSON: So their participation in
24	that the Commission is instituted in relation to three sets	24	these proceedings would be as much –
25	of victims, as we would like to see them, namely the	25	MR MPOFU: Absolutely.
	Page 204		Page 206
1	Page 204 deceased - the 250 people it says in the Terms of	1	Page 206 CHAIRPERSON: - an appropriate,
1 2		1 2	
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		1	
1	Page 207 the arrested persons, those persons, the reason I would	1	Page 209 and we don't want to trivialise this issue – Chairperson,
2	assume they were included in the Terms of Reference is	2	maybe I'll take you one step back. Our people have been
3	because their arrest is directly linked to the issues here,	3	unjustly, in our view, charged with the murder of their own
4	and indeed as I mentioned, the reason why we managed to	4	comrades and friends. Because of that we took the
5	secure a long postponement, anticipating the finalisation	5	professional judgment that despite the fact that we were
6	of the Commission, was that the magistrate understood that	6	approached by some of the deceased's families, that we
7	whether the so-called provisional withdrawal of their	7	would not represent the deceased's families because however
8	charges will materialise, will depend among other things on	8	absurd we think the claim may be, the point of the matter
9	the outcome of the Commission, and they too therefore have	9	is that as lawyers we cannot represent the people, the
10	an equally direct interest in the outcome.	10	murdered people and the people who allegedly murdered them,
11	But more than that, Chairperson, the issue here	11	and so that's why we took that decision, and the reason
12	is that these people, yes of course we concede upfront that	12	we'll only represent the deceased person in Pauline Masuhlo
13	the most affected persons are the people who lost their	13	is because she was killed a month later in a separate
14	breadwinners, but the people who were there, the 300 people	14	incident, and so whatever deceased's families approach us,
15	who were arrested and injured and lost some limbs, are	15	we hand them over to Mr Ntsebeza's people for the
16	equally traumatised, and these are people who are requiring	16	professional reasons that I've just described. But those
17	counsel. If I can just relate, Chairperson, the	17	are the impediment issues, Chairperson.
18	consultation we had with about 200 of them at the koppie	18	I now want to talk about what I would call the
19	last week were, the emotions that ran through there, where	19	opening address, or –
20	grown men were crying tears trying to explain what had	20	CHAIRPERSON: Before you deal with that,
21	happened, you first start to try and discriminate and	21	perhaps it's appropriate for me to call upon Mr Madlanga to
22	create categories of victims in these kind of	22	see if he has anything to say –
23	circumstances, is in very bad taste. But that's the first	23	MR MPOFU: On the issue of funding –
24	reason, if it is not resolved, that we might not be able to	24	CHAIRPERSON: - with regard to the points
25	continue.	25	that you've raised so far. Mr Madlanga, do you wish to say
	Page 208		Page 210
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Rustenburg

	Page 211		Page 213
1	probed by the Commission, and that raises a whole lot of	1	the 34 people had actually been killed at the scene that we
2	issues, apart from the difficulty of having those people to	2	all saw on television, which we now collectively know as
3	testify here, one of which is a matter of principle,	3	scene 1, or Groot Koppie - in our team that's what it's
4	Chairperson, namely that if the reason why the Police who	4	called – and that the other 18 or so, being the majority of
5	shot dead so many people are not being prosecuted is that	5	the people who had died, had been killed at Klein koppie,
6	one has to await the outcome of this Commission, which is	6	and that is contained in the evidence of Brigadier Van Zyl,
7	what we get told, then what is sauce for the goose, is	7	who testified in the bail application and whom we
8	sauce for the gander, and we do not understand why then	8	anticipate will also be called to testify here, and these
9	people should be – obviously we cannot stop the Police from	9	already created the signs of what our approach will be,
10	doing their work, but if now we have a double whammy of a	10	which I will outline, not in great detail as this is only
11	situation where people are prevented actively from	11	an opening statement.
12	participating in these proceedings, but are also being	12	CHAIRPERSON: Can I interrupt you for a
13	charged in relation to the very issues that are being	13	moment?
14	probed here. That we're just placing on the record, will	14	MR MPOFU: Yes.
15	be as an impediment to our work.	15	CHAIRPERSON: Do I understand the
16	CHAIRPERSON: Well, I'd also heard and	16	situation correctly that what you've described as scene 1
17	read in the newspapers of the arrests to which you refer,	17	is what is covered by CAS137/08/2012 -
18	at least some of the arrests to which you refer.	18	MR MPOFU: Ja.
19	MR MPOFU: Yes.	19	CHAIRPERSON: - in the documents that
20	CHAIRPERSON: And it was reported to me	20	we've been handed, which will be referred to later today?
21	that one person at least who was regarded as an important	21	MR MPOFU: Yes.
22	witness, had been arrested, and there was a suggestion that	22	CHAIRPERSON: And what is referred to as
23	would have an adverse effect on the work of the Commission.	23	scene 2 is covered by CAS138.
24	So I think it's appropriate for me at some stage to call	24	MR MPOFU: Yes.
25	upon Mr Semenya – I don't know if he's got instructions,	25	CHAIRPERSON: So 137 is scene 1.
	Page 212		Page 214
1	able to deal with the point now, but he can deal with the	1	MR MPOFU: Yes.
2	able to deal with the point now, but he can deal with the matter. I don't think it's appropriate for us to hold up	2	MR MPOFU: Yes. CHAIRPERSON: 138 is scene 2. Is that
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1	MR MPOFU: Yes, before he speaks, I had	1	that we are willing to share the insights with the
2	already made a deal with him that we'll cover paragraphs,	2	Commission. So if we are not here, it will be not because
3	won't do it sentence by sentence as some of the colleagues,	3	of our choice, and justice I must say we will get. Whether
4	but at this stage I think he's long overdue. Thank you,	4	we get it here or we'll get it in another forum or in
5	Chair.	5	international criminal court of justice where we may lay
6	[09:32] MR MAHLANGU: Thank you.	6	charges against the Police who shot our people, then that's
7	MR MPOFU: Thank you very much,	7	what we will do. But that's just an aside.
8	Chairperson. Chairperson, I don't want to waste time.	8	Now we then come to page 3, Chairperson, where we
9	I'll go into the, what I call the broad theses of our	9	say the main causes are SAPS and Lonmin, and that some of
10	submissions here, and they will be centred around what is	10	the contributory causes include what one might term the
11	contained on page 3 of my written document, namely that the	11	sordid history of the mining industry in South Africa, and
12	main causes of the massacre are the South African Police	12	I touch upon it very briefly, and then to some extent these
13	Services, and where applicable, the other agencies of	13	issues of labour relations and trade unions, and so on.
14	government, and Lonmin –	14	But we agree with our colleagues that those issues cannot
15	CHAIRPERSON: I think it might be helpful	15	be elevated to the primary causes of what happened.
16	if you dealt with some of the material which appears on the	16	We then, having defined those, what I call the
17	earlier pages –	17	PCs, Chair, then we go to the meat of our submissions,
18	MR MPOFU: Yes.	18	which is the 10 points that we are going to gear our
19	CHAIRPERSON: Because after all, the	19	evidence towards. Everything, every witness we call will
20	people who are following this who, television broadcast,	20	be geared towards proving one or more of the 10 points that
20	for example –	20	we have defined, and I will, with your indulgence, go
22	MR MPOFU: Oh, thank you, Chair.	21	through those 10 points.
22	CHAIRPERSON: - haven't got the advantage	22	The first point, Chairperson, is that – if maybe
24	of having read your document.	23	at this point before I do the 10 points, ja. The first of
25	MR MPOFU: This document, yes, thank you,	25	the 10 points, Chairperson, is a broad one that says that
25		25	
	Page 216		Page 218
1	Page 216 Chair.	1	Page 218 this tragedy could and should have been avoided, and by
1 2		1 2	
	Chair.		this tragedy could and should have been avoided, and by
2	Chair. CHAIRPERSON: You don't have to read	2	this tragedy could and should have been avoided, and by that we will show with the evidence dealing with the Police
2 3	Chair. CHAIRPERSON: You don't have to read everything, but I thought there were some points that you	2 3	this tragedy could and should have been avoided, and by that we will show with the evidence dealing with the Police methods that were employed, or should have been employed,
2 3 4	Chair. CHAIRPERSON: You don't have to read everything, but I thought there were some points that you made for example on page 2 which are worthy of being	2 3 4	this tragedy could and should have been avoided, and by that we will show with the evidence dealing with the Police methods that were employed, or should have been employed, in relation to some of the guidelines and codes that define
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	D 210		D 221
1	Page 219 happenings. The pattern even with these recent arrests,	1	Page 221 action to address the situation.
2	Chairperson, that I referred to earlier, the pattern has	2	CHAIRPERSON: I'm interrupting you, but
3	been that the person goes to work now in the past two	3	what is the date of that email that you –
4	weeks, they get identified by Lonmin Security and then they	4	MR MPOFU: It is the 15th of August, 2:58,
5	disappear, or they get held at some barracks or something	5	exactly 24 hours before the people were mowed down at that
6	of that nature at Number 1 Shaft, which is some kind of	6	mountain. This document is part of the Lonmin documents,
7	intermediary holding or office for the Police to come and	7	Chairperson, so it's not some email that we got through
8	take the defenceless victims.	8	espionage. It continues by saying, "You are absolutely
9	Chairperson, this talks also to – when I say that	9	correct," it's addressed to somebody called "Dear Albert,"
10	this is a collusion, it's a collusion of high significance	10	who is Albert Jamieson of Lonmin, I assume. "You are
11	and I will show that what my learned colleague Mr Semenya	11	absolutely correct in insisting that the Minister, and
12	said that this is unprecedented is not correct. This	12	indeed all government officials, need to understand that we
13	collusion between State and capital has happened in many	13	are essentially dealing with a criminal act. I have said
14	instances in this country. In 1920 African miners went on	14	as much to the Minister of Safety & Security. I will
15	strike and the government of Jan Smuts dealt with them with	15	stress that Minister Shabangu should have a discussion with
16	violence, and harshly, and one of the results of that was	16	Roger," whoever Roger might be, and as Chairperson, you've
17	that they reduced the gap between what white mineworkers	17	already confirmed, or rather extracted from me, this was on
18	were getting and what black mineworkers were getting, was	18	the 15th of August and it's, I'm just quoting that part.
19	reduced and the pact that had been signed in 1918 of	19	It's a long line of emails under, in the same vein,
20	introducing the colour bar in the mines was abandoned.	20	effectively encouraging so-called concomitant action to
21	That abandonment precipitated a massive strike by the white	21	deal with these criminals, whose only crime was that they
22	mineworkers in 1922 and that strike was dealt with by the	22	were seeking a wage increase.
23	Smuts government by bringing in the air force – the air	23	The third point, Chairperson, is that what
24	force and about 200 people were killed. This is one of the	24	happened here was premeditated murder of defenceless
25	most important happenings in the history of this country,	25	people, and that any suggestion that it was a spontaneous
	Page 220		Page 222
1	and in 1946 under the leadership of the African Mineworkers	1	act is gainsaid by the evidence. We have a situation where
2	Union, the African workers, 70 000 African workers also	2	it is said that in this meeting at half past 1 on the 16th,
3	went on a massive strike and the government sent 16 000	3	that if plan 3, or stage 3 of the operation will have to be
4	policemen and arrested, like they did to our, the people we	4	implemented and that the discussions around that had gone
5 6	represent, some of the miners under an act called the War Measures Act. So this has happened, this collusion between	5	as far high up as the Commissioner of Police and the
7	capital and the State has happened in systematic patterns	6 7	Minister. In the minutes of that meeting, Chairperson, the
8	in the history of, sordid history of the mining industry in	8	Provincial Commissioner – about whom I will say something later, I'm reading from the minute, it's of A197/3 in the
9	this country.	9	Police bundle –
9 10	Part of that history included the collaboration	9 10	CHAIRPERSON: Again for clarity, can you
11	of so-called tribal chiefs who were corrupt and were used	11	give us the date of that meeting?
12	by those oppressive governments to turn the self-sufficient	12	MR MPOFU: Yes, the meeting was on the
13	black African farmers into slave labour workers. Today we	12	16th, I'm sorry.
14	have a situation where those chiefs have been replaced by	14	CHAIRPERSON: Yes, I thought it was but I
15	so-called BEE partners of these mines and carrying on that	15	wanted you to have it on the record –
16	torch of collusion.	16	MR MPOFU: Yes, yes, to have it on the
17	Chairperson, we have in our possession emails	17	record, yes. It was on the 16th at 13:30 and it finished
18	that were being exchanged between the mine management, the	18	at, meeting was adjourned at 14:00, and just before it was
19	government, Minister of Minerals and Energy, which talk	19	adjourned, under closing remarks the following is recorded,
20	about discussions with the Minister of Safety & Security,	20	"The Provincial Commissioner indicated that she had already
21	or Police I think it's called, at the centre of which is a	21	communicated with the National Commissioner, informing her
22	gentleman called Cyril Ramaphosa, who advised that what was	22	of the current situation and that a deadlock was reached
23	taking place are plainly – I'm quoting now, "dastardly	23	with the negotiations, and also that phase 3 of the
24	criminal acts and must be characterised as such." In line	24	operational plan will be executed. She also indicated that
25	with this characterisation there needs to be concomitant	25	the National Commissioner indicated that she will inform
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		1	
	Page 223		Page 225
1	the Minister of Police on the current situation and actions	1	that this had happened, but they want to know the truth of
2	that will be taken."	2	what happened, and that was the failure of that commission,
3	[10:12] And that the living conditions that you observed,	3	for whatever reason, and we would like to say on behalf of
4	Chairperson, of eight grown African males being lumped into	4	the persons that I represent, the victims of this massacre,
5	one room with no other facilities are also justified on	5	that we hope that this Commission will do everything in its
6	this basis that well, they have a comfortable bed in their	6	power, and we trust, we know that no stone will be left
7	real homes and they are just here to sell their labour, and	7	unturned to do so, but we simply want to emphasise that
8	that is one of the underlying factors for the wages against	8	issue.
9	which the people were protesting in the first place, and on	9	There was also, I referred back to the massacring
10	that score, at that level, Chair, much as we would like to,	10	of miners in the 40s and the 20s. At that stage there was
11	we cannot blame the South African Police Services. The	11	something called the Lansdowne Commission which was put in
12	South African Police Services is simply an agent of a	12	place and it had recommended, among other things, that the
13	government that has allowed this to continue 20 years into	13	mining people should be paid a living wage, the miners.
14	democracy. Not that we can blame Lonmin at that level,	14	This was in 1943, if I'm not mistaken, Chair, and the
15	Chair, because again Lonmin is simply a microcosm of what I	15	government and the Chamber of Mines in particular rejected
16	earlier called capital which has benefited from such a	16	the findings of that Lansdowne Commission, and part of the
17	system. But we'll show, we'll bring an expert if we have	17	history that I've mapped can be traced back to the failure
18	to, to show that there are underlying causes that go beyond	18	of that Lansdowne Commission. So let us use the Margo
19	what we see here, but that, with the greatest respect, does	19	Commission and the Lansdowne Commission as examples of what
20	not excuse, it does not excuse the primary, what we've	20	hopefully will not be the outcome of a commission of this
21	referred to as the primary parties, from their	21	nature.
