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 AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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# Marikana Commission of Inquiry

Page 30441[PROCEEDINGS ON 14 DECEMBER 2012]1integrated into the SAPS operational appro2[09:30]CHAIRPERSON:The Commission resumes.2order operations. If we talk about the less3Brigadier, you're still under oath.Mr Budlender, you are3we are looking to the use of water canon,	
2 [09:30] CHAIRPERSON:The Commission resumes.2order operations. If we talk about the less3 Brigadier, you're still under oath.Mr Budlender, you are3we are looking to the use of water canon,	Page 3046
3 Brigadier, you're still under oath. Mr Budlender, you are 3 we are looking to the use of water canon,	• ·
	-
4 still cross-examining? 4 gradual response, use of teargas, use of re	
5 MR BUDLENDER SC: Yes, Chair. 5 resort, but however I'm saying there is a g	
6 CHAIRPERSON: But before you pose your 6 will be a gap when we do our operations.	ç
7 next question, you will remember, Brigadier, I asked you a 7 is to have more options. We must not onl	
8 question last night before we adjourned. 8 only because the main purpose of the tear	0
9 BRIG MKHWANAZI: Correct, Chairperson, 9 the area to make sure that spectators can	
10 yes. 10 disperse or to move away from the positio	-
11 CHAIRPERSON: Have you had an opportunity 11 fail with the teargas, what next? Now it b	
12       to think of the answer?         12       problem. So we need just to close that gate	
13         BRIG MKHWANAZI:         Chairperson, I've got an         13         more, other less lethal weapon just to see	-
14 answer. Can I give?     14 teargas fails, what else can come up, until       15     14 teargas fails, what else can come up, until	we deal with
15     CHAIRPERSON:     Yes, please give it.     15     the situation amicably.	
16         BRIG MKHWANAZI:         Yes. Chairperson, I         16         The other point I'm going to mention           17         here extended to be backed to find the termination of terminatin of termination of terminatin o	
17 have actually tried and looked to few issues that maybe 17 Chairperson, is a point which actually crea	
18 were of a shortcoming and become more of the issues that we 18 bad image to the SAPS, that during the int	•
19 have to have a lesson and see which direction we can take 20 in future, and these are firstly, number 1 would be command 20 members to sucid contemination. In other	
<ul> <li>20 in future, and those are firstly, number 1 would be command</li> <li>20 members to avoid contamination. In othe</li> <li>21 and control. Command and control. Under command and</li> <li>21 here is that the gas mask is the one that would be command and</li> </ul>	
5	
<ul> <li>22 control I will clarify why I'm saying that, is that the</li> <li>22 make sure members are not affected with</li> <li>23 magnitude of the operation provided important information</li> <li>23 being used. If one's checking the visuals</li> </ul>	-
24 in terms of managing operation for the future, in the 24 some of the members of SAPS, they move	-
25 sense, the unified command and span of control to address 25 them, they show that they actually get aff	
Page 3045	Page 3047
1 the issues of accountability and the leadership should be 1 teargas. So some of those members are	0
2 entrenched in the operational doctrine. What I mean is a 2 and those members are not in possession	of that type of
3 that under Public Order Policing we've got a span of 3 equipment. So what I'm saying is at least	t in future let's
4 control. However, SAPS as police, we have chain of 4 make sure that we make those equipmen	t available for them.
5 command. So the two, we need just to look at it and 5 At the same time let's give training to the	m as well how to
6 revisit, especially if we have a unified command of 6 utilise them so that if we come to this typ	e of operation
7 control, because looking to the situation in Marikana, we 7 whereby we have an integrated operation	where multi-
8 have a vast area, it was too big in a sense that each and 8 discipline are brought together, at least the	nose members
9 every section must have its own tactical commander, and its 9 must actually manage to deal with the site	uation properly.
10 own tactical commander must all the time communicate with 10 The last point, Chairperson, I want	
11 the operational commander, of which somehow I have a 11 is that I think what is important, after even	
12 feeling that there was some sort of break of communication 12 to embark on a research. The research w	
13 in some other areas most of the time. We need to start 13 it should be at least on a less lethal and le	-
	-
14 improving on that and see if how can we shape it properly 14 which actually whereby we'll be checking	abistuo sabula
15 to make sure that in future we don't have a problem around 15 utilised by other police agencies. That inc	
15to make sure that in future we don't have a problem around15utilised by other police agencies. That includes the communication, all what actually16that. That includes the communication, all what actually16South Africa. As you know very well, I me	entioned from the
15to make sure that in future we don't have a problem around15utilised by other police agencies. That includes the communication, all what actually16that. That includes the communication, all what actually16South Africa. As you know very well, I me17we assist, the training that will assist as well to17beginning that Public Order Policing as a	entioned from the programme after
15to make sure that in future we don't have a problem around15utilised by other police agencies. That includes the communication, all what actually16that. That includes the communication, all what actually16South Africa. As you know very well, I me17we assist, the training that will assist as well to17beginning that Public Order Policing as a poly18understand this command and control situation during the18'94, there were changes, but we learn from the poly	entioned from the programme after m Belgium and I
15to make sure that in future we don't have a problem around15utilised by other police agencies. That includes the communication, all what actually16that. That includes the communication, all what actually16South Africa. As you know very well, I me17we assist, the training that will assist as well to17beginning that Public Order Policing as a poly18understand this command and control situation during the18'94, there were changes, but we learn fro19operation itself, because the operational commander or the19think as well on less lethal weapon we ne	entioned from the programme after m Belgium and I ed to explore and
15to make sure that in future we don't have a problem around15utilised by other police agencies. That includes the communication, all what actually16that. That includes the communication, all what actually16South Africa. As you know very well, I me17we assist, the training that will assist as well to17beginning that Public Order Policing as a poly18understand this command and control situation during the18'94, there were changes, but we learn from the19operation itself, because the operational commander or the19think as well on less lethal weapon we ne20overall commander, they will always rely to the tactical20see other countries as well what they are	entioned from the programme after m Belgium and I ed to explore and using on this
15to make sure that in future we don't have a problem around15utilised by other police agencies. That includes the communication, all what actually16that. That includes the communication, all what actually16South Africa. As you know very well, I me17we assist, the training that will assist as well to17beginning that Public Order Policing as a problem around18understand this command and control situation during the18'94, there were changes, but we learn fro19operation itself, because the operational commander or the19think as well on less lethal weapon we ne20overall commander, they will always rely to the tactical20see other countries as well what they are21commanders to give information with the situation they are21less lethal weapon, not only to rely to our	entioned from the programme after m Belgium and I red to explore and using on this rselves in South
15to make sure that in future we don't have a problem around that. That includes the communication, all what actually we assist, the training that will assist as well to understand this command and control situation during the operation itself, because the operational commander or the overall commander, they will always rely to the tactical commanders to give information with the situation they are faced with before them at that stage.15utilised by other police agencies. That includes the utilised by other police agencies. That includes the utilised by other police agencies. That includes the south Africa. As you know very well, I me to south Africa. As you know very well, I me the south Africa. As you know very well, I me to south Africa. As you know very well, I me to south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa as well on less lethal weapon we ne the south Africa as well on less lethal weapon we ne the south Africa, but go out, maybe looking to place the south Africa, but go out, maybe looking to place	entioned from the programme after m Belgium and I red to explore and using on this rselves in South es like England,
<ul> <li>to make sure that in future we don't have a problem around</li> <li>that. That includes the communication, all what actually</li> <li>we assist, the training that will assist as well to</li> <li>understand this command and control situation during the</li> <li>operation itself, because the operational commander or the</li> <li>overall commander, they will always rely to the tactical</li> <li>commanders to give information with the situation they are</li> <li>faced with before them at that stage.</li> <li>The other point I looked at it was the less</li> <li>to make sure that in future we don't have a problem around</li> <li>that. That includes the communication, all what actually</li> <li>utilised by other police agencies. That includes the operation all what actually</li> <li>South Africa. As you know very well, I may</li> <li>South Africa. As you know very well, I may</li> <li>beginning that Public Order Policing as a problem is see other countries as well what they are</li> <li>see other countries as well what they are</li> <li>less lethal weapon, not only to rely to our</li> <li>Africa, but go out, maybe looking to place</li> <li>looking like to USA, and see what they are</li> </ul>	entioned from the programme after m Belgium and I red to explore and using on this rselves in South es like England, e having so that
15to make sure that in future we don't have a problem around that. That includes the communication, all what actually we assist, the training that will assist as well to understand this command and control situation during the operation itself, because the operational commander or the overall commander, they will always rely to the tactical commanders to give information with the situation they are faced with before them at that stage.15utilised by other police agencies. That includes the utilised by other police agencies. That includes the utilised by other police agencies. That includes the south Africa. As you know very well, I me to south Africa. As you know very well, I me the south Africa. As you know very well, I me to south Africa. As you know very well, I me to south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa. As you know very well, I me the south Africa as well on less lethal weapon we ne the south Africa as well on less lethal weapon we ne the south Africa, but go out, maybe looking to place the south Africa, but go out, maybe looking to place	entioned from the programme after m Belgium and I eed to explore and using on this rselves in South es like England, e having so that e close the gap if

1         Continuous basis: at the end of the day we sort out the 2 problem. This is the end of my contribution, Sir.         1         MR BUDLENDER SC. Well they didn't           3         CHAIRPERSON: Thank you very much, 4         Brigadier. Mr Budlender, you said you had two questions 5 you wanted to ask last night before we adjourned – 6         3         each of them had done and then L was put together after 4           4         Brigadier. Mr Budlender, you said you had two questions 5         Yes.         5         BRIG MKHWANAZI: Yes, it was the 6         6           6         MR BUDLENDER SC: Yes.         7         MR BUDLENDER SC: Yes, Sir, I'm afraid 11         1         MR BUDLENDER SC: Yes, Sir, I'm afraid 11         1         Consellor. We're support to go through the final, or 12         10         MR BUDLENDER SC: Yes, Sir, Ym afraid 11         10         Consellor. We're support to go through the final, or 12         10         MR BUDLENDER SC: At the end of the 14         14         Process you worked on the draft presentation, I, which was 14           16         Chairperson, is that it's to be able to indicate in some 13         an expert gives an opinion, he or she has to do so by 14         17         BRIG MKHWANAZI: We's, my understand ithat 14         18         BRIG MKHWANAZI: We's, my understand ithat 14         18         BRIG MKHWANAZI: Chairperson, what 18         18           19         Weighigh all of the information in an independent and 20         16         17         BRIG				
2       problem. This is the end of my contribution, Sir.       2       present exhibit L. They first, I take it all reported what         3       CHARPERSON: Thank you very much,       3       each of them had dee and then L was put lighther after         4       Brigadien.       5       you vented to ask last night before we adjourned -       6         6       MR BUDLENDER SC: Yes,       Yes,       1       MR BUDLENDER SC: Yes, and you tak was         8       unli you have this answer before you proceed with them.       1       8       to listen to what the units reported as to what was         10       Its an Mpolu-like two quastions, Chairperson, but it will       1       consolidate information.         11       its an Apport-like two quastions, Chairperson, but it will       1       consolidate information.         12       be ab lin molicitate, 1 will be in that       1       1       the safe to indicate in some         13       an expert, 1 an order to able to indicate, 1 will be in that       1       Bappened is after they have actually put the information         14       the SAP Sacted correctly on the day un uderstand that       1       Bappened is after they have actually out understand that         16       chaiperson, is that I sto be able to indicate, 1 will be in that       18       Bappened is after they have actually put the information         16	1	5	1	Page 3050
3         CHAIRPERSON:         Thank you very much,         3         ach of them had done and then L was put together after           4         Brigadier, Mr Budlender, you vaid you had two questions         5         BRIG MKHWANAZI:         Yes, it was the           6         MR BUDLENDER SC:         Yes,         And I suggested you waid         6           7         CHAIRPERSON:         And I suggested you waid         6         16           9         take it you may have some other questions as well.         10         BRIG MKHWANAZI:         Yes, and you take was as an expert opinion on whether           11         tas an expert, in order to express an expert opinion on whether         11         Counselior. Were support to go through the final, or           12         be a bit more.         BRIG MKHWANAZI:         Yes, and you suggested some changes           16         the support.         It was presentation.         11         BRIG MKHWANAZI:         It is correct.           13         BRIG MKHWANAZI:         Yes, and you understand that         19         Deprive was adde or comments from the floor whithe           14         brobschulz         And the support was device orments from the floor whith the           14         brobschulz         Yes adde or comments from the floor whother           15         broblex support to go through the final				,
4       Brigadier. Mr Budlender, you said you had two questions       5       you wanted to ask last night before we adjourned -         5       MR BUDLENDER SC: Yes.       Personance       BRIG MKHWANAZI: Yes, it was the         7       CHAIRPERSON: And i suggested you wait       MR BUDLENDER SC: Yes.       NR BUDLENDER SC: Yes.         10       MR BUDLENDER SC: Yes, Sr, I'm afraid       NR BUDLENDER SC: Yes.       NR BUDLENDER SC: Yes.         11       I's an Mojori-like two question.       BRIG MKHWANAZI: It is correct,         12       be a bit more. Brigadier, you've been giving evidence as       I's consolidated information.         13       an expert, in order to express an expent opinion on whether         14       the SAPS sted correctly on the day in question.         15       BRIG MKHWANAZI: Yes, my understanding,         16       Chairperson, is that it's to be able to indicate. I will be in that         19       MR BUDLENDER SC: And you understand that.         10       when an expert gives an opinion, he or she has to do so by         21       weighing all of the information in an independent and         22       belcherstroom for the SAPS meeting al which the reversion.         23       BRIG MKHWANAZI: Yes, I was at         24       that's my aim, Sir, that i give the truth and the onty         24       BRIG MKHWANAZI:				
5         you wanted to ask last night before we adjourned - MR BUDLENDER SC: Yes.         5         BRIG MKHWANAZI: Yes, It was the information leading to the final product for exhibit L.           6         Information leading to the final product for exhibit L.         6           7         CHAIRPERSO: Yes.         7         MR BUDLENDER SC: Yes.         7         7         MR BUDLENDER SC: Yes.         7         MR BUDLENDER SC: Yes.         7         7         MR BUDLENDER SC: Yes.         7         7         MR BUDLENDER SC: Yes.         7 <t< td=""><td></td><td><u> </u></td><td></td><td></td></t<>		<u> </u>		