22	responsibility for the specific tragedy that occurred in	22	Having said that, Chairperson, I would like to
23	Marikana.	23	say that I, as we say in the concluding paragraph, that
24	The last point, Chair, is that – and we'll make	24	because inter alia of the impediments that we face of
25	this point directly and indirectly, that the decision to	25	resources to consult with 300 people at these distances -
	Page 224		Page 226
1	charge the protesters with murder of their fellow	1	and I must use this opportunity to salute the members of my
2	protesters under the so-called doctrine of common purpose,		
	F F-F	2	team who have used money from their pockets or for their
3	was callous, insensitive and a form of using the poor as	2 3	team who have used money from their pockets or for their children to, in the past two months to represent these poor
3 4			
	was callous, insensitive and a form of using the poor as	3	children to, in the past two months to represent these poor
4	was callous, insensitive and a form of using the poor as scapegoats.	3 4	children to, in the past two months to represent these poor people up to this stage. Obviously those resources are not
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Page 227 1 Now Ms Chabedi, do you wish to address us? 2 MS CHABED1: Thank you, Chairperson, 3 Commissioners. Chairperson, 1 don't interud reading the 4 miter statement into the record. Thi however highlight 5 four paints which are contained in the statement, which are 5 contained in paragraphs 2, 4 and 9. The DMR weakness 6 insofrer as its proceedings relate to the DMR or require the 8 asstance of the DMR. 7 the inquiry and is committed to assisting the Commission 9 insofer as its proceedings relate to the DMR or require the 9 asstance of the DMR. 1 to the commission regarding the listboy of the metric 1 to the commission regarding the listboy of the metric 1 asstatutory mandate was implemented from time to time, 1 asstatutory mandates was implemented from time to time, 1 is asstully metated to a longer the DMR was not 1 involved in the indent, its submission will be confined 1 is respectful junkted at its convenience to call on the 2 MS KGOREADIRA: Yes, Mr Chair. We avi 1 on behalf of Kgois Bob Mogale, his royal family and the 2 traditional community and the family and the 2 traditional community and here asstance, should he required. Thank you, Mr chair. We avi 1 on behalf of Kgois Bob Mogale, his royal family and the 2 traditional community and the to barder the Save than Borden 2 traditional community. If we would also like to 2 method. Lomin Fathum Massace has also do 2 traditional community. If we have you with the save method with sistuated on the weatsem link of 3 there any discussion of this inquiry. It is with rest 2 traditional community and the this sistuated on the weatsem link of 3 to recommunity. If K with great 3 to recommunity. If K with great 4 statement? 3 method. Chairmer Save and phase traditional community and the this and the family and the 3 traditional community. If we have to method the family and the 3 traditional community. If we have to method the family and the 3 traditional community. If we have to methor the save method ton thoronamily and the trade of the asstate of the Save and			1	
2 MS CHABEDI: Thank you, Chairperson, 2 evidence leaders, and she can maybe take the matter further 3 Commissioners. Chairperson, I'll however highlight from there. 4 MS GGORCADIRA: Thank you, Mr Chair. Mr 5 contained in paragraphs 2, 4, 8 and 9. The DMR welcomes 6 six parts, manwely background of the events that led to the 7 the inquiry and is commisted to assitting the Commission 6 six parts, manwely background of the events that led to the 8 assittance of the DMR. 4 the DMR or require the 9 social and labour plans around Lonnin, as Well as DMR - 10 -4, the DMR is in a position to make submission 10 Department of Mineral Resources, events preceding the 10 Department of Mineral Resources Centre as a regulator 13 statudary in relation to Lommin. 10 How and the maining 11 the commission 14 the Daps traditional community and the regular. 11 How event spatial statement. 11 How and ther the 15 or page 2, paragraph 8, because the DMR was not 15 In the events preceding and lacing up and after the 16 to Chair There astastance,		Page 227		Page 229
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4 MS KGOROEADRA: Thank you, Mr Chair, MR 5 four points which are contained in the statement, which are contained in the statement, which are contained in paragraphs 2, 4, 8 and 9. The DNR welcomes 5 7 the inquiry and is committed to assisting the Commission in specially, and is committed to assisting the Commission regarding be history of the mineral 5 10 4, the DMR is in a position to make submission regarding the history of the mineral 7 11 to the commission regarding the sources of the DMR. 10 13 statuory mandate was implemented from time to time, paragraph 8, because the DMR was non. 10 14 the Department of Mineral Resources, events preceding the induced, rule submission will be confined in the arkinan dasagore has had on the statument? 10 DMR for further assistance, should it be required. Thank you, Chairperson. 10 21 out infarter submission will be confined in the situated on the wastern limb of the submission will be acting on behalf of Kgosi Bob Mogale, his royal family, and the submission will be acting on behalf of Kgosi Bob Mogale, his royal family and the submission will be acting on behalf	2	MS CHABEDI: Thank you, Chairperson,	2	evidence leaders, and she can maybe take the matter further
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24 CHAIRPERSON: We would be very 24 Platinum, on which Lonmin Platinum Mines, Marikana	22	agreements, and any other documents that would assist this	22	Rustenburg and Royal Bapo falls within the jurisdiction of
H3 and a contraction of the cont	23	Commission, from the traditional community.	23	Madibeng and Brits. Accordingly the land on Lonmin
25 appreciative if you were to make those documents available. 25 operations were its largest platinum operations in South	24	CHAIRPERSON: We would be very	24	Platinum, on which Lonmin Platinum Mines, Marikana
ARCHIVE FOR JUSTICE	25	appreciative if you were to make those documents available.	25	operations were its largest platinum operations in South
	25	1 Sound CO Los Soll		

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	Page 231		Page 233
1	Africa are situated and on which the massacre occurred	1	point in the proceedings.
2	belongs to the Bapo Ba Mogale Traditional Community. It is	2	MR MAHLANGU: Thank you very much. The
3	so that to the extent that the Kgosi and his royal family,	3	Chairperson will realise I have no document from which to
4	this is on the basis on which the Kgosi and his royal	4	read these things, and I am meeting this for the very first
5	family and the traditional community wish to join these	5	time and sadly, the counsel is querying me, but all the
6	proceedings in that it is their land, that this Commission	6	same.
7	seeks to put under scrutiny.	7	MS KGOROEADIRA: Mr Chair, I beg leave to
8	I would now like to deal with the notarial lease	8	just write down the parties' name for the Interpreter in
9	agreement between Lonmin and the Traditional Community.	9	that the community will feel offended –
10	As already communicated, Lonmin had a notarial	10	CHAIRPERSON: I was going to suggest that
11	lease agreement in order to lease the land of the Bapo Ba	11	because, obvious it's important the name be correctly
12	Mogale Traditional Community in exchange for payment of	12	pronounced, the representative community here today, it's
13	royalties and also undertook to meet a socio-economic	13	only fair to the Interpreter that he should have it before
14	obligation in the Bapo Ba Mogale Traditional Community area	14	him so that he can pronounce it correctly.
15	in terms of the Mining Charter, the South African Mining	15	MS KGOROEADIRA: Thank you, Mr Chair.
16	Charter and its basic conditions in terms of which their	16	MR MAHLANGU: I've got it. Just the one
17	mining licence was issued. Presently the concerns of Kgosi	17	simple word Bapo Ba Mogale.
18 19	Bob Mogale, his royal family and the traditional community,	18 19	MS KGOROEADIRA: Thank you very much, Sir.
	are that Lonmin is exploiting minerals on the land which belongs to the tribe or Traditional Community, fails to	20	CHAIRPERSON: If that was the only
20 21	meet its obligations and undertaking made by it in relation	20	problem we had to solve with this Commission our job would
22	to social and infrastructural development of the community,	21	be very easy, but carry on.
22	and initially failing to give preference to members of the	22	MS KGOROEADIRA: Thank you, Sir. Thank
23	community regarding employment opportunities within the	23	you, Mr Chair. As I said, sadly, the Bapo Ba Mogale
25	Lonmin Mine.	25	Traditional Community will ask this Commission to take a
	Page 232		Page 234
1	Turould nour like to planete an the issues that		
	I would now like to elaborate on the issues that	1	tour around their village at some stage, to see for
2	I have raised. One was, the first one is the social and	2	yourselves that an area situated on the western limb of the
2 3	I have raised. One was, the first one is the social and labour plans. Mr Chairperson, it is trite law in this		yourselves that an area situated on the western limb of the Merensky Reef termed the Platinum Belt, in which rich
3 4	I have raised. One was, the first one is the social and labour plans. Mr Chairperson, it is trite law in this country that every mining licence application must be	2 3 4	yourselves that an area situated on the western limb of the Merensky Reef termed the Platinum Belt, in which rich deposits of mineral resources exploited by several mining
3 4 5	I have raised. One was, the first one is the social and labour plans. Mr Chairperson, it is trite law in this country that every mining licence application must be accompanied by a social and labour plan, commonly known as	2 3 4 5	yourselves that an area situated on the western limb of the Merensky Reef termed the Platinum Belt, in which rich deposits of mineral resources exploited by several mining companies have nothing to show for their presence, save for
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1	Page 235	1	
1	community.		[INQUIRY ADJOURNS INQUIRY RESUMES]
2	[10:52] We will lead evidence to show that Lonmin, on the	2	[11:24] CHAIRPERSON: The Commission resumes.
3	land of the Bapo Ba Mogale traditional community, had been	3	Before you proceed, may I ask you whether what you are
4	operating for a considerable period of time - to be	4	going to say, relates – what you are going to say now,
5	specific, since the '70's, without any regard for the	5	relates to the first theme that we're investigating at this
6	social conditions of the communities on whose land they	6	stage, namely the actual shootings on the 16th and what led
7	operate, despite recently creating a burden of informal	7	up to them, or whether it relates to the second theme which
8	settlements on the land of Bapo traditional community.	8	is Lonmin's involvement in the creation of the
9	You will also hear, Mr Chairperson and	9	circumstances which gave rise to the ultimate killing on
10	Commissioners, how Lonmin overlooked Bapo Ba Mogale	10	the 16th? If it relates to the second theme, and it may
11	community in the share interest opportunities and continues	11	also be linked with one of the later themes regarding the
12	to do so. Now, Mr Chair, I would also now like to talk	12	responsibility of the Department of Mineral Resources,
13	about the events preceding the Marikana massacre. The	13	which would involve monitoring or failing to monitor the
14	events which occurred in the Marikana tragedy are actually	14	compliance with the Mining Charter, if it relates to those
15	preceded by the members of the traditional community, and	15	issues, then I don't think it's necessary for you to speak
16	particularly the youth, venting their dissatisfaction and	16	us about it today. There will be a meeting tomorrow, I
17	their anger, mainly concerning, amongst other issues it had	17	don't know if you've been informed, there will be a meeting
18	with Lonmin, wages, Lonmin overlooking or disregarding the	18	tomorrow of the representatives of the parties at which
19	Bapo Ba Mogale locals in respect of employment	19	endeavours will be made to work out time limits, arranging
20	opportunities, and issues relating skills development for	20	for the exchange of information, and also, generally
21	the community and the locals.	21	speaking, devising procedures to shorten the proceedings,
22	It is the very same issues that have previously	22	possibly by the submission of agreed bundles of document
23	led to violence in the area, unrest in the traditional	23	and things of that kind. So it sounds to me, from what you
24	community, and destruction of property, as well as the	24	were going to say, that it's more relevant to the later
25	temporary closing down of Lonmin's operations earlier on,	25	stages, themes 2 and 4, so I put that to you. Is my
	Dogo 226		Daga 229
1	Page 236 before the tragedy. These incidents also resulted the loss	1	Page 238 assessment of that correct?
1	before the tragedy. These incidents also resulted the loss	1 2	assessment of that correct?
	before the tragedy. These incidents also resulted the loss of life. The aforesaid violence and unrest has always been		
2	before the tragedy. These incidents also resulted the loss	2	assessment of that correct? MS KGOROEADIRA: It is correct, indeed, Sir.
2 3	before the tragedy. These incidents also resulted the loss of life. The aforesaid violence and unrest has always been imminent in the area and lives have always been previously lost.	2 3	assessment of that correct? MS KGOROEADIRA: It is correct, indeed, Sir. CHAIRPERSON: Well, then it seems to me
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		1	
	Page 239		Page 241
1	MS KGOROEADIRA: In English and Xhosa and	1	participate and to assist us in coming to what we all hope
2	Tswana and, yes, Mr Chair, thank you. He said, "God's	2	will be the correct conclusion in respect of that aspect,
3	people help me, Lonmin is killing my children. My children	3	you're free to do so.
4	are suffering from hunger. They do not have jobs. Please	4	MR RAMPILE: Ja, that is correct, Judge,
5	help me about Lonmin." He said, "My land has become	5	and we admit that. The perception of the family is not as
6	confused. It's confused by Lonmin." And that's all he	6	result of any fault by the Commission, it is just an issue
7	said, and that's all he could say, repeatedly, for 20	7	that as things are being said about - the reference to less
8	minutes. That's all his response was.	8	significance, they refer to just how the matter is
9	Kgosi Bob Edward Mogale, his royal family, the	9	addressed in the media, not by the Commission. We are
10	traditional community of Bapo Ba Mogale, welcome this	10	fully aware that this matter is part of the terms of
11	Commission of Inquiry and sees it as godsend, and will	11	reference of the Commission, Judge, so thank you for that,
12	assist the Commission in any investigation that needs to be	12	Judge.
13	done. Thank you.	13	And the reason why they become concerned as this
14	CHAIRPERSON: Thank you very much, Adv	14	evolves, is that is as though either their deaths are less
15	Kgoroeadira.	15	significant, or it is as though they were in the wrong, one
16	MS KGOROEADIRA: Thank you, Mr Chair.	16	way or another. And it is the view of the family, and,
17	CHAIRPERSON: Is there anyone else who	17	Judge, the truth is it will not be the first Commission
18	wishes to make an opening statement – any other party?	18	that I am involved in. I have been involved in the Talbot
19	Please put yourself on record and then make the statement	19	Commission, where the recommendation of the Talbot
20 21	that you wish to make, having indicated the party for whom	20 21	Commission did not take us anywhere, in my view. I'm of the view, and I submit, with respect, that this synergy
21	you're making it. MR RAMPILE: Thank you, Judge. My name	21	would like this Commission, when it makes recommendations,
22	is Tshepiso Rampile instructed by Nkaiseng Attorneys	22	that the causes of the deaths of their families, not only
24	Incorporated from Vanderbijlpark, and I represent the two	24	be investigated and the truth about those causes be found,
25	security officers, Mr Frans Mabelane and Mr Hassan Fundi,	25	but that a solution that leads to closure of the families
		_0	
	Page 240		Page 242
1	Page 240 who are Lonmin's security officers. I represent the	1	Page 242 be actually, not only recommended, but be implemented.
1 2		1 2	-
_	who are Lonmin's security officers. I represent the		be actually, not only recommended, but be implemented.
2	who are Lonmin's security officers. I represent the families in this very tragic event. In our case, the two deceased were – or met their deaths on the 12th of August at or near Wonderkop Hostel. The two of them, at the time	2	be actually, not only recommended, but be implemented. This is my submission, Judge, both the strikers
2 3	who are Lonmin's security officers. I represent the families in this very tragic event. In our case, the two deceased were – or met their deaths on the 12th of August at	2 3	be actually, not only recommended, but be implemented. This is my submission, Judge, both the strikers or all the workers, including these security officials, had a common purpose, a positive, common purpose to ensure that their families enjoy a constitutional state that we have
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	Page 243		Page 245
1	question we have to ask was, were they capable in that	1	gathering of evidence, which is relevant to the Terms of
2	number, with those resources, and were they trained to	2	Reference. What you've been talking about is clearly
3	actually deal with that situation? That is one area that	3	covered by the Terms of Reference, and so I'm sure that the
4	we would like, or the family would like the commission to	4	evidence leaders will be only too pleased to meet with your
5	establish. The families would like to establish whether	5	clients, to take such information or statements from them
6	there was knowledge of the extent of the anger in the	6	as they're able to give, and to present the evidence, which
7	workers.	7	you have mentioned, to the Commission, because, as I've
8	[11:44] And those responsible for saving lives, did they	8	said, it's directly relevant to one of the Terms of
9	actually - or were they sourced, or they informed about	9	Reference. So please convey that to your clients, and then
10	the potential or imminent tragedy that could befall these	10	I suggest you contact Mr Madlanga, who will, I presume,
11	few security officers? These are some of the issues that	11	delegate one of the members of his team to deal
12	the family would like this Commission to look into, but the	12	specifically with it, if he hasn't done so already, for
13	causes are much more deep in the view of the family, and I	13	this specific aspect.