6         MR BUDLENDER SC:         Yes.         6         information leading to the final product for exhibit L           7         CHAIRPERSON:         And I suggested you wait         NR BUDLENDER SC:         Yes.           9         dake it you may have some other guestions as well.         10         MR BUDLENDER SC:         Yes.           10         MR BUDLENDER SC:         Yes., Sir, I'm afraid         10         BRIG MKHWANZ1:         It is an hydori-like two questions. Chairperson, buit it will           11         its an hydori-like two questions. Chairperson, buit it will         Counsolidated information.         11         Counsolidated information.           15         be Ablt more. Brigadier, you've been giving evidence as an expert gives an opinion no whether         14         the SAPS acted correctly on the day in question.         15         the output of the workshop, and you suggested some changes           16         Chairperson, is hat it is to be able to indicate. I will be in that         asset and the only the day in question.         15         the output of the workshop, and you suggested some changes           16         MR BUDLENDER SC:         And you understand that         10         URB workshop, and you suggested some changes           10         MR BUDLENDER SC:         And you understand that         10         URB workshop, and you assign in the onhyot the onyot the parter sastart, into the parter samaling			-	
7         CHAIRPERSON:         And I suggested you wait         7         MR BUDLENDER SC:         Yes, and your task was           8         until you have this answer before you proceed with them.         1         to listen to what the units reported as to what they had           9         take it you may have some other questions as well.         1         to listen to what the units reported as to what they had           10         MR BUDLENDER SC:         Yes, Sir, Fm afraid         10         Counsellor.         BRIG MKHWANAZI:         It is correct.           11         the SAPS acted correctly on the day in question.         11         Counsellor.         Aff the end of the           16         chairperson, is that it's to be able to indicate. I will be in that         15         BRIG MKHWANAZI:         Chairperson, what           17         MR BUDLENDER SC:         And you understand that         16         Io II?           17         MR BUDLENDER SC:         And you understand that         16         Io II?           18         weight gail of the information in an independent and         10         Use Weads our comments from the floor with the           12         BRIG MKHWANAZI:         That's correct, and         11         I've said yesterday, mostly what I contributed at was about           13         MR BUDLENDER SC:         You were a				
8         until you have this answor before you proceed with them. I         8         to listen to what the units reported as to what they had           9         take it you may have some other questions as well.         9         done and to consider whether they had acted correctly?           10         MR BUDLENDER SC: Yes, SY, ma fraid         10         BRIG MKHWANAZI:         ti is correct.           11         it's an Mpofu-like two questions, Chairperson, but it will         10         Consolidated information.           12         be a bit more. Brigadier, you've been glving evidence as         11         Consolidated information.           13         MR BUDENDER SC: And you understand that         14         process you worked on the draft presentation.         L, which was           14         thet's an BUDENDER SC: And you understand that         18         happened is after they have actually put the information           15         objective manner?         2         that's my aim, Sir, that I give the truth and the only         2         actually all contributed where we actually listened, but as           11         MR BUDLENDER SC: You were at         11         I've said yesterday, mostly what I contributed at was about           2         that's my aim, Sir, that I give the truth and the only         2         in easistant, into that position. I was not involved           24         that's my aim, Sir, t			_	- · ·
9         take it you may have some other questions as well.         9         done and to consider whether they had acted correctly?           10         MR BUDLENDER SC:         Yes, Sr, I'm afraid         10         BRIG MKHWANZ1:         its orrect,           11         its an MpofL-like too questions, Chairperson, but it will         10         Consolidated information.         11         Consolidated information.           13         an expert, in order to express an expert opinion on whether         14         the SADS stated correctly on the day in question.           16         Chairperson, Is that it's to be able to indicate in some         13         MR BUDLENDER SC:         At the end of the           19         MR BUDLENDER SC:         And you understand that         10         Uselfer with everything, It was presented before all of           20         weighing all of the information in an independent and         20         Use the assistant, lint but position. I was not involved           21         weighing all of the information in an independent and         20         actually all contributed where we actually put the information.           22         Pothefstroom for the SAPS meeting at which the events at         21         the assistant, lint that position. I was not involved           23         ft mass and babe do assist in the         Social state man analysed and discoused?         4           <	7		7	5
10       MR BUDLENDER SC:       Yes, Sir, I'm afraid       10       BRIG MKHWANAZI:       It is correct, I         11       it's an Mpofu-like two questions, Chairperson, but it will       10       Consellor.       Were support to go through the final, or         12       be a bit more. Bridgadier, you've been giving evidence as       11       Consellor.       Were support to go through the final, or         13       an expert, In order to express an expert opinion on whether       I       If'       MR BUDLENDER SC:       At the end of the         14       the SAP5 acted correctly on the day in question.       If'       MR BUDLENDER SC:       At the end you suggested some changes         16       the output of the workshop, and you suggested some changes       If'       BRIG MKHWANAZI:       Chairperson, what         19       MR BUDLENDER SC:       And you understand that       If'       BRIG MKHWANAZI:       Chairperson, what         10       weighing all of the information in an independent and       objective marmer?       20       Use the full information.       If'         23       BRIG MKHWANAZI:       That's correct, and       If'       presentation in front and those comments we made, they were         24       that's my aim, Sir, that I give the truth and the only       22       full the satistant, into that possition to       10       the satis	8	5	8	
11       It's an Mpofu-like two questions, Chairperson, but it will       11       Counsellor. We're support to go through the final, or         12       be a bit more. Brigadier, you've been glving evidence as       13       an expert, in order to express an expert opinion on whether         14       the SAPS acted correctly on the day in question.       14       mcsolidated information.         15       BRIG MKHWANAZI:       Yes, my understanding,       16       chairperson, is that it's to be able to indicate in some         17       BRIG MKHWANAZI:       Chairperson, what       18       heppened is after they have actually put the information         19       MR BUDLENDER SC:       And you understand that       10       10       BRIG MKHWANAZI:       Chairperson, what         19       Wehan a expert gives an opinion, he or she has tod oo's       20       Ne made our comments from the floor with the         20       weighing all of the information in an independent and       objective manner?       20       Ne made our comments from the floor with the         21       weighing all of the information in an independent and       objective manner?       21       the assistant, into that position. I was not involved         23       BRIG MKHWANAZI:       That's our estimate at the weight ag at which the evert is a state out and the soly       21       the assistant, into that position. I was not involved <td>9</td> <td>take it you may have some other questions as well.</td> <td>9</td> <td>done and to consider whether they had acted correctly?</td>	9	take it you may have some other questions as well.	9	done and to consider whether they had acted correctly?
12       be a bit more. Brigadier, you've been giving evidence as       13       an expert, in order to express an expert opinion on whether         13       an expert, in order to express an expert opinion on whether       14         14       the SAPS acted correctly on the day in question.       15         15       BRIG MKHWANAZI: Yes, my understanding,       16         16       Chairperson, is that it's to be able to indicate in some       16         17       areas where I can be able to indicate in some       16         18       position to do that.       17       BRIG MKHWANAZI: Chairperson, what         19       MR BUDLENDER SC: And you understand that       10       to it?         20       weighting all of the information in an independent and       10       to gether with everything, it was presented before all of         21       presentation in front and these comments?       10       us. We made our comments from the floor with the         22       objective manner?       21       presentation in front and these comments we made, they were         23       BRIG MKHWANAZI: That's correct, and       24       like to sit down and say let's write this way, but we         24       that's my aim, Sir, that I give the truth and the only.       25       actually all contributed where we actually instende, but as         24       Potchefs	10	MR BUDLENDER SC: Yes, Sir, I'm afraid	10	BRIG MKHWANAZI: It is correct,
13       an expert, in order to express an expert opinion on whether       13       MR BUDLENDER SC: At the end of the         14       the SAPS acted correctly on the day in question.       13       MR BUDLENDER SC: At the end of the         15       BRIG MKHWANAZI: Yes, my understanding,       16       17       BRIG MKHWANAZI: Chaiperson, what         18       position to do that.       17       BRIG MKHWANAZI: Chaiperson, what       18         19       MR BUDLENDER SC: And you understand that       17       BRIG MKHWANAZI: Chaiperson, what       18         20       when an expert gives an opinion, he or she has to do so by       20       us. We made our comments from the floor with the         21       weighing all of the information in an independent and       21       respresented before all of         22       brite manner?       21       respresented before all of       22         23       BRIG MKHWANAZI: That's correct, and       21       respresented before all of       22         24       that's my aim, Sir, that 1 give the truth and the only       22       respresation in front and those comments we made, they were at         2       Potchefstroom for the SAP'S meeting at Which the events at       21       the Police terminology, the terms and everything. That's         3       Marikana were analysed and discussed?       3 <t< td=""><td>11</td><td>it's an Mpofu-like two questions, Chairperson, but it will</td><td>11</td><td>Counsellor. We're support to go through the final, or</td></t<>	11	it's an Mpofu-like two questions, Chairperson, but it will	11	Counsellor. We're support to go through the final, or
14       the SAPS acted correctly on the day in question.       14       the SAPS acted correctly on the day in question.         15       BRIG MKHWANZI: Yes, my understanding,       16       Chairperson, is that it's to be able to indicate in some         16       Chairperson, is that it's to be able to indicate, I will be in that       17       BRIG MKHWANAZI: Chairperson, what         17       MR BUDLENDER SC: And you understand that       18       happened is after they have actually put the information         18       weighing all of the information in an independent and       0 bjective manner?       20       us. We made our comments from the floor with the         21       MR BUDLENDER SC: Multiput the truth and the only       21       That's correct, and       23       of the assistant, into that position. I was not involved         24       that's my aim. Sir, that I give the truth and the only       25       actually all contributed where we actually listened, but as         29       Potchefstroom for the SAPS meeting at which the avents at       2       The said yesterday, mostly what I contributed at was about         20       Potchefstroom for the SAPS meeting at which the avents at       5       Marikana were analysed and discussed?         3       Marikana were analysed and discussed?       4       Policing side with the terminology: the terms and everything. That's         3       Marikana were analysed and d	12	be a bit more. Brigadier, you've been giving evidence as	12	consolidated information.
15       BRIG MKHWANZI:       Yes, my understanding,         16       Chairperson, is that it's to be able to indicate in some         17       areas where I can be able to indicate, I will be in that         18       position to do that.         19       MR BUDLENDER SC:       And you understand that         10       when an expert gives an opinion, he or she has to do so by         20       when an expert gives an opinion, he or she has to do so by         21       BRIG MKHWANZI:       That's correct, and         22       objective manner?         23       BRIG MKHWANZI:       That's correct, and         24       that's my aim, Sir, that I give the truth and the only       25         25       truth.       Page 3047         1       MR BUDLENDER SC:       You were at         26       Potchefstroom for the SAPS meeting at which the events at       2         27       Potchefstroom and what was there, my main task was on       6         28       RIG MKHWANZI:       Yes, I was at         30       Seven days.       1       Twe said yesterday, mostly what I contributed at was about         29       MR BUDLENDER SC:       The meeting lasted for       3         30       Gorders, to look at them and be able to assist in the	13	an expert, in order to express an expert opinion on whether	13	MR BUDLENDER SC: At the end of the
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7orders, to look at them and be able to assist in the a compilation for the submission for the Commission.7Approximately.8compilation for the submission for the Commission.8BRIG MKHWANAZI: Yes, I will be9MR BUDLENDER SC:The meeting lasted for9definitely making a mistake, Chairperson, if I say how many10seven days.10there were, but I would say almost all tactical commanders,11BRIG MKHWANAZI:I'm not in a position to11commanders, senior officers, were present in that meeting,12say yes or no because I only managed to be with the group12but with figures I will definitely not be sure.13for three days, Counsellor.13MR BUDLENDER SC:No, I understand you14MR BUDLENDER SC:During those three days14can't give a number, you were not asked to count them. But15each of the units reported on what it had done on the day15I'm asking you for an estimate. Is it more like 200, or16in question.16more like 50, or more like 100, or more like 200?17BRIG MKHWANAZI:Counsellor, it is1718correct. However, the groups were divided. People were1819divided into groups. They worked into groups, and our task1920was only to meet with them when they give the final20MR BUDLENDER SC:Thank you. Now in the21product.21MR BUDLENDER SC:And the reports they22three days that you were there did you here any one of22	5	Potchefstroom and what was there, my main task was on	5	MR BUDLENDER SC: About how many people
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22 MR BUDLENDER SC: And the reports they 22 those 80 people, approximately 80 people, express the view				-
24 BRIG MKHWANAZI: That's correct, 24 BRIG MKHWANAZI: No, Counsellor.				
24Division Microvalue1.110, counsellor.25Counsellor. It's the one, exhibit L.25MR BUDLENDER SC:Not one in three days,				

# Marikana Commission of Inquiry

1	Page 3052	1	Page 3054
1	after this event, suggested that things might have been	1	because when I came here, the main, sole purpose for me to
2	done differently?	2	come here was to talk about training, of which I prepared
3	BRIG MKHWANAZI: Not if I recall,	3	myself about training, but when I sat here, everything was
4	Counsellor.	4	changed now that I have to as well embark on this side of
5	MR BUDLENDER SC: Well, I have to put a	5	the operational side. Then I have to definitely try and
6	question to you, Brigadier, which is a serious question.	6	get myself acquainted so that I can give information if I
7	Was this a meeting aimed at analysing what went wrong at	7	have to give information.
8	the day, or aimed at touching together a version to put	8	MR BUDLENDER SC: Brigadier, the South
9	before the Commission?	9	African Police Service have a tremendously important and
		-	
10	BRIG MKHWANAZI: On my understanding,	10	difficult task to perform for all of us.
11	Counsellor, and with a letter which was sent to my	11	BRIG MKHWANAZI: That's correct,
12	province, the letter was stating that we will contribute on	12	Counsellor.
13	policies, contribute on national instructions, as well as	13	MR BUDLENDER SC: In order to be able to
14	standing orders. That's how my letter was and the	14	perform that task effectively, they need the trust and
15	explanation I received was only based on that, and on my	15	support of the public.
16	arrival as well that's all what actually we speak on. As	16	BRIG MKHWANAZI: That's correct, we
17	the groups were divided doing their tasks, coming back,	17	cannot achieve this work without the community.
18	giving us their product, we have to interact on that.	18	MR BUDLENDER SC: And I want to suggest
19	MR BUDLENDER SC: Let me put the question	19	to you that if something goes badly wrong, that trust and
20	differently. Was it a meeting which had as one of its	20	support will be promoted if the SAPS admitted frankly, and
21	goals to identify matters which had gone wrong on the day	21	say what they will do to make sure that it doesn't happen
22	in question?	22	again. Do you agree with that?
23	[09:50] BRIG MKHWANAZI: I would say no,	23	BRIG MKHWANAZI: I will agree with you,
24	Counsellor, because I think at that stage it was going to	24	and at the same time, after the truth has been unveiled
25	be wrong if we have a meeting that identifies mistakes,	25	properly and a recommendation is there, I think definitely
	fre and the	1.2	is I LAV.