14	wouldn't like to belabour points that have already been	14	MR RAMPILE: Thank you, Judge. I will do
15	made, except to say that the mining industry has got a	15	that, Judge, and I think it's very important, even though
16	history that I think the Commission is able to say, how do	16	the fact that they have been left out for so long actually
17	we make sure that we have a humane environment, because it	17	makes them ask a lot of questions, and I will do that,
18	is a big industry in this country. The Commission should	18	Judge. But I really would really would like to impress
19	ensure that the hate, because if you dehumanise a person,	19	that they are of the view that they would like, to the
20	then you actually saw hate, and I'm not saying that this or	20	extent humanly possible, that their grief and the
21	that stakeholder, or this or that individual is	21	experiences of families are properly presented before this
22	responsible, because I think that that is what we entrust	22	Commission.
23	to the Commission to establish out of the evidence that	23	CHAIRPERSON: I'm sure that will be done.
24	will be given, but the dehumanisation to a point where you	24	MR RAMPILE: Thank you, Judge.
25	have, in a constitutional state, a basic, basic human right	25	CHAIRPERSON: Thank you for bringing it
	, , , , ,		· · · · · · · · · · · · · · · · · · ·
	Page 244		Page 246
1	Page 244 like lives being taken in the manner in which these two	1	to our attention again.
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		I	
1	Page 247 the Commission, I'd just like to place my name on record,	1	Page 249 CHAIRPERSON: I don't think, in this
2	Jonathan Burger instructed by the Wits Law Clinic,	2	context, silence by any of the other parties present, while
3	representing the Council for the Advancement of the South	3	one party is making presentation, can be regarded as
4	African Constitution, CASA. I'm here under watching brief.	4	acquiescence or consent or admission of any kind.
5	Thank you.	5	MR SEMENYA SC: Thank you, Chair, that
6	CHAIRPERSON: You've put yourself on	6	was the first thing. The second thing in relation to Mr
7	record, that's where you now are. No-one else wishes to	7	Xolani Nzuza, who is Mr Mpofu's client who is in custody,
8	say anything on behalf of one of the parties, so I call	8	I'm advised that all access, legal access permissible, has
9	upon Mr Semenya, who has indicated he wishes to say	9	been extended to his legal team. He is in custody on
10	something, I think in reply to points raised earlier.	10	charges of murder. To the extent that his evidence will
11	MR SEMENYA SC: Chairperson, thank you,	11	become relevant and necessary to this Commission, the South
12	and members of the Commission, I propose raising two	12	African Police are giving the undertaking that he will be
13	things. The one is that we did not object during the	13	brought here, he would have the opportunity to testify, if
14	presentation by various parties on matters clearly falling	14	he so intends, and no obstruction of whatever kind will
15	outside the purview of opening statements. Now, as a	15	face him. Thank you.
16	matter of rule, the primary purpose of an opening statement	16	CHAIRPERSON: Thank you, Mr Semenya. I
17	is really to inform us what evidence is going to be led, so	17	take it that the Police will ensure that any subpoena that
18	that we're better prepared to anticipate the evidence and	18	is served on any witness will be complied with without any
19	in our answers to that evidence, to prepare and present it,	19	interference or obstruction of any kind. I didn't need any
20	so that the Commission can have a holistic understanding of	20	assurance because I thought it went without saying, but
21	what transpired, and to therefore inform its own finding	21	thank you for the assurance, which is on record. Mr Mpofu,
22	and recommendations.	22	do you want to say something? Is it relevant what we're
23	What unfortunately has happened is we have been	23	busy with, because I'd like to get on with the inquiry?
24	listening to sound bites, which are hardly helpful for what	24	MR MPOFU: Yes.
25	this Commission is supposed to do. We have been told about	25	CHAIRPERSON: We've been busy with
	Page 248		Page 250
1	people killed like vermin, things like toxic collusions,	1	opening statement. We're now, another issue has arisen,
		-	
2	extrajudicial executions, racist, backward, ridiculous	2	but if you want to say something briefly –
2 3	extrajudicial executions, racist, backward, ridiculous conduct. All of this, Chairperson, with the greatest of		but if you want to say something briefly – MR MPOFU: Very, very briefly, Chair. It
3 4	extrajudicial executions, racist, backward, ridiculous conduct. All of this, Chairperson, with the greatest of respect, is not helpful.	2 3 4	but if you want to say something briefly – MR MPOFU: Very, very briefly, Chair. It is just apropos Mr Semenya's brief statement. The first
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	Page 251 CHAIRPERSON: Alright, okay. That	1	Page 253 Would it make it easier for the people concerned to see?
1	concludes the opening statement section of our hearings. I	2	Could they do the lights on the stage possibly.
3	now call upon Mr Budlender - who I understand has accepted	3	MR NTSEBEZA SC: Mr Chairman, can I just
4	responsibility for this - to present the video footage	4	make a request before we show, are shown any footage. As I
5	which has been made available to the Commission by the	5	indicated I would like to be sure that there are people who
6	various media houses. I don't know if he also has video	6	will council the members of the family in the event
7	footage from the South African Police, but anyway he will	7	anything that they might see, might traumatise them to an
8	explain what video footage he's got, and he will then	8	extent where such service is necessary. I would like to be
9	present it to us.	9	sure that they are here.
10	MR BUDLENDER SC: Thank you, Chairperson.	10	CHAIRPERSON: Yes, I understood the
11	The video footage which we will show now, is all derived	11	arrangements had been made for that, but let's see whether
12	from television news services. There is nothing from the	12	the persons concerned are present at the moment. I take it
13	Police, and we will deal with that in due course during the	13	the point that been made, doesn't apply to the preliminary
14	hearing. Can I just say that as far as the viewing of the	14	footage that Mr Budlender has referred to. I see Mr
15	material is concerned, the Commissioners have the screen in	15	Mahlangu has gone off, I think in search of the people
16	front of them. As far as the counsel for the parties are	16	responsible for the counselling should it be required. But
17	concerned, they may find it easier to turn around and look	17	I suggest we start in the meanwhile anyway with the
18	at the screen which is directly behind them, which is a bit	18	preliminary footage to which Mr Budlender has referred, is
19	closer, and members of public have screens on the side.	19	that, are you happy to do that Mr Budlender?
20	Chairperson, this presentation is focused on the	20	MR BUDLENDER: Yes, yes Chairperson. The
21	events only of the 16th of August. To the extent that there	21	first footage then is as I say from E-News at 14:33 on the
22	is other relevant footage available on other days, that	22	16th of August 2012.
23	will be presented in due course, as we deal with that.	23	[News footage being shown]
24	What we have done, Chairperson, is we have put	24	Then Chairperson, the next piece is a minute
25	together a series of clips from television news footage.	25	later also on E-News it contains, it includes some footage
	Page 252		Page 254
4	The metanial is in a stable, non-stitute to some autout, and	-	
1	The material is inevitably repetitive to some extent, and	1	of what was happening an hour before the shootings and some
2	I've tried to reduce the repetition to a minimum. I have	2	of what was happening an hour before the shootings and some explanation by the news reporter on what he done to try and
2 3	I've tried to reduce the repetition to a minimum. I have also tried to keep to a minimum the commentary by the	2 3	of what was happening an hour before the shootings and some explanation by the news reporter on what he done to try and find out what was going to happen.
2 3 4	I've tried to reduce the repetition to a minimum. I have also tried to keep to a minimum the commentary by the parties who were involved on the merits of the argument.	2 3 4	of what was happening an hour before the shootings and some explanation by the news reporter on what he done to try and find out what was going to happen. [News footage being shown]
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	Page 255		Page 257
1	because it obviously is very distressing for them?	1	people, but you know, that will not hold up anything
2	MR BUDLENDER: May I interrupt the interpreter to say that there will be a number of films	2	because, for today, but I am again being told that
3		3	arrangements are being put in place. May I just also
4 5	showing the shootings from different angles. CHAIRPERSON: Mr Ntsebeza, you have	4 5	indicate that, as I understand that post-mortem reports
6	indicated you wish to say something?	6	will be shown, I believe probably on Monday, I am not so sure, I didn't talk to Mr Budlender. Our attorneys have
7	MR NTSEBEZA SC: Mr Chairman, I would	7	again arranged with the families and have indicated to them
8	like to suggest that perhaps a helpful process would be for	8	that post-mortem results, I mean reports may also have that
9	the commission to have a short adjournment, an arrangement	9	kind of traumatic effect on them and what they have elected
10	be made in another room where I believe there was a short	10	to do, and I think this has been arranged again, is that
11	circuit link to what is happening here and that is where	11	their attorneys will have a table where they will take the
12	the families and the councillors should probably be, so	12	families one by one, they will see what they might have had
12	that we can proceed relatively smoothly because I can, I	12	to see when the post-mortem reports are flighted. I just
14	can anticipate that -	14	wanted to put that on record. I thank you very much for
15	CHAIRPERSON: Yes, thank you Mr Ntsebeza.	15	the opportunity. Thank you very much.
16	MR NTSEBEZA SC: With the footages that	16	MR BUDLENDER: Thank you, Mr Chairman,
17	will come.	17	may I just clarify further, one matter which I mentioned
18	CHAIRPERSON: I think that's an excellent	18	before we adjourned at lunch time, that was that I
19	suggestion. I think we should implement it. As you heard	19	mentioned that all of the footage which we are showing
20	neither Mr Budlender nor I knew that or realised that what	20	comes from news broadcasts, television broadcasts, that is
21	we saw would be shown before we were satisfied that	20	the position. I said that we do not have any South African
22	therapists and so forth were in position. But we will take	22	Police Service footage. I should have qualified that to
23	a short adjournment, we will only resume when we are told	23	say we have no South African Police Service footage of the
24	that we are able to proceed and that what Mr Ntsebeza has	24	events at Scene 1 and Scene 2. There is certain footage at
25	suggested has in fact been implemented.	25	other times and at other places, but we have no Police
20		20	
	Page 256		Page 258
1	[INQUIRY ADJOURNS INQUIRY RESUMES]	1	footage of Scene 1 and Scene 2. That will no doubt be
2	[13:59] CHAIRPERSON: Good afternoon, everybody.	2	dealt with at a later time. May I then proceed,
3		_	·····, ····,
1	The Commission resumes. I understand that arrangements	3	Chairperson. What we saw shortly before the adjournment,
4	The Commission resumes. I understand that arrangements have been made for the footage to be shown in a separate		
_	-	3	Chairperson. What we saw shortly before the adjournment,
4	have been made for the footage to be shown in a separate	3 4	Chairperson. What we saw shortly before the adjournment, was the build up, some of the context and then the – a clip
4 5	have been made for the footage to be shown in a separate room nearby and that members of the families will be able	3 4 5	Chairperson. What we saw shortly before the adjournment, was the build up, some of the context and then the – a clip of the shooting at Scene 1, which I think is the one which
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1	So that, Chairperson, is the police line formed,	1	composite film, showing the films which had been shown by
2	and then the shooting which followed, and then the next	2	various television companies from different angles, and so
3	clip shows the same, roughly the same period of time to the	3	it enables one to see the same event from three angles. It
4	right of the police line, if I can call it that, it shows	4	was made, this composite which I am going to show, was made
5	the Nyalas moving into place before the shooting on the	5	before ETV became aware of the Al Jazeera footage which
6	side of the kraal, and then again, one hears the shooting	6	we've already seen, which is the furthest to the right, if
7	taking place, the volley of shooting.	7	I can call it that. But it shows it from three other
8	[News footage being shown]	8	vantage points. They later produced the composite which
9	That too, Chairperson, was from ETV, and the next	9	included Al Jazeera. So this is a composite film showing
10	clip shows that same movement of the Nyalas moving into	10	the shooting from different angles, slightly different
11	line, moving into position on the side of the kraal shortly	11	angles on that day.
12	before the shooting. It's from Al Jazeera, and in many	12	Perhaps I could just clarify one thing, the
13	ways, it's the most revealing clips that we have available,	13	commentator to this composite film asks a number of
14	because it shows what was taking place immediately before	14	questions, and suggests some possible conclusions, those
15	the shooting, and it may be helpful to view this more than	15	aren't questions and conclusions which the evidence leaders
16	once. Can I - you will see on the clip 1 of the protesters	16	are proposing. They are simply on the film as we received
17	or strikers has an handgun, that is shown on the Police	17	it.
18	presentation which we will see later, but you will see –	18	[14:19] [News footage being shown]
19	what you see, if I can anticipate, so it's understood what	19	Chair, just to round off that sequence I would
20	is seen, one sees the strikers or protesters moving down.	20	like to show again the Reuters footage which is really from
21	They are being fired at from behind the - or through the	21	the vantage point of the police line.
22	Nyalas and then they go – they seem to accelerate and they	22	[News footage being shown]
23	go down into the place where they meet the volley of fire.	23	Chair, that is the footage which we have or
24	[News footage being show]	24	propose to show in respect of Scene 1. We have found only
25	CHAIRPERSON: - that clip again, it does	25	a very short snip, ten seconds of television footage of
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1	seems to show a critical part. Could we have the Al	1	what seems to be Scene 2. There seems to be only that and
2	Jazeera clip again, please.	2	I would like to show that now. This is all we have of what
3	MR NTSEBEZA SC: Mr Chairman, can the	3	seems to be Scene 2. That's SAPS footage – I beg your
4	interpretation be both in Tswana and IsiXhosa.	4	pardon, television footage.
5	MR MAHLANGU: I was made to understand,	5	[Television footage being shown]
6	Mr Chairperson, that the families from the Eastern Cape	6	That, I am afraid is all we have. It does seems
7	have now been accommodated in a separate room that time,	7	to be seen through – Chair, that is the footage we propose
8	but I will do so if it's necessary.	8	to show of Scene 1 and Scene 2. There are two pieces which
9	CHAIRPERSON: Let's ask, perhaps you	9	we wish to show to round this off. The first is that on
10	could interpret what I am saying into Xhosa, would the	10	the morning after these events the South African Police
11	people who are here in the – are there people here in the	11	Service held a media conference, which was addressed by the
12	auditorium who would wish what is being said to be	12	Provincial Commissioner, Lieutenant-General Mbombo, and she
13	interpreted, not only into Setswana but also into IsiXhosa?	13	set out the Police account of what had happened the
14	If so, would they raise their hands.	14	previous day. This is from the SABC.
15	MR MAHLANGU: I see quite a number of	15	[News footage being shown]
16	hands have gone up.	16	The wrong clip, Chair. There's a clip which I'll
17	[News footage being shown]	17	have to show on another occasion. Yes. I seem to have
18	Chair, that is the footage we have, which appears	18	marked the wrong clip. We will find it and show it on
19	to eliminate the events immediately before the shooting.	19	another occasion. We then conclude, just to make it clear,
20	The shooting itself was filmed from a number of angles,	20	there is footage of the Provincial Commissioner of Police
21	which give different perspectives. The first one I wish to	21	at the media conference the following day, explaining what
22	show is the film which was, I think most frequently seen	22	has happened, giving the Police account of what had
23	which was shown on E-News.	23	happened the previous day. That will be on a disc which we
24	[News footage being shown]	24	will distribute to everybody and we can show it in due
25	Chair, what ETV did, was they put together a	25	course. And then the last clip is really, just to round
Par man	I prove the good of the		
	CHIVE FOR JUSTICE		

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1	this off, is a piece from the BBC.	1	really, we are seeking guidance. We don't want to make any
2	[News footage being shown]	2	comment about the evidentiary value of all the commentary
3	MR BUDLENDER: Chair, those are	3	that has been following the pictorials but it is important
4	presentations, video presentations we wish to make. I will	4	to the extent that they will be interpreted that certain
5	see if I can locate –	5	sections of those comments made by other individuals in the
6	CHAIRPERSON: Can the Interpreter not	6	footages, be translated for the audience as well.
7	interpret what the Commissioner said on the last clip that	7	CHAIRPERSON: When are you suggesting it
8	we saw?	8	should be done, Mr Semenya? Speaking for myself, I am
9	MR BUDLENDER: Can we show that last clip	9	prepared to accept that the voice over, the commentary by
10	again?	10	the news readers or presenters, have no evidential value at
11	[News footage being shown]	11	all and can be disregarded, but there may be parties who
12	MR BUDLENDER: Can I just ask the	12	wish to contend something different, to persuade me that I
13	technician whether he has another SABC clip on – he found	13	am wrong with my prima facie view, but when do you suggest
14	it? Thank you, could we have that then. This is the	14	that the material be translated for the benefit of those
	-	15	who are in the auditorium? It might be easier for the
15	Commissioner speaking at the media conference, immediately	16	Interpreter, because if someone were to transcribe what's
16	on the day after.		•
17	[News footage being shown]	17	said, he would then be given the opportunity later to
18	CHAIRPERSON: Again, what the	18	translate it, but I am in your hands. What suggestions do
19	Commissioner says, should I think be interpreted into	19	you have to make?
20	IsiXhosa and to Tswana, once we've seen and heard it. It	20	MR SEMENYA SC: Firstly, Chair, we will
21	is quite long as I recall, Chair, it's over a minute, I	21	make available the transcript from which the National
22	think, so we may then have to pause it, or perhaps we can	22	Commissioner was speaking, but as we shall see further
23	run it and then you can decide how to deal with it.	23	video footage, there are utterances from among the
24 25	[News footage being shown]	24	protesters as well, very indicative of explaining their own
25	MR MAHLANGU: Mr Chair, with all due	25	conduct as well. We are just inviting, that perhaps with
	Page 264		Page 266
1	Page 264 respect, it's – I can't get it very clear, I don't	1	Page 266 your ruling we would have that as well interpreted, because
1 2		1 2	
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		I	
	Page 267		Page 269
1	MR MAHLANGU: Unfortunately I do.	1	statements, I see that my learned friend is smiling, maybe
2	CHAIRPERSON: Mr Bizos, I think you	2	he has already done it, knowing this is the way in which he
3	indicated you want to say something.	3	prepares himself, so that we can have on the map, where
4	MR BIZOS SC: Chairman, as helpful as the	4	were the people that are shown on Al Jazeera, and where
5	film may be, unexplained by persons who could be identified	5	were the people that were on this particular – so that we
6	on the film, making comprehensive statements as to	6	will be able to form a picture of where the, we believe the
7	precisely where they were in relation to one another, as an	7	truth lies.
8	example. It's going to be impossible to really get any	8	CHAIRPERSON: There was a composite map
9	valid answer in cross-examination or in examination-in-	9	indicating where the cameras were on some of the footage
10	chief as to what has happened. The proposal that I am	10	provided by ETV, and it might be possible for that to be
11	making is that I hear that there is other film. I don't	11	printed and for the various policeman that were involved to
12	know why, if there is other films, or the South African	12	perhaps indicate where they were at the time, as far as
13	Police have not made it available to our friends on the	13	they can remember on that map or enlarged map. Mr
14	other side. Oh, you have done it? And then I don't know	14	Budlender, have you any comments to make in respect of what
15	whether that will be shown. In order to identify people	15	Mr Bizos is suggesting?
16	and to ask them relevant questions having regard to what	16	MR BUDLENDER: Chair, yes, but we can
17	appears on the screen, let me give an example. It's not	17	only do one thing at a time prepare, we can't show the
18	worth saying that there was a crowd with sticks or seeing	18	films and have the witnesses and have the maps
19 20	that, if we don't know how far away they were from the	19 20	simultaneously. We thought we would be helpful to start with the available objective evidence which is available to
20	Police, as to whether there were any Police vehicles between them and where the Police were standing. We do not	20	show, this is what happened, and which can't really be
22	know, and we did not hear whether anybody ordered the	21	disputed, and of course there are maps and there are
22	firing to stop. The people that started firing must be	23	diagrams and there are statements and it will be presented
24	interrogated gently, where were they? Did anybody order	24	in due course and the next witnesses which my learned
25	them to fire, or was it every man for himself to decide	25	friend will present will talk, will produce photographs and
	Page 268		Page 270
1	Page 268 whether he is going to shoot to kill or not? So that if	1	Page 270 maps and show where it is, but we can only do one thing at
1 2	whether he is going to shoot to kill or not? So that if this film or these films are to be of any evidential value,	1 2	maps and show where it is, but we can only do one thing at a time.
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		1	
1	Page 271 that and the other." That's the kind of evidence he'd	1	Page 273 CHAIRPERSON: The Commission will adjourn
2	like, so that when the witnesses go in the box, where their	2	for five minutes.
3	evidence is capable of being checked against a TV clip, the	3	MR MADLANGA SC: Excuse me, Chair, there
4	relevant information for its necessary checking to be done,	4	are photographs. I am going to be leading the witness, in
5	should be available. That is, as I understand it, he	5	fact it's four witnesses, it's a slide show. I understand
6	wants. Now, if it hasn't been done yet, the suggestion is	6	one of my colleagues did circulate the pack of the slides,
7	that by the time Constable X goes into the witness-box,	7	and there are photographs there, so some of those may be
8	attempts should be made to get that information. That's	8	quite upsetting, so perhaps, the people should remain in
9	the point. I take it, from you say, it hasn't been done	9	the adjacent room.
10	yet, but it should be possible to do it at some stage in	10	CHAIRPERSON: Mr Mpofu, sorry, I think we
11	the not too distant future. Is that correct?	11	adjourned the Commission, but apparently it has been
12	MR BUDLENDER: Chair, it may be possible	12	overruled. Mr Mpofu.
13	for some of the Police witnesses to identify themselves on	13	[14:59] MR MPOFU: Chair just a slight issue, I
14	some of the videos, I don't know, but we will all have the	14	just didn't want to lose the opportunity if we are now
15	opportunity to say to – each team will have the opportunity	15	going to move to something else. Just so that we are on
16	too say to the witness, "where were you? Here is the film,	16	the same page in respect of what has been raised, my
17	where were you there?" Mark yourself. So – but it seems	17	understanding is that, Chair what is being done by the
18	to me it will be, we can't expect that we will be able to	18	evidence leaders is to give us the kind of landscaping of
19	identify each of the policemen in relation to a piece of	19	the footage that is available, not yet leading the evidence
20	video footage, but we will all have the opportunity to try.	20	in respect of that. They and SAPS and ourselves will have
21	CHAIRPERSON: I understand that, it would	21	specific witnesses in respect of everything that has been
22	also be helpful, this is something that I can say to Mr	22	shown and those people can then be interrogated. That is
23	Semenya, I take it's been done already, but if it hasn't	23	the first, my understanding -
24	maybe it should be done by the time Police witnesses give	24	CHAIRPERSON: And to enable you to
25	evidence, they should all have an opportunity to see all	25	consult with your witnesses and lead them intelligibly
1	Page 272 the media footage. So you don't want Constable X to say, I	1	Page 274 MR MPOFU: Absolutely.
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	Page 275		Page 277
1	supplied a video, Chair. Well you would recall that by	1	MR MADLANGA SC: Colonel, I see that you
2	agreement all of the parties were to submit their indices	2	are reading from something. Are you reading from your
3	indicating the material they have in their possession. We	3	statement?
4	agreed also timelines within which all of those was to be	4	LT-COL BOTHA: I'm reading from my
5	centralised to the evidence leaders and the understanding	5	statement, Sir.
6	was that the evidence leaders would then distribute to each	6	MR MADLANGA SC: Mr Chair, commissioners
7	party all the material they have with them. I'm confident	7	
8	to say on my instructions, we have furnished the material	8	CHAIRPERSON: I have no objection to his
9	indicated on the police index to the evidence leaders.	9	reading from his statement.
10	CHAIRPERSON: It sounds to me that this	10	MR MADLANGA SC: Yes.
11	is a matter that can be sorted out after the commission has	11	CHAIRPERSON: For his evidence-in-chief.
12	stopped sitting, by discussions among the representatives	12	MR MADLANGA SC: Yes, continue, Colonel.
13	of the various parties. So perhaps we can now proceed.	13	LT-COL BOTHA: I have successfully
14	Lieutenant-Colonel, would you stand please?	14	completed an advanced crime scene course, blood stain
15	MR MPOFU: Mr Chairperson, just before	15	pattern analysis reconstruction course and have also been
16	you proceed, may I please ask for a minute, to be excused	16	awarded status as a fingerprint expert.
17	for a minute?	17	MR MADLANGA SC: And would the course in
18	CHAIRPERSON: The five minute adjournment	18	crime scene, would that qualify you to become what is known
19	that I announced earlier will take effect.	19	as a crime scene technician?
20	[INQUIRY ADJOURNS INQUIRY RESUMES]	20	LT-COL BOTHA: It would qualify me as a
21	[15:10] CHAIRPERSON: The commission resumes.	21 22	crime technician and also a criminalistic expert. MR MADLANGA SC: Can you explain the
22	Lieutenant-Colonel, do you wish to swear or affirm?		
23	LT-COL: I will swear, Sir.	23	latter, the criminalistic expert? What is that?
24	CHAIRPERSON: Do you swear the evidence	24 25	LT-COL BOTHA: Mr Chair, if you complete
25	you will give in this, for this commission will be the	25	your training in the criminal record centre, all the
	Page 276		Page 278
1	truth, the whole truth and nothing but the truth please	1	modules, then you become a criminalistic expert and I am a
2	raise your right hand and say so help me God. Say so help	2	criminalistic expert in the SA Police Service.
3	me God.	3	MR MADLANGA SC: Can you also read
4	LIEUTENANT COLONEL CORNELIUS JOHAN BOTHA:	4	paragraph 3 of your statement?
5	So help me God.	5	LT-COL BOTHA: I'm instructed in
6	CHAIRPERSON: Thank you, you may be	6	photography, video recording, measuring and drawing of
7	seated. Mr Madlanga, your witness has been sworn in.	7	plans, collection of forensic exhibits, investigations in
8	EXAMINATION BY MR MADLANGA SC: Thank	8	fingerprinting, identification, classification, filing and
9	you, Chairman and commissioners, sorry for saying	9	comparison of fingerprints and I regularly perform duties
10	computers, I have just misplaced my laptop, Mr Chairman,	10	of this nature.
11	can you please bear with me Chair, just a second. Colonel	11	MR MADLANGA SC: Now I want to find out
12	Botha, can you please tell the commissioners where you are	12	how matters unfold when a crime scene technician arrives at
13	employed and also explain as what?	13	a scene. Do you get there and do your job without being
14	LT-COL BOTHA: Mr Chairperson, I'm a	14	shown around by anybody or without being shown anything?
15	Lieutenant-Colonel in the South African Police Service	15	LT-COL BOTHA: Mr Chair, normally when a
16	attached to the provincial crime scene processing team,	16	crime scene technician or a senior investigator arrives at
17	Phokeng. I have 28 years service in the South African	17	a scene there will be, there is normally policemen
18	Police Service of which I have been employed as a	18	available that will show you the scene and according to
19	fingerprint expert, official draftsman, photographer and	19	those points that you are shown and obviously your own
20	video camera operator for the past 26 years. I have	20	observations, you will process the crime scene.
21	successfully completed a theoretical and practical training	21	MR MADLANGA SC: So sometimes you make
22	course as a fingerprint expert, official draftsman,	22	your own observations on things that you might not have
23	photographer and video camera operator at the local	23	been shown by the police that you found at the scene?
111	criminal record control Unnington and also the CADC	∩ ∧	IT COL DOTULA. That is compared Mr. Chair
24	criminal record centre, Uppington and also the SAPS	24 25	LT-COL BOTHA: That is correct, Mr Chair.
24 25	criminal record centre, Uppington and also the SAPS criminal record centre, Pretoria.	24 25	LT-COL BOTHA: That is correct, Mr Chair. MR MADLANGA SC: Has it ever happened

	Page 279		Page 281
1	that a crime scene technician misses something that he or	1	MR MADLANGA SC: Yes, Chair.
2	she ought to have seen?	2	CHAIRPERSON: And someone could number
3	LT-COL BOTHA: Mr Chair, it does happen.	3	the individual pages so we have B1 and B22 and that sort of
4	MR MADLANGA SC: Based on the evidence	4	thing.
5	that you have already given, if you were to miss something	5	MR MADLANGA SC: Yes.
6	that the police that are at the scene would have observed	6	CHAIRPERSON: I think from a housekeeping
7	but did not show you, what would happen in that instance?	7	point of view, we should do that.
8	Would they show it to you or would they not show it to you?	8	MR MADLANGA SC: That's going to be done,
9	LT-COL BOTHA: Mr Chair, it all depends	9	Chair.
10	on the situation. If I find something or if I miss	10	CHAIRPERSON: Right.
11	something later, and the person that showed me the scene	11	MR MADLANGA SC: They are also going to
12	are not there, he will know about it. If he is there and	12	be included in the volumes, the several volumes that we
13	he sees me missing it, he will obviously show it to me.	13	have and will be numbered consecutively according to the
14	MR MADLANGA SC: Could you please just	14	numbering that we already have.
15	read paragraph 5 of your statement into the record?	15	CHAIRPERSON: Yes, for the purposes of
16	LT-COL BOTHA: This is on a specific	16	the record -
17	scene, must I just read that paragraph?	17	MR MADLANGA SC: But yes, as exhibits
18	MR MADLANGA SC: Yes -	18	yes, yes Chair.
19	LT-COL BOTHA: Because it leads to	19	CHAIRPERSON: So have you put his
20	paragraph 4.	20	statement to him? Has he confirmed his statement is
21	MR MADLANGA SC: Alright, no, let us go,	21	correct?
22	let's go to the slides.	22	MR MADLANGA SC: Chair, I was still going
23	LT-COL BOTHA: Okay, Mr Chair, I was	23	to do that because I wanted, I wanted him to read paragraph
24	requested by the evidence leaders of the commission to do a	24	5 when we get to the scene and then I would have him
25	Google map on the incidents that happened in a certain area	25	confirm the statement at that point.
	Page 280		Page 282
1	Page 280 in Marikana, which I have prepared. That can be seen now.	1	Page 282 CHAIRPERSON: Alright.
1 2	5	1 2	
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	Page 283		Page 285
1	explained this point to you on the day of the	1	Marikana CAS 137/8/2012.
2	reconstruction.	2	MR MADLANGA SC: And which one is that?
3	MR MADLANGA SC: Yes.	3	LT-COL BOTHA: Mr Chair, I think it's
4	LT-COL BOTHA: Next to the railway line.	4	known as the scene at the kraal.
5	MR MADLANGA SC: Yes, now what I want to	5	MR MADLANGA SC: Point K?
6	make about the railway line, in the SAPS video footage that	6	LT-COL BOTHA: Point K is the position of
7	I'm referring to, there is a general who is addressing the	7	Marikana CAS 138/8/2012.
8	workers close to a railway line. Would this be the railway	8	MR MADLANGA SC: And would that be scene
9	line?	9	2?