	Page 3053		Page 3055
1	Page 3053 hence already the Commission has been appointed and the	1	Page 3055 it will actually promote trust between Police and
1	hence already the Commission has been appointed and the		it will actually promote trust between Police and
2	hence already the Commission has been appointed and the members who were dealing with them, these are the	R 2	it will actually promote trust between Police and community.
	hence already the Commission has been appointed and the members who were dealing with them, these are the commanders who were involved with an operation. That is my		it will actually promote trust between Police and community. MR BUDLENDER SC: And I want to suggest
2 3 4	hence already the Commission has been appointed and the members who were dealing with them, these are the commanders who were involved with an operation. That is my opinion, but as I have said, on my arrival I didn't pick up	2 3 4	it will actually promote trust between Police and community. MR BUDLENDER SC: And I want to suggest to you that that trust and support which the Police need,
2 3 4 5	hence already the Commission has been appointed and the members who were dealing with them, these are the commanders who were involved with an operation. That is my opinion, but as I have said, on my arrival I didn't pick up any position whereby we were supposed to close the gaps	2 3 4 5	it will actually promote trust between Police and community. MR BUDLENDER SC: And I want to suggest to you that that trust and support which the Police need, will be undermined if the Police doggedly insist that there
2 3 4 5 6	hence already the Commission has been appointed and the members who were dealing with them, these are the commanders who were involved with an operation. That is my opinion, but as I have said, on my arrival I didn't pick up any position whereby we were supposed to close the gaps except to address the issues as such.	2 3 4 5 6	it will actually promote trust between Police and community. MR BUDLENDER SC: And I want to suggest to you that that trust and support which the Police need, will be undermined if the Police doggedly insist that there was nothing wrong in an operation which resulted in 34
2 3 4 5	hence already the Commission has been appointed and the members who were dealing with them, these are the commanders who were involved with an operation. That is my opinion, but as I have said, on my arrival I didn't pick up any position whereby we were supposed to close the gaps except to address the issues as such. MR BUDLENDER SC: Brigadier, I also just	2 3 4 5	it will actually promote trust between Police and community. MR BUDLENDER SC: And I want to suggest to you that that trust and support which the Police need, will be undermined if the Police doggedly insist that there was nothing wrong in an operation which resulted in 34 people being killed. Do you agree with that?
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2 3 4 5 6 7	hence already the Commission has been appointed and the members who were dealing with them, these are the commanders who were involved with an operation. That is my opinion, but as I have said, on my arrival I didn't pick up any position whereby we were supposed to close the gaps except to address the issues as such. MR BUDLENDER SC: Brigadier, I also just	2 3 4 5 6 7	it will actually promote trust between Police and community. MR BUDLENDER SC: And I want to suggest to you that that trust and support which the Police need, will be undermined if the Police doggedly insist that there was nothing wrong in an operation which resulted in 34 people being killed. Do you agree with that?
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# Marikana Commission of Inquiry

Page 3056 1 BRIG MKHWANAZI: It's correct. As I 1 as well. So what the question b 2 indicated yesterday that we have all disciplined – deployed 2 was, was this part of the breach	
	Page 3058
2 indicated yesterday that we have all disciplined – deployed 2 was, was this part of the breach	y the counsellor yesterday
	ing identified, attack on
3 especially on spotting event. However, on issues we face 3 the police identified under the ri	sk analysis, and my
4 with Marikana, there was definitely a challenge that we 4 question was, it was not address	sed because if we check to
5 brought a lot of discipline. However, we need just to look 5 the risk analysis, the plan before	e me, it was not actually
6 at it as well to say when it come to that position, how are 6 identified.	
7 we going actually to deal with those issues of command and 7 MR BUDLENDER SC:	But you said you
8 control so that the vastness of the area, it need to be 8 thought there was a valid explanation of the second se	nation for this, namely that
9 coordinated properly; at the end of the day we are 9 they were, Police were anticipat	ing that the strikers would
10 successful.10 hand over their weapons on the	morning of the 16th of
11MR BUDLENDER SC:Secondly, there is a11August.	
12need to conduct research and find ways of obtaining less12BRIG MKHWANAZI:	You're correct,
13lethal options for dealing with public order operations.13Counsellor. It was my opinion t	hat maybe it may happen
14BRIG MKHWANAZI:That's correct.14that the planners, they relied to	the information received
15MR BUDLENDER SC:And thirdly, the15that the following day the weap	on will be laid down and if
16 members who were present on that day should've been issued 16 they will be laid down completel	y it shows that there's a
17 with gas masks.17 sign of peace, of which it never	happened on the day. But
18 BRIG MKHWANAZI: Yes, that's correct. I 18 my answer, it cannot be exactly	correct, but it's my
19mentioned that, Counsellor, especially as a witness to the19opinion, I'm thinking of that.	
20 side of the Police especially if a member will indicate20MR BUDLENDER SC:	Brigadier, your answer
21 that he's feeling something is contaminated, then that need 21 can't simply not be possibly not	<ul> <li>I can't remember the</li> </ul>
22 to be addressed, hence some of the members are not issued 22 phrase you used. I put it to you	ı, your answer can't
23 with gas masks because they don't work with public order 23 possibly be correct, the explanation	tion you give, and let me
24 policing. 24 tell you why. The first reason is	that Colonel Scott's
25MR BUDLENDER SC:Now the failure to25plan was drawn on the 14th of A	August before the alleged
Dening house that of the house	
Page 3057	Page 3059
1 issue some members with the gas masks is an error or 1 undertaking to surrender weapon	S ON THE LETH OF AUGUSE SO
2 mintake which you the identified which happened on the	-
2 mistake, which you've identified, which happened on the concern and a concern which that risk warms the process which that risk warms the process which th	on the 16th can't be the
3 day. 3 reason why that risk wasn't ment	on the 16th can't be the ioned. Or rather, sorry,
3 day.3 reason why that risk wasn't ment4BRIG MKHWANAZI:It's a shortcoming, I4 let me put it differently. The expension	on the 16th can't be the ioned. Or rather, sorry, ectation that weapons
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## Marikana Commission of Inquiry

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	Page 3060		Page 3062
1	MR BUDLENDER SC: That relates to Colonel	1	incorporate this problem in the, to incorporate a risk
2	Scott's plan, but I want to put it to you that there's also	2	analysis based on a possible attack on the Police had
3	the operational plan which is part of SS3. Do you have	3	originally be occasioned by the alleged undertaking to hand
4	exhibit SS3?	4	the weapons down, the plan would've required revision and
5	BRIG MKHWANAZI: Yes, I've got it, Sir.	5	the incorporation of the risks flowing from the fact that
6	MR BUDLENDER SC: If you will go to the	6	the weapons had not been handed over. Would you agree with
7	third page of that bundle –	7	that?
8	BRIG MKHWANAZI: The date marked 8/08/13,	8	[10:10] BRIG MKHWANAZI: Chairperson, normally
9	that's correct, Sir.	9	what can happen is that if the information is received
10	MR BUDLENDER SC: That is the operational	10	through intelligence that says weapon won't be actually
11	plan compiled with effect from the 13th of August 2012.	11	laid down by the participants, normally there will be,
12	BRIG MKHWANAZI: That is the 13th, that	12	actually it will be normally be documented and maybe that
13	was the date it was compiled.	13	document will be available as an annexure to the plan as
14	MR BUDLENDER SC: And then if you'll go	14	well, if possible, but if I indicate that without having it
15	to the next page, under paragraph 1.3 you'll see under risk	15	been included, it's just my opinion, Chairperson, to say
16	analysis, various risks are identified.	16	maybe it was an agreement, but I still maintain the point
17	BRIG MKHWANAZI: That's correct.	17	to say if the information is through maybe intelligence,
18	MR BUDLENDER SC: And as you pointed out	18	always it's on paper, it's written, and maybe it can come
19	yesterday, that risk does not include the risk of an attack	19	up as an annexure added to the plan itself, because to go
20	on the Police by the strikers.	20	back and write it again, it won't be, occur in that way.