10	LT-COL BOTHA: That is correct, Mr Chair.	10	LT-COL BOTHA: That is scene 2, Mr
11	MR MADLANGA SC: Please continue with the	11	Chairman.
12	lettering.	12	MR MADLANGA SC: And L?
13	LT-COL BOTHA: Mr Chair, C is the	13	LT-COL BOTHA: Mr Chair, I was also
14	position of Marikana CAS 118/8/2012, that is the murder of	14	requested to show the position of the Number officers at
15	a police official. D is the position of Marikana CAS	15	Wonderkop, which will be point number L.
16	119/8/2012, that is where a seriously injured police	16	[15:30] MR MADLANGA SC: Thank you. Is there
17	official was removed from the scene which allegedly later	17	anything that we might have left out on the map itself?
18	died at hospital. Mr Chair, F is the position of Marikana	18	LT-COL BOTHA: Just the measurements.
19	CAS 116, ag sorry E, E is the position of Marikana CAS	19	MR MADLANGA SC: Yes.
20	117/8/2012 that was the body of a civilian member. Point ${\sf F}$	20	LT-COL BOTHA: Measurements, Mr Chairman,
21	is the position of Marikana CAS 116/8/2012, the position of	21	that is how the crow flies straight B to C is 600 metres.
22	a civilian member.	22	That is the railway line until the scene where the first,
23	MR MADLANGA SC: When we moved C, D and E	23	where the policemen were found dead at the scene.
24	that was your scene, is that not so?	24	MR MADLANGA SC: Perhaps Colonel, you
25	LT-COL BOTHA: That is correct, Mr Chair.	25	confirm that all of those are the measurements?
	Dara 204		
	Page 284		Page 286
1	MR MADLANGA SC: Yes. We then crossed	1	Page 286 LT-COL BOTHA: Ja, that is the
1 2		1 2	
	MR MADLANGA SC: Yes. We then crossed		LT-COL BOTHA: Ja, that is the
2 3 4	MR MADLANGA SC: Yes. We then crossed that dirt road and moved across where your colleague, Mr Moshwana pointed out a spot where he had found a deceased person, would that be the F that you are referring to just	2 3 4	LT-COL BOTHA: Ja, that is the measurements. MR MADLANGA SC: Yes, yes. So we are done with that Google map.
2 3 4 5	MR MADLANGA SC: Yes. We then crossed that dirt road and moved across where your colleague, Mr Moshwana pointed out a spot where he had found a deceased person, would that be the F that you are referring to just now?	2 3	LT-COL BOTHA: Ja, that is the measurements. MR MADLANGA SC: Yes, yes. So we are done with that Google map. LT-COL BOTHA: Okay.
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1	C and this should be B, yes.	1	MR MADLANGA SC: Then what you referred
2	CHAIRPERSON: The statement is C, this	2	to as the arc from edge of E to Z?
3	bundle that we are looking at is B.	3	LT-COL BOTHA: Mr Chair, the arc from the
4	MR MADLANGA SC: Yes.	4	edge of E to Z I found the following exhibits, 11 shotgun
5	CHAIRPERSON: And A is already in, that's	5	cartridge cases, one it's like a piece of paper that was
6	the bundle of -	6	folded or ruffled up with possible dagga in it, one
7	MR MADLANGA SC: Post-mortem reports.	7	ballistic round,
8	CHAIRPERSON: Those are the post-mortem	8	MR MADLANGA SC: And what do you mean by
9	reports. I think one or two are still outstanding.	9	that?
10	MR MADLANGA SC: The post-mortem reports	10	LT-COL BOTHA: A ballistic round is a
11	yes.	11	round that is used to set off a rifle grenade, it's
12	CHAIRPERSON: Thank you.	12	normally a gas rifle grenade.
13	MR MADLANGA SC: So we are now at B3,	13	MR MADLANGA SC: Yes?
14	Chair. Please continue, Colonel.	14	LT-COL BOTHA: One shotgun cartridge,
15	LT-COL BOTHA: Mr Chair, I took aerial	15	that is a bullet that is not fired. Two times R5 cartridge
16	photos to show Marikana CAS 115 it is more to the north-	16	cases. Point KK is a shoe and I'm just indicating that
17	eastern side of the photo. 116 is more to the southern	17	because it's on the outer edge of the scene. Mr Chair,
18	side. Marikana CAS 117 is also to the southern side. CAS	18	then if you take from GG a line to QQ and a line to YY, and
19	118 is more to the bottom of the photo and CAS 119 is	19	then a line from E to RR to CC, that whole area that widens
20	between CAS 118 and 117. MR MADLANGA SC: Let's move to the next	20	to the front I found the following exhibits, eight times
21 22	MR MADLANGA SC: Let's move to the next one, B4?	21 22	shotgun cartridge cases, two times R5 cartridge cases, one times R5 cartridge, then I named the following four times
22	LT-COL BOTHA: Mr Chair, that's also an	22	gas rubber. I will have to explain, Mr Chair. It is
24	aerial photo of the same area. It's just CAS 116 and 119.	23	apparently allegedly some sort of gas grenade that the
25	116 was processed by Captain Moshwana, I just placed it on	25	police can fire off, the shoots off like a round 40 mil
25		23	
	Page 288		Page 290
1	the aerial photo as it's visible on the photo. I will	1	rubber black, piece of rubber, that then distributes the
2	the aerial photo as it's visible on the photo. I will describe the points from A to CCC as I have marked them. A	2	rubber black, piece of rubber, that then distributes the gas, I'm not sure, I have asked for the explanation that
2 3	the aerial photo as it's visible on the photo. I will describe the points from A to CCC as I have marked them. A is the body of Marikana CAS 118/8/2012 that is the	2 3	rubber black, piece of rubber, that then distributes the gas, I'm not sure, I have asked for the explanation that comes from a gas grenade apparently. Two times stun
2 3 4	the aerial photo as it's visible on the photo. I will describe the points from A to CCC as I have marked them. A is the body of Marikana CAS 118/8/2012 that is the policeman.	2 3 4	rubber black, piece of rubber, that then distributes the gas, I'm not sure, I have asked for the explanation that comes from a gas grenade apparently. Two times stun grenades, two times gas grenade holders, two times, I don't
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1	CHAIRPERSON: Sorry, Mr Madlanga?	1	Zyl is that so?
2	MR MADLANGA SC: Yes?	2	LT-COL BOTHA: That is correct, Mr Chair,
3	CHAIRPERSON: I'm not sure whether I'm	3	when I arrived at the scene brigadier Van Zyl met me there
4	following correctly but in my copy of the documents, after	4	and he pointed out the scene to me.
5	what I think is B6 is a document headed explanation of	5	MR MADLANGA SC: Thank you Chair,
6	[inaudible] it appears to be virtually the same as 5 except	6	commissioners -
7	it's, this is now B6.	7	CHAIRPERSON: I'm sorry, Mr Madlanga.
8	LT-COL BOTHA: Correct, it's the same.	8	MR MADLANGA SC: Yes?
9	CHAIRPERSON: It's the same scene and so	9	CHAIRPERSON: I would find it easier
10	the marks are virtually the same.	10	later on I think, if we could incorporate into Exhibit C
11	LT-COL BOTHA: Ja.	11	the exhibit numbers to which he refers. Now for example in
12	CHAIRPERSON: I now follow, thank you.	12	para 6 he refers to an aerial photograph. I take it that's
13	LT-COL BOTHA: That's correct, Mr Chair,	13	B8? In para 5 he talks about a photo plan that he, he
14	it just excludes CAS 116. Because the house of CAS 116	14	refers to photographs he took, measurements and a photo
15	does not appear as on the previous photo.	15	plan. Can we just for the sake of completeness get what,
16	MR MADLANGA SC: And B8?	16	what the B numbers are? So when we read it next time, it
17	LT-COL BOTHA: Mr Chair on the 14th of	17	will be easier to follow.
18	August 2012 I attended to a scene, on the 14th of August	18	MR MADLANGA SC: What B1 relates to,
19	2012, I have attended to a scene behind the koppie at	19	etcetera?
20	Wonderkop Marikana. I have prepared the aerial photo and	20	CHAIRPERSON: I think the only thing he
21	the description is actually on the photo. The body can be	21	refers to, photographs and plans and so forth that he
22	seen on the photo where it's marked at as body and next to	22	refers to are in paras 5 and 6.
23	the N of north I put the caption there that says hilltop	23	MR MADLANGA SC: Yes.
24	that is edge of, the back of the hill at Wonderkop	24	CHAIRPERSON: We haven't got yet to para
25	Marikana.	25	7. So para 5 he talks about the scene, which is I take it
			, , , , , , , , , , , , , , , , , , ,
1	Page 292	1	Page 294
1	MR MADLANGA SC: That would be the	1	depicted on B3 and B4, is that right? No, no para 5 is
2	MR MADLANGA SC: That would be the southern side of the koppie?	2	depicted on B3 and B4, is that right? No, no para 5 is that B3 and B4?
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2 3 4	MR MADLANGA SC: That would be the southern side of the koppie? LT-COL BOTHA: That would be the southern side of the koppie, Mr Chair.	2 3 4	depicted on B3 and B4, is that right? No, no para 5 is that B3 and B4? MR MADLANGA SC: Chairperson, may I suggest this, unless there is going to be anything
2 3 4 5	MR MADLANGA SC: That would be the southern side of the koppie? LT-COL BOTHA: That would be the southern side of the koppie, Mr Chair. MR MADLANGA SC: Is there anything you	2 3 4 5	depicted on B3 and B4, is that right? No, no para 5 is that B3 and B4? MR MADLANGA SC: Chairperson, may I suggest this, unless there is going to be anything contentious about it, what I would suggest is that perhaps
2 3 4 5 6	MR MADLANGA SC: That would be the southern side of the koppie? LT-COL BOTHA: That would be the southern side of the koppie, Mr Chair. MR MADLANGA SC: Is there anything you wish to say about B9?	2 3 4 5 6	depicted on B3 and B4, is that right? No, no para 5 is that B3 and B4? MR MADLANGA SC: Chairperson, may I suggest this, unless there is going to be anything contentious about it, what I would suggest is that perhaps then he depose to a sworn statement in which reference to
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	Page 295		Page 297
1	CHAIRPERSON: I see, alright thank you.	1	other material that might have evidential value?
2	MR MADLANGA SC: Yes, that is the	2	LT-COL BOTHA: Mr Chair, we've searched
3	evidence, Chair commissioners.	3	the scene quite thoroughly, but you have to draw a line
4	CHAIRPERSON: Mr Semenya, any questions	4	somewhere. I mean, you can't search all the way to
5	you wish to ask the witness?	5	Marikana. You have to, you draw the line somewhere, and I
6	MR SEMENYA SC: Yes, Chairperson.	6	searched on what was pointed to me, and then if you find
7	Colonel, from my consultations it appears that the mapping	7 8	something on your own observations further, or even on the edges, then you carry on until you find nothing anymore,
8 9	of the photographs as we have them, has been the best attempt at identifying what you found on the scene, is that	9	and then you decide, well, this is where I draw the line,
10	correct?	10	but it was searched thoroughly.
11	[15:50] LT-COL BOTHA: Just rephrase the	11	CHAIRPERSON: Thank you.
12	question, please? I don't understand.	12	MS HEMRAJ SC: Colonel, can I just
13	MR SEMENYA SC: This represents the best	13	inquire, how long after each incident occurred, did you
14	attempt by your team of identifying evidentiary material,	14	attend to the scene and conduct those searches?
15	as you found the scene, is that right?	15	LT-COL BOTHA: Mr Chair, I'm not quite
16	LT-COL BOTHA: Mr Chair, I was requested	16	sure what time the policemen scene occurred. If I'm not
17	by the evidence leaders to prepare the photos in this way.	17	mistaken - I haven't written it down now, I can go have a
18	MR SEMENYA SC: When the evidence later	18	look and give you the precise time - I attended to the, I
19	shows that there was more bullets fired and therefore more	19	started attending to the policemen's, or the three CAS-
20	cartridges than are indicated on your pictures, that would	20	numbers, 117, 118 and 119 at about 15:00, give or take a
21	not be necessarily incorrect, am I right?	21	few minutes. The one of the body of the person, we were
22	LT-COL BOTHA: If we're talking about the	22	actually in the air when we saw the body, and then I took
23	two scenes that I've attended, that would not necessarily	23	an aerial photo. You can see it was quite late during the
24	be incorrect.	24	day because of the shade. Again, I can go have a look
25	MR SEMENYA SC: Neither are you intending	25	precisely how late, but I must make an estimate now, it
1 2	Page 296 to convey that you had picked up all the bullets that were fired, I mean cartridges of all bullets fired. That's not	1 2	Page 298 must have been more or less 5 o'clock in the afternoon, if I look at the shade.
3	what you're contending?	3	CHAIRPERSON: Mr Burger, do you have any
4	LT-COL BOTHA: Sorry, can you just	4	questions for the witness?
5	explain the question, please?	5	MR BURGER SC: Yes. Colonel, on Exhibit
6	MR SEMENYA SC: It is not your evidence	6	B1 you have as point A the place where the two security
7	necessarily that all the cartridges you indicate on your	7	guards were slain. LT-COL BOTHA: That's correct.
8	plans, are all that was discharged on the day, correct? LT-COL BOTHA: Mr Chair, those were the	8 9	
9 10	cartridge cases that I've collected on the crime scene, the	9 10	MR BURGER SC: That, as you understand it, would have happened on the 12th of August?
11	amounts that I've given.	11	LT-COL BOTHA: Allegedly it happened on
12	MR SEMENYA SC: There could be more,	12	the 12th of August, Mr Chair.
13	that's all I'm asking?	13	MR BURGER SC: We were yesterday during
14	LT-COL BOTHA: Well, that's the ones that	14	one of the openings told that two workers, two marchers,
15	I found. If there are more – there might be more, I'm not	15	were also shot during that incident. Now I must say that
16	sure.	16	came as news to my team, we didn't know of that. Can you
17	CHAIRPERSON: There may be some you	17	help the Commission? Do you know anything about two
18	didn't find?	18	additional people who were shot during that incident on the
19	LT-COL BOTHA: There might be some we	19	12th of August in that vicinity?
20	didn't find. It's possible.	20	LT-COL BOTHA: Mr Chair, if we say shot,
21	MR SEMENYA SC: Those are the questions,	21	do we mean shot and killed, or shot?
22	Chair.	22	MR BURGER SC: As we understand the
23	CHAIRPERSON: Thank you. Before someone	23	opening, they were shot and killed, and they were referred
24	else asks questions, did you search the scene as thoroughly	24	to as marchers.
25	as you could to find bullets and cartridge cases and any	25	LT-COL BOTHA: Mr Chair, I did not attend
le any			

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1	Page 299 to the scene of the 12th, but I don't know about – well, I	1	Page 301 LCRC that took the photos and processed the scene.
2	won't know about all the cases, but I don't know about weil, I	2	MR BRUINDERS SC: Do you have a name of
2		3	that person?
	a case. MR BURGER SC: Thank you, Chair.	4	LT-COL BOTHA: It's Warrant-Officer
4		4 5	
5	CHAIRPERSON: Mr Tip?	_	Opperman. MR BRUINDERS SC: If we would like to
6	MR TIP SC: Thank you, Mr Chair.	6	
7	Colonel, I understand that we're going to come back to the	7	know more about what he saw and what he found, we'd have to
8	aerial video recording that you made on the 16th. Is that	8	talk to him?
9	correct?	9	LT-COL BOTHA: That is correct, Mr Chair.
10	LT-COL BOTHA: I'm not sure, it depends	10	MR BRUINDERS SC: Then you also referred
11	on the evidence leaders.	11	to what you called civilians who were found and whom you
12	MR TIP SC: I just wanted to get some	12	show on B1, is that right?
13	clarity, if possible. Did you make that recording yourself	13	LT-COL BOTHA: That is correct, Mr Chair.
14	whilst aboard the police helicopter?	14	MR BRUINDERS SC: Are we to understand
15	LT-COL BOTHA: Yes, Mr Chair, I made the	15	that these civilians are not people that you found on the
16	recording myself. I was in the police helicopter.	16	scene?
17	MR TIP SC: Can you give us an indication	17	LT-COL BOTHA: They were on the scene,
18	of approximately from what time to what time your recording	18	number E, the one marked as E, I found on the scene. It
19	was made by you?	19	was indicated to me by Brigadier Van Zyl.
20	LT-COL BOTHA: Mr Chair, if I remember	20	MR BRUINDERS SC: Was that on the 13th?
21	correctly, it's either 15:58 or 16:58. I can also confirm	21	LT-COL BOTHA: That was on the afternoon
22	that, but I know it's 41 minutes long. I cannot remember	22	of the 13th of August.
23	the starting time precisely now.	23	MR BRUINDERS SC: Did Brigadier Van Zyl
24	MR TIP SC: As far as you were able to	24	point any other bodies out to you?
25	tell at the time, did you capture the entire operation on	25	LT-COL BOTHA: He showed me the body of
	Page 300		Dage 302
1	Page 300 your video recording?	1	Page 302 the policeman, also informed me that there are two other
1 2	your video recording?	1 2	the policeman, also informed me that there are two other
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2	your video recording? LT-COL BOTHA: No, Mr Chair, definitely not. The video – we determined that the video actually	2	the policeman, also informed me that there are two other
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		r –	
	Page 303		Page 305
1	MR BRUINDERS SC: He got there before	1	CHAIRPERSON: Before you move on, I
2	you?	2	understand you can't give an exact number, but can you
3	LT-COL BOTHA: He was on the scene when I	3	place us somewhere in the ballpark? Were there about
4	arrived there.	4	three, six, 10, 20?
5	MR BRUINDERS SC: The other two bodies	5	LT-COL BOTHA: Mr Chair, there were
6	that Brigadier Van Zyl told you about, did he show them, or	6	definitely more than three. If I must think, I think there
7	point them out to your colleagues?	7	were more than six, but if I have to say 10, more or less
8	LT-COL BOTHA: Mr Chair, I'm not sure.	8	10, plus-minus 10. I cannot say, it's not three or four,
9	My colleagues arrived and I was already busy processing my	9	it was more than that.
10	scene. So I don't know who showed them the other two	10	[16:10] CHAIRPERSON: Thank you, that gives us an
11	bodies.	11	idea.
12	MR BRUINDERS SC: What are the names of	12	MR BRUINDERS SC: Do you remember what
13	your colleagues?	13	vehicles you saw?
14	LT-COL BOTHA: The person that processed	14	LT-COL BOTHA: I can recall that some of
15	those two scenes, is Captain Moshwana.	15	the vehicles were Kombis.
16	MR BRUINDERS SC: When you got to that	16	MR BRUINDERS SC: Any other vehicles?
17	particular scene around 3 o'clock on the 13th, did you	17	LT-COL BOTHA: No, there were a police
18	yourself see any injured?	18	bakkie of Marikana. I can't recall – again, I didn't
19	LT-COL BOTHA: No, Mr Chair, I did not	19	really notice that because that wasn't part of my scene.
20	see any injured people; there were only deceased people on	20 21	MR BRUINDERS SC: How many policemen were there on the scene?
21 22	the scene. MR BRUINDERS SC: Did Brigadier Van Zvl	21	LT-COL BOTHA: Sir, again there were an
22	MR BRUINDERS SC: Did Brigadier Van Zyl speak of any injured people when he was pointing out	22	amount of policemen on the scene, more than 10, maybe more
23 24	certain things to you?	23	than 20. I cannot, I did not count them. Some of them
25	LT-COL BOTHA: I was shown where the	25	were in the vehicles, some of them were out of the
25	ET COE DOTTIA. I Was shown where the	25	were in the vehicles, some of them were out of the
	Page 304		Page 306
1	injured policeman was taken away. There were two small	1	vehicles. I can't really say.
2	pools of blood on the scene. I cannot recall that he told	2	MR BRUINDERS SC: These policemen that
3	me of any other injured people on that scene there,	3	you saw there were not part of your investigating team?
4	specifically.	4	LT-COL BOTHA: No, they weren't part of
5	MR BRUINDERS SC: When you got to that	5	my investigation team.
6	scene, did you see any police vehicles?	6	MR BRUINDERS SC: Where were they from?
7	LT-COL BOTHA: Mr Chair, there was quite	7	LT-COL BOTHA: I have no idea, Mr Chair.
8	an amount of police vehicles and members on the side of the	8	MR BRUINDERS SC: Could you tell – I take
9	road.	9	it you looked at them?
10	MR BRUINDERS SC: How many vehicles?	10	LT-COL BOTHA: I obviously did look at
11	LT-COL BOTHA: I cannot tell you how many	11	them.
12	vehicles, I did not count the vehicles.	12	MR BRUINDERS SC: When you did, could you
13	MR BRUINDERS SC: You say quite a number,	13	tell what units they were from?
14	and I don't want to press you for an exact number, but can	14	LT-COL BOTHA: Mr Chair, I can remember
15	you give any idea, were these more than 10, more than 20,	15	that there were members from POPs Unit because, well there
16	more than 30 vehicles?	16	were members from POP Unit because there were Nyalas also.
17	LT-COL BOTHA: Sir, I'm going to have to	17	I cannot, I don't know if there were members from any other
18	guess if I want to give a total. There were a number of	18	units. I can't remember, I did not look at them like that
19	police vehicles parked on the side of the road, which you	19	to remember from where they are, so I can't tell you that.
20	can see on the photo. I honestly cannot remember how many	20	CHAIRPERSON: I'm sorry, if I can just
21	vehicles. I'm going to take a wild guess if I say now how	21	interpose for a moment. You talk about POP, members from
22	many vehicles.	22	POP. That's the Public Order Policing sector?
23	MR BRUINDERS SC: I wouldn't press an	23	LT-COL BOTHA: Yes, Mr Chair, that's
24	experienced policeman like you to take a wild guess, so I'm	24	Public Order Police.
25	going to move on.	25	CHAIRPERSON: Now the Nyalas are those

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1	vehicles which Public Order Policing use?	1	was in the veld, where in the veld was it?
2	LT-COL BOTHA: Sorry, Mr Chair?	2	LT-COL BOTHA: By the body, by C.
3	CHAIRPERSON: Nyalas, or they the	3	MR BRUINDERS SC: B is what you say the
4	vehicles that the Public Order Police section use?	4	position of the railway line is, not so?
5	LT-COL BOTHA: Mr Chair, they also use	5	LT-COL BOTHA: Just say again?
6	them, and I can remember I recognised one of the POP	6	MR BRUINDERS SC: B is what you say the
7	members, that's why I know. It's not because only there	7	position of the railway line is.
8	are Nyalas. There was a POP member that I recognised. He	8	LT-COL BOTHA: I went to the point and I
9	knew me as Colonel, so he was from POP. The rest I don't	9	Googled it and that is where it came out and it looks like
10	really know.	10	it's a railway line, yes.
11	MR BRUINDERS SC: I hate to be a nag, but	11	MR BRUINDERS SC: You are reasonably
12	how many Nyalas were there?	12	familiar with that area?
13	LT-COL BOTHA: Sir, I can remember one	13	LT-COL BOTHA: Sorry, ask the question
14	standing at a dead body, and there was one next to the	14	again, sorry?
15	road. There might have been more. I can't remember.	15	MR BRUINDERS SC: My question is, you are
16	MR BRUINDERS SC: It's rather a novel way	16	reasonably familiar with that particular area between the
17	of taking instructions, but could I peer across the rows to	17	points B, G, F and so on?
18	ask my attorney whether there's anything else he'd like me	18	LT-COL BOTHA: Well, the first time I saw
19	to ask this witness, Mr Chair?	19	the area was when I visited the scene. It's not a place
20	CHAIRPERSON: You can do that, or you can	20	that I've seen before.
21	get out of your seat and go and ask the attorney. Mr	21	MR BRUINDERS SC: I understand. How long
22	Bruinders, it's already past the time that we normally	22	did you spend there that afternoon?
23	adjourn for tea. Would you appreciate it if we took the	23	LT-COL BOTHA: Mr Chairman, I can
24	tea adjournment now, you can get instructions for as long	24	confirm, but I think it's more or less five hours that I
25	as you like. Mr Bizos, who I'm going to call upon to	25	spent there.
	Daga 200		Page 310
1	Page 308 cross-examine next, if he wishes to do so, could also get	1	MR BRUINDERS SC: And in those five hours
2	himself ready. Thereafter we'll have Mr Ntsebeza and Mr	2	you walked around roughly the points B, C, F, G, D, E,
3	Mpofu. So I suggest we take a 10-minute adjournment at	3	etcetera?
4	this stage.	4	LT-COL BOTHA: No, Mr Chair, I did not go
5	[INQUIRY ADJOURNS INQUIRY RESUMES]	5	to B. I did not then know that there was a discussion at B
6	[16:35] CHAIRPERSON: The Commission resumes. Mr	6	or that a point B existed. I posted the scene where the
7	Bruinders, you were cross-examining the witness.	7	bodies were found. I did not go to F. I did not go to G.
8	MR BRUINDERS SC: Thank you, just a few	8	MR BRUINDERS SC: So you won't know that
9	more questions. Is it possible for us to have B1 up on the	9	- or firstly, do you know which way the railway line runs?
10	screen? Now Colonel, could you point to where it was that	10	Could you point it out to us on B1?
11	you saw the vehicles, on B1?	11	LT-COL BOTHA: No, well which way the
12		12	turing any second to such the supervise ways? It says as both
	LT-COL BOTHA: Mr Chair, if I must draw a	12	trains can go on it, or which way it runs? It can go both
13	LT-COL BOTHA: Mr Chair, if I must draw a line, then it's more or less between D, E and F on that	12	ways. Look, I know –
13	line, then it's more or less between D, E and F on that	13	ways. Look, I know –
13 14	line, then it's more or less between D, E and F on that gravel. You can see there's a road running there, on that	13 14	ways. Look, I know – MR BRUINDERS SC: Which way does the
13 14 15	line, then it's more or less between D, E and F on that gravel. You can see there's a road running there, on that road. MR BRUINDERS SC: So that which looks like a yellow line is a road?	13 14 15	ways. Look, I know – MR BRUINDERS SC: Which way does the railway line run – LT-COL BOTHA: On the photo – MR BRUINDERS SC: Does it run from the
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1	Page 311 LT-COL BOTHA: Yes, Mr Chair, there's a	1	Page 313 when the helicopter was already, had already landed on the
2	dirt road that runs parallel to it.	2	JOC?
3	MR BRUINDERS SC: Did you see the dirt	3	LT-COL BOTHA: I was at the JOC when the
4	road?	4	chopper was there. I arrived there when the Police – I
5	LT-COL BOTHA: On the day of the	5	can't say that the Police chopper was there when I arrived
6	reconstruction I was on the dirt road with the chairperson.	6	there. What I'm saying is when they said we're going to
7	MR BRUINDERS SC: That's a fairly	7	fly, the chopper was there; it was on the ground.
8	undeveloped dirt road.	8	MR BRUINDERS SC: Do you know whether
9	LT-COL BOTHA: Yes, it's not like the one	9	that chopper had been up earlier?
10	that's marked with the yellow line.	10	LT-COL BOTHA: No, Mr Chair, I don't
11	MR BRUINDERS SC: So on the day of the	11	know.
12	reconstruction you say – well, can I ask you, did you walk	12	MR BRUINDERS SC: Were you and the pilot
13	from the more developed road to the less developed one?	13	the only two in the chopper?
14	LT-COL BOTHA: Yes, I walked on the road.	14	LT-COL BOTHA: No, we were five people in
15	MR BRUINDERS SC: Your colleague who	15	the chopper.
16	recognised you as a colonel on 13 August, do you remember	16	MR BRUINDERS SC: Was anybody else taking
17	his name?	17	photographs from the chopper?
18	LT-COL BOTHA: No idea, Sir. I just know	18	LT-COL BOTHA: There was a member, I
19	that he's from the area - well, I don't even know if he's	19	don't know from where he is, I presume it was a police
20	from the area. He knew me as Colonel, so he knew me and	20	member that had a camera with him in the chopper.
21	that's why I know he had the red badge, which is a Public	21	MR BRUINDERS SC: Did you see him take
22	Order Policing badge. That's why I know that.	22	photographs?
23	MR BRUINDERS SC: Now you say that he	23	LT-COL BOTHA: I did, I do think he did
24	recognised you, not so?	24	take photographs, yes.
25	LT-COL BOTHA: He recognised me, ja.	25	MR BRUINDERS SC: Besides you, anybody
	Page 312		Page 314
1	Page 312 MR BRUINDERS SC: You didn't know who he	1	Page 314 take video footage?
1 2		1 2	
	MR BRUINDERS SC: You didn't know who he		take video footage?
2	MR BRUINDERS SC: You didn't know who he was?	2	take video footage?LT-COL BOTHA:No, I took video footage.I gave my camera to the, Warrant-Officer Venter that was
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Marikana Commission of Inquiry

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Ι.	Page 315		Page 317
1	MR BRUINDERS SC: What was he or she	1	LT-COL BOTHA: I was called by Brigadier
2	doing in the chopper?	2	Van Zyl and said that he's going to need me for a video,
3	LT-COL BOTHA: I don't know what the	3	and then I –
4	duties of the person was. It was Brigadier Fritz.	4	MR BIZOS SC: I'm sorry, I didn't hear.
5	MR BRUINDERS SC: Where is Brigadier	5	LT-COL BOTHA: Brigadier Van Zyl –
6	Fritz from?	6	MR BIZOS SC: Yes?
7	LT-COL BOTHA: I think he's from the	7	LT-COL BOTHA: And then I went to the Ops
8	Special Task Force because he is wearing the clothes of the	8	Room.
9	Task Force.	9	MR BIZOS SC: He wanted you for what?
10	MR BRUINDERS SC: And forgive me for	10	I'm sorry, you said something that I didn't hear. What did
11	asking this again, but you say you didn't know what he was	11	he want you for?
12	doing in the chopper?	12	LT-COL BOTHA: Brigadier Van Zyl phoned
13	LT-COL BOTHA: I don't know what his	13	me and said that he is going to need me for a video, to
14	duties was in the chopper. He spoke on the radio and with	14	make a video, possibly make a video, and then I went to the
15	people on the ground and stuff like that. I don't know	15	JOC.
16	what his duties, his specific duties was in the chopper.	16	MR BIZOS SC: And you got there before 3
17	MR BRUINDERS SC: So let's forget about	17	o'clock?
18	his duties for the moment. Let's just find out what he was	18	LT-COL BOTHA: I think just before 3
19	actually doing there. You say that he spoke on a radio?	19	o'clock, ja.
20	LT-COL BOTHA: Yes, he did speak on a	20	MR BIZOS SC: Yes. Did he tell you the
21	radio.	21	nature of the operation that you may be called upon to
22	MR BRUINDERS SC: To who?	22	film?
23	LT-COL BOTHA: To some people on the	23	LT-COL BOTHA: Mr Chair, I met Brigadier
24	ground.	24	Van Zyl and if I recall correctly he said they're going to,
25	MR BRUINDERS SC: Do you know who they	25	the operation is going to take place to disarm and disperse
	Page 316		Page 318
1	were?	1	the people and I might be called on to record that.