21	BRIG MKHWANAZI: I agree, Sir.	21	CHAIRPERSON: My point is slightly
22	MR BUDLENDER SC: I want to suggest to	22	different. Whether or not a plan is based upon written
23	you, and I'm going to try to show you this a bit later	23	intelligence, if it becomes clear before the plan is put
24	today, that that was an accurate risk analysis. On 13th of	24	into operation that one of the assumptions on which the
25	August there was no risk of an attack on the Police, and	25	plan is based is incorrect, then doesn't the plan require
	As I and a	~~~	· · · · · · · · · · · · · · · · · · ·
1	Page 3061 what created the risk was the implementation of Colonel	1	Page 3063 reconsideration and possible amendment to cater for a risk
2	Scott's plan. There are a lot of conclusions in that, $E = F = 0$	R2.	which has now appeared to be one that has to be dealt with?
3	Brigadier. It's not fair to ask you to answer yes or no.	3	BRIG MKHWANAZI: Chairperson, it is
4	I'll try to show you in due course why I say that. Can we	4	correct. From the beginning I indicated the influence of
5	then move on to Standing Order 262, which I think is also -	5	factors when you plan the operation, whereby actually the
6	CHAIRPERSON: Are you moving away from	6	whole thing comes by the information that comes
7	the risk analysis, or the lack of a risk analysis?	7	continuously from Intelligence and it can come from
8	MR BUDLENDER SC: Yes, I am, Chairman.	8	different people on the meeting, or whatever position.
9	CHAIRPERSON: I'd like to ask a question	9	Obviously there will be changes to ensure that there's some
10	about that. You said yesterday and today that you - I'm	10	of sort of plan how to deal with that type of situation.
11	not quite sure whether this was what you understood from	11	But I won't have a proper position to say what happened on
12	other people or whether this was just your own theory, but	12	the day, why it was incorporated and how they plan to deal
13	you explained the lack of a risk analysis in Colonel	13	with it, but as I mentioned from the beginning,
14	Scott's plan on the basis that there had been an	14	Chairperson, I mentioned my opinion, of which they may have
15	undertaking to lay down weapons at 9 o'clock on the 16th	15	a different answer on that position.
16	and therefore there was no risk of any attack by the	16	MS HEMRAJ SC: Brigadier, if a plan is
17	strikers directed against the Police. But Mr Budlender put	17	made and intelligence comes in which affects the execution
18	to you that doesn't work because Colonel Scott's plan had	18	of that plan in an effective way, surely that plan is then
19	been compiled before there was a suggestion of an alleged	19	subject to being amended, edited, revised?
20	undertaking to lay down the weapons. But I've got a	20	BRIG MKHWANAZI: Chairperson, as I
21	further problem I want to put to you, and that is that by	21	indicated yesterday that before the plan can be compiled,
22	the time the plan was activated, was put into operation, it	22	especially in a march or a gathering of this nature there
23	was known that the weapons hadn't been handed over and	23	must be a meeting that takes place. Within that meeting at
24	weren't going to be. So if the failure - and I use the	24	least there must be information that comes out there how
25	word "failure" with its full meaning - if the failure to	25	the gathering will be held, how the march will be held, if

Page 306         Page 306           1 It is a march, and there must be conditions. All Intell 1 origometric comes from the position, and Intelligence will 2 embarks avecl, coming through with information 3 embarks avecl, coming through with information 1 faste place, and all that. Then the plan will be compiled.         1 movored using water comon the protectors, and information 2 embarks avecl, coming through this information 1 faste place, and all that. Then the plan will be compiled.         2 movored using water comon the protectors, and its marks and 2 what is then said, and then number of DP in the degression line than 3 escend line of armed members of DP in the degression line than 3 escend line of armed members of DP in the degression line than 3 escend line of armed members of the Tartical Response Team, 3 escend line of armed members of the Tartical Response Team, 3 escend line of armed members of the Tartical Response Team, 3 escend line of armed members of the Tartical Response Team, 3 escend line of armed members of the Tartical Response Team, 3 escend line of armed members of the Tartical Response Team, 3 escend line of armed members of the Tartical Response Team, 3 more radius, and they attacked the members of the Tartical Response Team, 3 more radius and they attacked the members of the Tartical Response Team. 3 more radius and they attacked the members of the Tartical Response Team. 3 more radius and they attacked the members of the Tartical Response Team. 3 more radius and they attacked the members of the Tartical Response Team. 3 more radius and they attacked the members of the Tartical Response Team. 3 more radius and they attacked the members of the Tartical Response Team. 3 more radius and the second line of members of the Tartical Response Team. 3 more radius and the second line of tartical tartical response would be from the second line of members of the Tartical Response Team. 3 more radius and the tartical tart				
2         information comes from the position, and intelligence will         2         insome water canno on the protesters, administering           3         intrak as well, coming through with information, indicating         3         istages to thom, and following up with stun grandso, and           4         what is the said, and then furthermore rubber rounds as         what is then said, and then furthermore rubber rounds as           5         take place, and all that. Then the plan will be compiled.         5         well, and then on side 80 is said. "Should the poperationalised and           6         been compiled and it's ready to be operationalised and         7         second line of armed members of the Then the all personse Team.           7         worthing, dowlogity twill come as an annoxure. If it is         10         wether and hend one proportionaliely to address the throat."           11         position. During both we done if they received that         12         disprose the protesters, and if that iddn't words appears           12         say what they could have done if they received that         13         werent dispersed and they stacked the members of the Policie.           13         information, but what i could have done myself is that if 1         13         werent dispersed and they stacked the members of the Policie.           14         receive in owning.         well additivity have to be         14           15         and wilb	1		1	
3         embark as well, coming through with information, indicating         3         tacagas to them, and following up with sturg reactors, and           4         what they pick up in the situation where the march will         4         what is three said, and then furthermore rubber roands as           6         However, it's a little bit difficult after the plan has         5         well, and then oilde 80 it said. Should the protesters           7         been complied.         5         second like oild and it's require to say how to deal with that           10         orshife, bowerd, sith with a colid have done if they received that         2         second like oild and it's require the marks. and rubber rounds, so           12         say what they could have done if they received that         1         comparison, but what I could have done if they received that           14         receive it on writing, will be annexure that talks to that         1         adm will be annexure that talks to that           16         bocause it comes, we need to receive information         1         to what appears indice and and an existing about           17         continuously, We plan, It desamt mean it will be just         is what way to say how were againg to deal with that           18         taddiffied on the report, the compares on oild.         MR BUDENDERS Sc.         The with sages and an existing about           19         texisting about				
4       what is then said, and then furthermore rubber rounds as         5       take place, and all that. Then the plan will be complied.         6       Howver, II so that is that if and its ready to be operationalised and         7       become complied and it's ready to be operationalised and         8       something comes up. That's why I'm saying if it is on         9       what is then said, and then furthermore rubber rounds as         10       wrbit is then said, and then furthermore rubber rounds as         11       position.       the away to say how to deal with that         12       say what hey could have done if they received that       cannot reargs, sun grendes, and rubber rounds, to         13       information, but what I could have done myself is that if 1       receive in owniting, will be annown: that lask to that         16       because it comes, we need to receive information       readed by the NILL MARK and they could have a done myself is that if 1         16       because it comes, we need to receive information       readed with a way is usaliation that comes out.         17       continuously. We plan. It doesn't mean it will be just         18       like that. It will change. We will definitely have to be         19       feb that.       market and anne.         20       continuously. We plan. It doesn't mean it will be just         18				
5         take place, and all that. Then the plan will be compiled.         5         well, and then on side 80 it side. "Showing the protesters of POP in the disputsion line then           6         However, It's a little bit difficult after the plan has         5         well, and then on side 80 it side. "Showing then then           8         something comes up. That's why I'm saying if It is on         9         second meson and the some some some and the some some some some some some some som				
6       However, it's a little bit difficult after the plan has       6       attack the members of POP in the dispersion line then         7       been compiled and it's ready to be operationalised and       6       attack the members of POP in the dispersion line then         9       writing, obviously it will come as an annexure. If it is       backed by the NU and STE and following behind the POP         10       verbal there must be a way to say how to deal with that       10       backed by the NU and STE and following behind the POP         11       position. On my position it's a little bit difficult to       11       canon, teargas, stun grenades, and rubber rounds, to         12       say what they could have done if they received that       12       depress the protesters, and if that difficult accomes to the POP.         14       tearbox to comes, we need to receive information       14       then the response would be from the second line of armed         15       add will be a way to say how we're going to deal with nean       14       then the response would be from the second line of armed         16       tarkit the members of POP.       the NB NULL STE and attacked the members of the Tactical Response Team. So it does appear         17       to wait appears in sides 79 and 80, or am 1 not following       the then the report, the contingency plan of the         18       the that. It will change.       the sit on way to and in antack on the Police.				