2	LT-COL BOTHA: No Sir, I don't know.	2	MR BIZOS SC: Record that. Now what time
3	MR BRUINDERS SC: What was he saying to	-	
		3	did he tell you that?
4	them?	3 4	LT-COL BOTHA: It must have been just
		_	-
4	them? LT-COL BOTHA: I cannot remember the	4	LT-COL BOTHA: It must have been just
4 5	them?	4 5	LT-COL BOTHA: It must have been just after I arrived there.
4 5 6	them? LT-COL BOTHA: I cannot remember the conversations because there was a lot of talking that I	4 5 6	LT-COL BOTHA: It must have been just after I arrived there. MR BIZOS SC: Did you discuss with the person that asked you to be there or any of your colleagues
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	Page 319		Page 321
1	you hear clearly? Right, then we can carry on. You're	1	LT-COL BOTHA: Mr Chair, I was obviously
2	correct, he gave the answer, to disarm and disperse the	2	interested in what I was going to film. I did not ask
3	people. Please carry on, Mr Bizos.	3	anyone how the operation was going to be done or giving me
4	MR BIZOS SC: I'm sorry, with the rain	4	a planning or anything like that.
5	[inaudible] not hearing the answer. To disperse –	5	MR BIZOS SC: Yes.
6	LT-COL BOTHA: Disarm and disperse.	6	LT-COL BOTHA: I got into the chopper;
7	MR BIZOS SC: To disarm and disperse.	7	the chopper flew to the specific area and I filmed.
8	Did he tell you more or less when he expected that	8	MR BIZOS SC: What did you see was
9	operation to commence?	9	happening on the ground when you looked out of the chopper?
10	LT-COL BOTHA: No, Mr Chair, he just said	10	LT-COL BOTHA: Mr Chair, when I started
11	I must wait and they will call on me when they need me.	11	filming, through the small lens you can't really see a lot,
12	MR BIZOS SC: When were you told that you	12	but when I started filming and then afterwards you can see
13	were to board the helicopter?	13	that, at scene 1, I can't even now remember if I started
14	LT-COL BOTHA: Mr Chairman, I cannot	14	recording specifically at scene 1, that the shooting
15	remember the exact time. The people went to the chopper	15	definitely already took place.
16	and Brigadier Van Zyl told me I must go because I'm going	16	CHAIRPERSON: In other words the incident
17	to make the recording.	17	-
18	MR MAHLANGU: Mr Chairman, I did not hear	18	LT-COL BOTHA: Ja, the incident.
19	the question.	19	CHAIRPERSON: - where the –
20	[16:55] CHAIRPERSON: Part of the problem we have	20	LT-COL BOTHA: The incident already took
21	is the recording may be clear, but it's difficult for us	21	place.
22	here in the auditorium to hear the questions and the	22	CHAIRPERSON: - 34 people had been shot,
23	answers. Mr Bizos, it's suggested that if you pull the	23	that had already happened?
24	microphone closer, what you say may be amplified and we	24	LT-COL BOTHA: Not, not, the first
25	will then hear it.	25	incident, the first shooting.
1	Page 320 MR BIZOS SC: Very well. Did you discuss	1	Page 322 CHAIRPERSON: Oh, sorry.
2	with any of the persons that you met or boarding the	2	LT-COL BOTHA: Ja, and –
3	helicopter or when you sat down, what is going to happen,	3	CHAIRPERSON: Shooting at scene 1 had
4	what am I supposed to film?	4	already happened?
5	LT-COL BOTHA: No Sir, I did not discuss	5	LT-COL BOTHA: Ja, ja, and in the veld
6	it with anyone.	6	behind scene 1 there was a lot of people, if I must call
7	MR BIZOS SC: So you didn't know what you	7	it, dispersing.
8	were going to do on the helicopter?	8	MR BIZOS SC: I see. Did you film any
9	LT-COL BOTHA: I knew what I was going to	9	people being shot? If we accept the correctness of your
10	do in the helicopter. I was going to video graph a police	10	answer that you did not film the first shooting – I'm going
11	operation.	11	to come back to that – did you record any of the shooting
12	MR BIZOS SC: Without being told what the	12	after the first shooting, so to speak?
13	nature of the operation was and how it was going to be	13	LT-COL BOTHA: Mr Chair, I don't know
14	executed?	14	when the second shooting took place. I don't know if I
		1	filmed it. I didn't even know that there was a second
15	CHAIRPERSON: Mr Bizos, I don't think	15	-
15 16	CHAIRPERSON: Mr Bizos, I don't think that's a fair question. He said he was told the operation	15 16	shooting until I got onto the ground.
	that's a fair question. He said he was told the operation		
16	-	16	
16 17	that's a fair question. He said he was told the operation would be to disarm and disperse the people. So he knew what the nature of the operation was. The further point	16 17	MR BIZOS SC: So the film that you brought into being shows no shooting at all?
16 17 18 19	that's a fair question. He said he was told the operation would be to disarm and disperse the people. So he knew what the nature of the operation was. The further point you make of course is valid, but the main part of the	16 17 18 19	MR BIZOS SC: So the film that you brought into being shows no shooting at all? LT-COL BOTHA: As far as I've got it,
16 17 18	that's a fair question. He said he was told the operation would be to disarm and disperse the people. So he knew what the nature of the operation was. The further point you make of course is valid, but the main part of the question I don't think is fair in the light of the evidence	16 17 18	MR BIZOS SC: So the film that you brought into being shows no shooting at all? LT-COL BOTHA: As far as I've got it, Sir, no it doesn't show any shooting at all.
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	Page 323		Page 325
1	did you shoot any of the shooting, if I may –	1	did not hear a thing. I said if I must now recall his
2	LT-COL BOTHA: Mr Chair, I had a look at	2	words and quote his words, it's going to be – I can't do
3	the video with the evidence leaders and according to us I	3	that. I can't remember precisely what was said. That's
4	did not.	4	what I'm saying.
5	MR BIZOS SC: Now would you agree if I	5	MR BIZOS SC: What was the subject matter
6	put it very bluntly that on this momentous occasion in	6	that he was broadcasting to the people below?
7	South Africa's history when 35 people were killed, a	7	LT-COL BOTHA: What was the what?
8	colonel in the employ of the Police was on a helicopter	8	CHAIRPERSON: The question is, what was
9	whilst this was happening, and his job was to film, but he	9	the subject matter of what he was broadcasting to the
10	managed to avoid filming anything that showed that people	10	people –
11	were being killed? Am I clear in my question, and if so,	11	LT-COL BOTHA: Just explain "subject
12	what is your answer?	12	matter" to me, please.
13	LT-COL BOTHA: I will not agree. I did	13	CHAIRPERSON: What was the topic that he
14	not fly the chopper, Mr Chair, and I filmed what I saw on	14	was talking about when he was speaking to the people? Can
15	the ground. I said from the beginning when I started	15	you remember?
16	filming, I film what I see on the ground. I did not know	16	LT-COL BOTHA: Sir, I can, I cannot
17	there was a shooting happening, so I couldn't force the	17	remember what was said. I mean the chopper's noise is not
18	chopper to fly to a shooting.	18	so loud that I cannot hear him, but if I have to recall
19	MR BIZOS SC: Colonel, would you agree	19	specifically words and things now, I cannot remember what
20	that if you had taken the trouble to be awake to any	20	was said. He spoke to people on the ground every now and
21	situation in which 35 people were killed, that you failed	21	then and I can't remember what was said.
22	to record that bit of South African history?	22	MR BIZOS SC: Perhaps if I may speculate,
23	LT-COL BOTHA: Mr Chair, I disagree.	23	was he telling them, be careful, policemen, the crowd is
24	MR BIZOS SC: What was the rank of the	24	going to kill you? Or some of the people are running from
25	officer sitting next to you on the helicopter?	25	where they were onto the small koppie, chase them and kill
25	Sincer siding hoxe to you on the helicopter.	23	
	Page 324		Page 326
1	Page 324 LT-COL BOTHA: It was a brigadier.	1	Page 326 them? This was [inaudible]. How come that it went above
1 2		1 2	
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2	LT-COL BOTHA:It was a brigadier.MR BIZOS SC:The brigadier giving orders	2	them? This was [inaudible]. How come that it went above your head?
2 3	LT-COL BOTHA: It was a brigadier. MR BIZOS SC: The brigadier giving orders down below?	2 3	them? This was [inaudible]. How come that it went above your head? LT-COL BOTHA: Mr Chair, the first that I
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	Page 327		Page 329
1	know, Colonel, you undervalue your intelligence. What	1	MR BIZOS SC: What distance from where
2	would the purpose –	2	the Police were to where you saw the bodies on the ground?
3	CHAIRPERSON: I don't think it's	3	LT-COL BOTHA: Mr Chair, I can just
4	appropriate to make comments, Mr Bizos. Just ask him	4	describe it as in front of the kraal.
5	questions.	5	MR BIZOS SC: How far is that?
6	MR BIZOS SC: Sorry, I'll –	6	LT-COL BOTHA: How far is that from?
7	CHAIRPERSON: Don't make comments. We	7	MR BIZOS SC: From where the Police were,
8	can make comments later when we give the report.	8	were bodies on the ground?
9	MR BIZOS SC: Or when we argue. I'm	9	LT-COL BOTHA: Where the Police were at
10	sorry.	10	what stage? When the bodies were, when I saw the bodies
11	LT-COL BOTHA: Can I just –	11	lying on the ground?
12	MR BIZOS SC: What was the purpose of	12	CHAIRPERSON: I think that's the
13	there being communication between the person, the high-	13	question. When you saw the bodies lying on the ground near
14	ranking officer on the helicopter and presumably the high-	14	the kraal, there were obviously police in the vicinity, we
15	ranking officer below?	15	know that. Did you see the Police from the helicopter?
16	LT-COL BOTHA: Can I just qualify my	16	LT-COL BOTHA: You could see the Police
17	first question? I didn't sit in a position of Brigadier	17	on the ground, yes.
18	Fritz. That's why I said I don't know how his view was.	18	CHAIRPERSON: Now what Mr Bizos wants to
19	He was sitting in the middle in the chopper, in the back	19	know is how far were the Police, or I suppose the nearest
20	seat.	20	police from the bodies that you saw on the ground near the
21	MR BIZOS SC: Did the pilot say anything	21	kraal?
22	what was happening below?	22	LT-COL BOTHA: So if I recall correctly
23	LT-COL BOTHA: Sir, there was a lot of	23	there were police in that vicinity there by the kraal. So
24	talk on the radio. People said for instance the, you can	24	it must be close by.
25	see the people were moving or running in certain directions	25	MR BIZOS SC: Did you see any bodies
1	Page 328	1	Page 330
1	on the ground and stuff like that, and they were –	1	lying on the ground 50 yards away from where the Police
2	on the ground and stuff like that, and they were – MR BIZOS SC: Just repeat that, please.	2	lying on the ground 50 yards away from where the Police were, the main body of the Police were?
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1	Page 331 your standing and rank, didn't you think that you should	1	Page 333 about the LCRC people. I'm talking about the normal
1	show some interest of what had happened and whether there	2	policemen on the ground.
3	were other bodies and what steps were being taken in order	3	MR BIZOS SC: Did it not occur to you
4	to protect the crime scene?	4	that the Police that had killed the people there may have
5	LT-COL BOTHA: Sir, I was flying, making	5	an interest in changing the nature of the crime scene for
	a video. It's not that I was not interested, and the	6	their benefit?
6	chopper did not circle the whole time in, above that	7	
8	specific scene.	8	LT-COL BOTHA: Mr Chair, again, at that stage I did not know who shot whom and who are the suspects
9	MR BIZOS SC: Would you agree that you	9	and there were policemen on the ground, and policemen are
10	were the most qualified policeman there on that day on the	10	trained to look after crime scenes.
10	importance of keeping the crime scene intact?	11	MR BIZOS SC: Are you familiar with the
12	LT-COL BOTHA: Sir, there were four other	12	Police Standing Orders, Colonel?
13	LCRC members on the ground and I did not know what their	13	LT-COL BOTHA: Yes, Mr Chair.
14	movement was on the ground.	14	MR BIZOS SC: Do you obey them?
15	[17:15] MR BIZOS SC: We don't know who they	15	LT-COL BOTHA: Yes, Mr Chair.
16	were, but I'm asking you whether, having regard to your	16	MR BIZOS SC: Do you know that Police
10	seniority, and having regard to your expert knowledge, did	17	Orders provide for special procedures in relation to
18	you not show any interest that the crime scene should not	18	investigation when they themselves may be suspects? Do you
19	in any way be changed or insulted or anything like that?	19	know the orders?
20	LT-COL BOTHA: I presume that if there	20	LT-COL BOTHA: Mr Chair, it depends on
21	are policemen on the ground, that that is the way that it	21	what orders you're talking about. I know that IPID will
22	will happen. We are all trained policemen.	22	investigate the case.
23	MR BIZOS SC: Some of them killing	23	MR BIZOS SC: I beg your pardon?
24	people, did you expect them to investigate themselves?	24	LT-COL BOTHA: I know that IPID will
25	LT-COL BOTHA: The members on the scene?	25	investigate the case, ja, but what other orders? I'm not
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	Page 332		Page 334
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1 2		1 2	
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1	Page 335	4	Page 337
1	LT-COL BOTHA: Mr Chair, when I got back	1	he gave me the instruction.
2	to the JOC I was briefed.	2	MR BIZOS SC: Now then, one would have
3	MR BIZOS SC: I beg your pardon? You	3	expected, if you are telling us the truth about these
4	were debriefed?	4	matters –
5	LT-COL BOTHA: I was briefed by Brigadier	5	MR MADLANGA SC: Mr Chair –
6	Van Zyl.	6	MR BIZOS SC: Colonel –
7	MR BIZOS SC: I'm talking about	7	MR MADLANGA SC: Mr Chair, may I ask my
8	debriefing, what happened after the operation. Were you	8	colleague Mr Bizos not to talk at the same time either with
9	debriefed? Were you asked what do you know about this?	9	the interpreter or the witness? There will –
10	After all, you're an expert.	10	MR BIZOS SC: I apologise and I'll try
11	LT-COL BOTHA: Are we talking about when	11	and obey your directive.
12	I landed back on the ground that afternoon?	12	MR MADLANGA SC: Because there will be
13	MR BIZOS SC: Yes, that's when I'm	13	problems at the transcription. Thank you.
14	talking about.	14	MR BIZOS SC: Okay. Please, Mr
15	LT-COL BOTHA: I was, if we – I call it	15	Interpreter, finish. Thank you, Mr Interpreter. I'll
16	brief. I was briefed by Brigadier Van Zyl of what	16	repeat the question. Are you saying that the brigadier
17	happened.	17	ignored this important Police Order, or are you going to
18	MR BIZOS SC: Oh, you use it that way,	18	say that brigadiers don't have to comply with Police
19	okay. I can understand, you're right, briefing and	19	Orders?
20	debriefing can, alternative ways of expressing oneself.	20	LT-COL BOTHA: What I'm saying is I did
21	What did you say to the brigadier?	21	not, I don't know what debriefing or – you used the word
22	LT-COL BOTHA: I started planning to get	22	"aftermath" - or what meeting took place. The brigadier
23	people from – I first - ja, I started planning to, because	23	came out; he briefed me on what happened and I started
24	it was, you could hear that it was a big scene, to get	24	organising members from all over the province. I did not
25	people from all over the province so that we will be able	25	give my video to him.