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# Marikana Commission of Inquiry

	D	1	Da
1	Page 3068 BRIG MKHWANAZI: Correct.	1	Page 3070 violence.
2	MR BUDLENDER SC: On the next page, step	2	BRIG MKHWANAZI: That information I got
3	5 identifies information which must be collected.	3	it, Sir.
4	BRIG MKHWANAZI: Which paragraph is that,	4	MR BUDLENDER SC: That's consistent with
5	Counsellor?	5	what you've been told.
6	MR BUDLENDER SC: It's step 5 under	6	BRIG MKHWANAZI: That's information I got
7	paragraph 9, sub 2 –	7	it, Sir, that there were, actually there was that gap.
8	BRIG MKHWANAZI: Ja, I see it now, thank	8	However, there were lot of activities that were taking
9	you.	9	place which were not violently at all, yes.
10	MR BUDLENDER SC: And if we look at that	10	MR BUDLENDER SC: So at the time when the
11	we see that it's anticipated that in this ACCU controlled	11	operation was, or at the time when stage 3 was initiated
12	operation under 5, sub 2, there might be an outbreak of	12	just before 4 o'clock, there had been no violence for 48
13	violence and under 5, sub 4, there might be firearms held	13	hours.
14	presumably by the participants.	14	BRIG MKHWANAZI: That's how I got
15	BRIG MKHWANAZI: Correct, Sir.	15	information up to so far, Sir.
16	MR BUDLENDER SC: So from this we can	16	MR BUDLENDER SC: The barbed wire was
17	conclude that POPs, or the ACCU may have operational	17	then rolled out. Within 30 minutes 34 people had been
18	control where violence is likely and where the participants	18	killed and more than 70 had been injured. Is that correct?
19	have firearms?	19	BRIG MKHWANAZI: I do get the position,
20	BRIG MKHWANAZI: It is correct, Sir.	20	Sir, that 34 people were actually killed. However, I'm not
21	However, we need to ensure what type of firearm are they	21	certain with the comment to say the barbed wire was
22	having in their possession, and the danger is poses to the	22	deployed, then 34 were killed. I'm not sure the - maybe
23	members of SAPS during the operation, or the other members	23	you can clarify it better.
24	of the community. Then thereafter we have to see is it	24	CHAIRPERSON: Yes, Mr Semenya?
25	going to be sufficient only for Public Order Policing to	25	MR SEMENYA SC: Chairperson, I don't know
	Page 3069		
1 2	handle that situation. If not, we can have to look to others as well.	1 R 2	Page 3071 whether my understanding of the evidence is correct. The victim with a skull on the chest would have been the
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	Page 3072		Page 3074
1	that people doesn't go through. That is information I	1	BRIG MKHWANAZI: It's possible.
2	received –	2	MR BUDLENDER SC: I put it to you that
3	MR BUDLENDER SC: - experienced – and	3	it's also common sense that if the strikers had firearms,
4	tell me whether I'm right – in a large demonstration the	4	they would be more likely to keep them on the koppie at
5	people who were involved ran – from the very deeply	5	night where they were safe than to carry them home through
6	committed, to the middle group, to people who are really	6	the streets.
7	just hangers-on – we'll come to the extent necessary to how	7	BRIG MKHWANAZI: I'm not sure,
8	it happened – the shootings took place, although you have	8	Counsellor, on that, where the safeness of the weapon will
9	no first-hand knowledge of that and so it may not be	9	be, I'm not sure. I'll hear it from you.
10	appropriate to ask you much about it, but all I –	10	MR BUDLENDER SC: Well, if you have
11	BRIG MKHWANAZI: That's correct, I agree	11	weapons which are at risk of – which you fear might be
12	with you.	12	confiscated, you're not likely to walk through the streets
13	MR BUDLENDER SC: We must have been at	13	with them.
14	the same demonstration, Brigadier. Secondly, there is	14	BRIG MKHWANAZI: Counsellor, in my
15	usually a relatively small core of deeply committed	15	experience as a police official, from constable until now,
16	participants. All I'm putting to you is that –	16	I have many incidents in the street. I've arrested
17	BRIG MKHWANAZI: My knowledge,	17	somebody in possession of a firearm, unlicensed, used for
18	Counsellor, especially with – the crowd dynamics is that	18	other criminal activities right in the street, not inside
19	normally people or individuals, they get absorbed into a	19	the house only.
20	crowd and at the same time they fall into the same identity	20	MR BUDLENDER SC: I think I'm not putting
21	– of the crowd.	21	my question clearly, Brigadier. Let me put it this way.
22	MR BUDLENDER SC: - cause that the	22	Let's assume you and I are members of a group on a koppie
23	shootings happened – and after – yes, I understand that,	23	and we have weapons and we are concerned that the Police
24	but there is usually a relatively – core of deeply	24	might try to take them off us. Night time arrives, most of
25	committed people who are the leaders of the demonstration -	25	the people go home through the streets. Some of us stay on
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	Page 3073		Page 3075
1	wire was rolled out.	1	the koppie overnight. It would be more sensible for us to
1 2	wire was rolled out.     BRIG MKHWANAZI:     I agree: C HIVE FO	1 R2	the koppie overnight. It would be more sensible for us to keep those weapons with us on the koppie than to put them
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## Marikana Commission of Inquiry

1	Page 3076	1	Page 3078
1	in the gathering during the day. BRIG MKHWANAZI: Counsellor, I will say	1 2	police training manual which we've been given, actually deals with how to carry out operations at night.
2		2	BRIG MKHWANAZI: That's correct.
3 4	yes, arresting the group leaders will actually calm the situation, but sometimes it doesn't work that way. The	3 4	MR BUDLENDER SC: Now in fact, General,
5	constituencies will always definitely try and fight very	5	Brigadier, sorry, I'm promoting you prematurely. In fact
6	harder after their leaders have been arrested. That's	6	this option was apparently considered. Would you go to
7	always, it does happen.	7	L63. Let's just – sorry, have you got that?
8	MR BUDLENDER SC: And if you moved at	, 8	BRIG MKHWANAZI: Not yet.
9	night on the core group on the koppie, you would stand a	9	MR BUDLENDER SC: It say –
10	good chance, or at least a reasonable chance of	10	BRIG MKHWANAZI: I'm getting there now.
11	confiscating some or all of the firearms.	11	MR BUDLENDER SC: The page is headed JOC
12	BRIG MKHWANAZI: With the proper plan,	12	briefing and then there's a box headed with a sub-heading
13	proper information, Counsellor, yes it's possible.	13	report in it. Do you have it?
14	MR BUDLENDER SC: So this option of	14	BRIG MKHWANAZI: Yes, I've got it.
15	moving at night on the small group who remained there, is	15	MR BUDLENDER SC: Right, now if we can
16	an alternative which should've been considered.	16	identify at first, you will see on the right hand side at
17	BRIG MKHWANAZI: If it's true really that	17	the top, there is the calendar for August which shows that
18	they were there and the information is there, Counsellor,	18	this relates to the 14th of August 2012. Can you see that?