	Page 336		Page 338
1	to process the crime scenes, and I phoned the four members	1	MR BIZOS SC: Colonel, either the
2	who, the commander of the four members that was there of	2	brigadier didn't know of the existence of this Order, or he
3	the LCRC and asked them to move into the crime scenes - I	3	deliberately avoided asking you whether you videoed the
4	cannot now remember if they were there already – and to	4	proceedings or not –
5	start video graphing immediately, please.	5	MR MADLANGA SC: Mr Chairman,
6	MR BIZOS SC: Did the brigadier ask you	6	Commissioners, I'm loath to again intervene but from what
7	to hand anything over to him?	7	my learned colleague read, or what he read from, he seems
8	LT-COL BOTHA: No, Mr Chair.	8	to be saying that it is the duty of the CJOC to do all of
9	MR BIZOS SC: Didn't he ask you whether	9	the things that he's referring to, and I am not aware at
10	you took a video of what happened?	10	this stage that the brigadier was the CJOC. Perhaps that
11	LT-COL BOTHA: He gave me an instruction	11	should be established first.
1		10	
12	to get in the chopper and make the video. He did not ask	12	MR BIZOS SC: "Every level of command
13	me afterwards to give the video to him.	13	must debrief the levels below it individually." So says
13 14	me afterwards to give the video to him. MR BIZOS SC: I'll read you paragraph 3,	13 14	must debrief the levels below it individually." So says subparagraph 2 of Section 13 of the Order, Mr Chairman. I
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1	CHAIRPERSON: To whom did you give your	1	MR BIZOS SC: Were minutes kept at that
2	video – I did what Mr Bizos was rebuked for. I spoke when	2	meeting?
3	the interpreter was speaking. I'm sorry. To whom did you	3	LT-COL BOTHA: Sir, I'm not sure if
4	give your video, Colonel?	4	minutes was kept. I'm sure that, it was actually members
5	LT-COL BOTHA: Sir, procedure is that I	5	coming together. I'm not sure if members, ag, if meetings
6	will keep my video with me and then it will be downloaded	6	were, ag, minutes were kept.
7	later and it will be placed in a docket.	7	MR BIZOS SC: This was a momentous event
8	CHAIRPERSON: Was all that done?	8	in which serious allegations were made against senior
9	LT-COL BOTHA: That was all done.	9	police officers and the people who took part in the
10	CHAIRPERSON: Did anybody call for it	10	shooting. Are you saying you don't remember whether
11	subsequently?	11	minutes were taken or – what did you say at this meeting?
12	LT-COL BOTHA: A copy was given to the SA	12	LT-COL BOTHA: Sir, this was part of the
13	Police Service. If I remember correctly, a copy was given	13	preparation for the presentation of the SA Police Service,
14	to IPID; they requested that, and the evidence leaders saw	14	which you will see.
15	a copy of that.	15	MR BIZOS SC: The question was, what did
16	MR BIZOS SC: Please tell us what	16	you say at this meeting?
17	question the brigadier asked when you say that he asked you	17	LT-COL BOTHA: Well, I was there for a
18	for your opinion. What did he ask you your opinion on?	18	week. We obviously discussed what happened, what was
19	LT-COL BOTHA: Mr Chair, I did not say	19	taken, what photos was taken, was the scenes processed, all
20	that the brigadier asked me for my opinion.	20	the things like that, concerning me.
21	MR BIZOS SC: I'm sorry, I misheard you.	21	[17:35] MR BIZOS SC: Did you say that, "We made
22	What did you say?	22	a mess with it?"
23	CHAIRPERSON: As I understood him, he	23	LT-COL BOTHA: No.
24	said that the brigadier briefed him, in other words told	24	MR BIZOS SC: Did anybody else at that
25	him what had happened. He then immediately sprang into	25	meeting, after knowing that 35 people had been killed, say
	Page 340		Page 342
1	action to arrange for people from the Local Criminal Record	1	that they have made a mess of it and they mustn't do it
2	Centre to be summoned to the scene to do the necessary to	2	again?
3	record what was on the scene. That I understood to be the	3	LT-COL BOTHA: No.
4	evidence. I didn't understand him to go any further than	4	MR BIZOS SC: Have you ever heard in your
5	that, but if you wish to probe the matter further, you may	5	long police career that people should be trained in order
6	do so.	6	not to repeat mistakes or perform illegal acts, that there
7	MR BIZOS SC: Thank you.	7	are Police Standing Orders directing police officers of all
8	CHAIRPERSON: I would say, I think your	8	ranks to be trained properly as to how to behave,
9	almost close to the end of this topic. You've got a fair	9	particularly when they are dealing with large gatherings of
10	amount of material for cross-examining the brigadier when	10	people? Have you ever heard of that?
11	he comes, but there other matters –	11	LT-COL BOTHA: All policemen are trained
12	MR BIZOS SC: I look forward to it.	12	in whichever direction he's working, Mr Chair.
13	CHAIRPERSON: There are other matters to	13	MR BIZOS SC: This sort of generalisation
14	cover with him.	14	you can't get away with when I ask the question.
15	MR BIZOS SC: I look forward to it. Now	15	LT-COL BOTHA: Policemen are trained –
16	the Orders also provide that there has to be a meeting of	16	MR BIZOS SC: I didn't ask you – were you
17	all concerned, all good practices as well as shortcomings	17	trained in the manner in which I have suggested? Making
18	must be recorded as part of a learning process to enhance	18	generalisations when I ask the question of you, please
19	good practices and address to prevent the recurrences of	19	answer the question.
20	identified mistakes. That's what the Order says. Was such	20	LT-COL BOTHA: Are you asking if I'm
21	a meeting held?	21	trained or if I heard that policemen must be trained?
22	LT-COL BOTHA: Mr Chair, I must recall	22	CHAIRPERSON: My understanding is, had
23	now, I think a week after the incident I was part of a	23	you heard at some stage that where an operation takes place
24	Police contingent in Potchefstroom that debriefed this	24	and things go wrong, that people should thereafter be
25	whole situation.	25	trained to ensure that the mistake isn't repeated? I think
2			

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1	that was the thrust of the –	1	Mr Chairman, members of the Commission. There are quite a
2	LT-COL BOTHA: Is that the question?	2	number of issues that have arisen out of the cross-
3	Yes.	3	examination of Mr Bizos, which I had thought might be
4	MR BIZOS SC: Was any training article or	4	appropriate at another occasion, but the answers that came
5	any training booklet which indicated to you and the Police	5	from the witness are such that I need to canvass some of
6	Force generally as to how to behave in relation to crowd,	6	the questions that have arisen.
7	have you read anything about it?	7	CHAIRPERSON: Are you in a position to
8	LT-COL BOTHA: Not me, because I'm not	8	cross-examine, Mr Mpofu?
9	working in that, Sir.	9	MR MPOFU: No, Chairperson, and very
10	MR BIZOS SC: So insofar as Order 5 says,	10	briefly, our impediment is that insofar as the issues of
11	"Trainers and instructors must attempt the debriefings to	11	the 13th are concerned, the person who was arrested is our
12	review actions taken by members and to rectify improper	12	main witness. You might not remember him, Chairperson, but
13	conduct by means of service training in crowd management	13	on the day he, he's the gentleman who kept on saying "We
14	techniques," did you know about this order?	14	were being shot from a helicopter," and I think he
15	LT-COL BOTHA: Yes, Sir.	15	interacted with you and we had called him to the scene
16	MR BIZOS SC: Did you or any of your	16	specifically for this evidence.
17	superiors take any act as a result of the death of 35	17	CHAIRPERSON: So what you're saying is
18	people on the 16th of March to avoid similar mistakes being	18	you require to take instructions from him –
19	made?	19	MR MPOFU: And [inaudible] ja –
20	CHAIRPERSON: 16th of August.	20	CHAIRPERSON: He is in custody, but we've
21	MR BIZOS SC: I beg your pardon. 16th of	21	been told by Mr Semenya that you will be afforded every
22	August, yes.	22	facility to take instructions from him.
23	LT-COL BOTHA: Mr Chair, as I've said,	23	MR MPOFU: We will do so, Chairperson,
24	that week was part of the building of the presentation of	24	and also hopefully try and get him here on the next
25	the SA Police Service. A lot of things were discussed.	25	occasion. So, and that –
	Page 344		Page 346
1	MR BIZOS SC: Did you absolve yourselves	1	CHAIRPERSON: Alright. There are a few
2	MR BIZOS SC: Did you absolve yourselves as a conclusion, or did you find yourselves wanting?	2	CHAIRPERSON: Alright. There are a few questions I'd like to ask you. The first is, I understood
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1	LT-COL BOTHA: That is correct, Mr Chair.	1	it's the other side.
2	CHAIRPERSON: What time did the	2	CHAIRPERSON: Alright. Now the brigadier
3	helicopter take off?	3	had got you there in order for you to make a video record
4	LT-COL BOTHA: Sir, I cannot remember. I	4	of the operation.
5	don't know.	5	LT-COL BOTHA: Yes.
6	CHAIRPERSON: Approximately?	6	CHAIRPERSON: It appears from what you
7	LT-COL BOTHA: I can have a look, I think	7	tell us that you weren't able to do that because what one
8	I started making the video 15:58 or 16:58. I'm not sure,	8	can describe as the major part of the operation had
9	Sir. No, it must be 15:58.	9	apparently already taken place by the time you started
10	CHAIRPERSON: So effectively 2 minutes to	10	making your recording.
11	4?	11	LT-COL BOTHA: Yes, Mr Chair.
12	LT-COL BOTHA: I do think so, ja. I	12	CHAIRPERSON: And when you got back to
13	stand to be corrected.	13	the JOC and you saw the brigadier, he didn't ask you did
14	CHAIRPERSON: And how long does it take	14	you succeed in making a video recording of the operation,
15	for the helicopter to get from the place where it went up	15	as I understand you. He didn't ask you that question at
16	in the air, up to the scene, the hill?	16	all.
17	LT-COL BOTHA: If I must guess, two, five	17	LT-COL BOTHA: No Sir, I just made, I
18	minutes. It's very close, Sir. A chopper will be, will	18	made a video recording but not specifically of that
19	get there very quickly.	19	operation then, if we take it like that, ja.
20	CHAIRPERSON: From what you've told us it	20	CHAIRPERSON: You were supposed to make a
21	sounds as if by the time you got to the scene the shooting	21	recording of the operation and from what you've told us –
22	was over?	22	I'm not suggesting this is your fault, but you weren't able
23	LT-COL BOTHA: Ja, if you look at the	23	to do that.
24	video, Sir, by the time that I got to the scene – well, by	24	LT-COL BOTHA: That's correct, Sir.
25	the time I first videoed the scene at the kraal the	25	CHAIRPERSON: So the purpose of getting
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1	shooting already happened.	1	you there in fact failed.
2	CHAIRPERSON: Ja, and presumably if you'd	2	LT-COL BOTHA: If you look at it like
3	seen the shooting taking place even before you were making	3	that, Sir, yes.
4	the video, you'd remember that because it's the kind –	4	CHAIRPERSON: Now we know from one of the
5	LT-COL BOTHA: Yes, Sir, definitely.	5	documents which was made available to us by IPID that
6	CHAIRPERSON: - the kind of incident that	6	Colonel Vermaak was calling for video material that
7	would –	7	afternoon, as I understand it, of the operation. Were you
8	LT-COL BOTHA: I haven't seen it –	8	aware of that?
9	CHAIRPERSON: - you would remember.	9	LT-COL BOTHA: Sorry, Sir, Colonel
10	Alright, so we can accept that your evidence is that when	10	Vermaak did what? I didn't hear.
11	you got to the scene, the shooting was already over.	11	CHAIRPERSON: As far as I can recollect,
12	LT-COL BOTHA: Yes, Mr Chair.	12	in one of the documents we were given by IPID it was stated
13	CHAIRPERSON: And you then went on, you	13	that Colonel Vermaak was asking for video material that
14	then flew on, as it were, to the second scene, and do I	14	very afternoon, of what had happened. He called for it.
15	understand you correctly, the shooting must have been over	15	Did you know about that?
16	there as well?	16	LT-COL BOTHA: No, Sir, I don't know
17	LT-COL BOTHA: Sir, no, I'm not sure.	17	about that.
18	What I'm saying is that the chopper flew in the area and I	18	CHAIRPERSON: Did I understand your
19	made a video what I can, what I could see on the ground.	19	evidence correctly that no-one actually asked you
20	So I did not know – by now we know it's a small koppie and	20	afterwards what you had recorded? You just, I understood
21	a big koppie and there was a shooting. By then I did not	21	you to say, downloaded what you'd recorded and it was put
22	know that, so I'm not sure, or I don't know if I videoed it	22	in the docket.
23	or not. It's difficult in a chopper because it's one-	23	LT-COL BOTHA: No Sir, afterwards I've
24	sided. If you fly the one side then you can only see the	24	given a copy to the SA Police Service –
25	one side, you can only video the one side. When it turns,	25	CHAIRPERSON: Yes, yes –
1.			

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1	LT-COL BOTHA: Ja, they've asked me –	1	MR MPOFU: Thank you, Chair. Colonel,
2	CHAIRPERSON: That was to be put in the	2	there's just a few issues briefly. How many helicopters
3	docket, I take it.	3	were operating on that day, at least at the same time as
4	LT-COL BOTHA: No, no, they've asked me.	4	yours?
5	No, mine is in my docket. They've asked me for a copy.	5	LT-COL BOTHA: I think it was ours
6	CHAIRPERSON: Oh, they asked you for a	6	included, four.
7	copy. I see. Did anybody ask you if you'd succeeded in	7	MR MPOFU: Four?
8	actually recording the operation?	8	LT-COL BOTHA: Ja.
9	LT-COL BOTHA: No, Mr Chair.	9	MR MPOFU: Thank you. The other
10	CHAIRPERSON: Yes, thank you. There's	10	helicopters, to your knowledge were they also shooting
11	nothing further I propose asking you at this stage. I may	11	footage?
12	ask some questions later. My fellow Commissioners may do	12	LT-COL BOTHA: No, I don't know.
13	so as well. Yes, before Mr Mpofu asks a question, my	13	MR MPOFU: Don't know, thank you. And
14	colleague Advocate Hemraj would like to ask a question as	14	you've been asked many questions and you referred them to a
15	well.	15	Brigadier Van Zyl, or rather you said those would be in
16	MS HEMRAJ SC: Colonel, were you told	16	Brigadier Van Zyl's knowledge, correct?
17	what time the proposed operation would commence?	17	LT-COL BOTHA: Which questions are you
18	LT-COL BOTHA: No, Ma'am, I wasn't told.	18	talking about, Sir?
19	MS HEMRAJ SC: Did you know, Colonel, in	19	MR MPOFU: No, I'm saying some of the
20	which area precisely the operation was going to take place?	20	issues that you were asked about, you said were in the
21	LT-COL BOTHA: Yes, Commissioner, I knew.	21	knowledge of Brigadier Van Zyl. Remember that?
22	MS HEMRAJ SC: And what area was that?	22	CHAIRPERSON: I'm not too certain he said
23	LT-COL BOTHA: I was told that the people	23	knowledge –
24	at the koppie will be disarmed and dispersed.	24	MR MPOFU: And that we should ask him.
25	MS HEMRAJ SC: And when your chopper took	25	CHAIRPERSON: I don't think he said quite
		_	
	Page 35.	2	Page 354
1	Page 35. off, did it go directly to that particular area?	2 1	in the knowledge. He was asked about the compliance \tilde{with}
1 2			5
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ARCHIVE FOR JUSTICE

Marikana Commission of Inquiry

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