19	that will work very well.	19	BRIG MKHWANAZI: That is correct.
20	MR BUDLENDER SC: Chair, would this be a	20	MR BUDLENDER SC: Now there's an item
21	convenient time for the tea adjournment?	21	report and then let's come to operational deployments, do
22	CHAIRPERSON: We'll take the tea	22	you see that? The second sub-heading in the first box.
23	adjournment. I just want to remind everyone that the lunch	23	BRIG MKHWANAZI: Yes, I see that
24	adjournment will be shorter today than usual because it's	24	operational deployment, the one on top.
25	Friday. We will resume at about 13:30 and we will then	25	MR BUDLENDER SC: Alright and what says
	As and a	2	15 / Cit fu
	I have been been been been been been been be		
	Page 3077		Page 30/9
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	Page 3080		Page 3082
1	later by the 16th of August these reasons which were given	1	result is that the crowd becomes smaller and easier to
2	for not following this strategy had fallen away. Forces	2	manage.
3	called up from distance locations had arrived by then.	3	BRIG MKHWANAZI: That's correct, the main
4	Those who were there had been oriented to the mission area,	4	purpose is to have people voluntarily leaving that
5	correct?	5	position. At the same time you can be able to actually
6	BRIG MKHWANAZI: That's correct.	6	deal with the situation that is before you if it come to
7	MR BUDLENDER SC: So the reason for not	7	that need.
8	doing this on the 14th no longer existed on the 16th.	8	MR BUDLENDER SC: Now we've been talking
9	BRIG MKHWANAZI: That's correct.	9	about alternatives to the - which could've and should've
10	However, I'm not sure, Counsellor, why after they took a	10	been considered. Now if you thought the weapons were being
11	decision they never go back and revisit and see what they	11	kept by the people who slept in the hostel, one way of
12	can do. I'm not sure in that position.	12	confiscating the weapons would be to cordon the hostels and
13	MR BUDLENDER SC: That's a very good	13	not let people out until they had been searched for
14	question. Yes, now, Brigadier, on the face of it, if you	14	weapons. That would be a possibility.
15	wanted to – on the face of it, it would be a lower risk	15	BRIG MKHWANAZI: Normally, Counsellor, if
16	strategy to confront 50 people by surprise at night than 3	16	you work with hostels you need to have a proper information
17	500 people in daylight who can see it coming.	17	intelligence wise that must come through. At the same time
18	BRIG MKHWANAZI: You're correct,	18	we need to take the - look to the situation especially with
19	Counsellor, however maybe can I point something, especially	19	the terrain, the number of rooms that are available as well
20	if you deal with the spectators or – sorry with the	20	to plan properly so that if you cordon, you can be able to
21	participants during the day at that type of a – at that	21	deal with the situation. If it's well planned and you got
22	figure, the only way is to follow the procedures, giving	22	information properly because what is important is to know
23	warning, let the people move first on their own. There are	23	exactly where the firearms are kept then you can be in a
24	those who will voluntarily disperse and go back home which	24	position to deal with the situation property but if it's
25	will actually maybe allow you to have a better number to	25	not that position, always this challenging because if you
	Ats / and re	10	T / wt w
1	Page 3081 contain. That's the only part maybe you can sometime	1	Page 3083 talk about the hostel, it can be having a lot of rooms and
1 2	Page 3081 contain. That's the only part maybe you can sometime utilise as well, depending to the situation on a day as	1 R 2	Page 3083 talk about the hostel, it can be having a lot of rooms and
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2	contain. That's the only part maybe you can sometime utilise as well, depending to the situation on a day as	R2	Page 3083 talk about the hostel, it can be having a lot of rooms and it can be really an operation that will give a lot of
2 3	contain. That's the only part maybe you can sometime utilise as well, depending to the situation on a day as well.	2 3	Page 3083 talk about the hostel, it can be having a lot of rooms and it can be really an operation that will give a lot of challenge if you don't have information.
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	Page 3084		Page 3086
1	stabilise the area, is that correct?	1	my point in making is I'm actually dealing with the
2	BRIG MKHWANAZI: That's correct, Sir.	2	position whereby we talk of gathering procedures that we
3	MR BUDLENDER SC: That would be a good	3	need to follow. If everything was followed properly, I
4	thing to do.	4	don't think it was going to be a problem even to go to that
5	BRIG MKHWANAZI: That's correct.	5	position to say let's search them before they reach the
6	MR BUDLENDER SC: And in fact the police	6	koppie because obviously the marshals will do that type of
7	planned to do that. Are you aware of that?	7	a job and police will only have to assist that's all, to
8	BRIG MKHWANAZI: Definitely it is one of	8	make sure such things doesn't happen.
9	the stages.	9	MR BUDLENDER SC: Brigadier, we know that
10	MR BUDLENDER SC: Wouldn't it – well	10	this was a gathering which was not – which did not follow
11	let's go to slide L82. This is also part of Colonel	11	the procedures and the Regulation of Gatherings Act. So
12	Scott's plan of the 14th of August, is that correct?	12	that doesn't help us very much, does it?
13	BRIG MKHWANAZI: Correct.	13	[11:41] BRIG MKHWANAZI: I do agree.
14	MR BUDLENDER SC: And you'll see that	14	MR BUDLENDER SC: So all I'm putting to
15	under stage 6 he says this is now going to come at the end	15	you is that one of the alternative strategies if you wanted
16	of his process. In order to complete the disarming process	16	to stop people coming to the koppie armed, was to deploy a
17	in the Marikana area, the Karee and Wonderkop hostels will	17	filtering police line to search those who were approaching
18	have cordon and search operations executed to remove any	18	or who were moving along approach routes.
19	further dangerous weapons in order to stabilise the area.	19	BRIG MKHWANAZI: Counsellor, I do agree.
20	So that was part of the plan.	20	Not to make a problem to your question, if we check back on
21	BRIG MKHWANAZI: I do agree.	21	the 13th, that was tried already by General Mpembe and
22	MR BUDLENDER SC: Can you think of any	22	definitely it had a difficult of a result.
23	good reason why that shouldn't have been done before the	23	MR BUDLENDER SC: No, Brigadier, I don't
24	crowd of 3 500 were confronted on the koppie?	24	think that's at all what General Mpembe attempted. General
25	BRIG MKHWANAZI: As I have indicated,	25	Mpembe didn't have a pre-planned and pre-organised
	As and to	12	is / style
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	Page 3085	•	Page 3087
1	Counsellor, from the beginning, I'm not sure how actually	1	filtering police line. He came across a group of people
2	Counsellor, from the beginning, I'm not sure how actually they never revisited the strategy. Remember the strategy	R 2	filtering police line. He came across a group of people who were marching and he dealt with the situation ad hoc as
	Counsellor, from the beginning, I'm not sure how actually they never revisited the strategy. Remember the strategy was to engage on it, but with the shortage and those	2 3	filtering police line. He came across a group of people who were marching and he dealt with the situation ad hoc as it arose.
2 3 4	Counsellor, from the beginning, I'm not sure how actually they never revisited the strategy. Remember the strategy was to engage on it, but with the shortage and those members who are present as well not yet orientated, they	2 3 4	filtering police line. He came across a group of people who were marching and he dealt with the situation ad hoc as it arose. BRIG MKHWANAZI: That's correct,
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	Page 3088		Page 3090
1	BRIG MKHWANAZI: My point in checking	1	MR BUDLENDER SC: I understand that.
2	there was that we need to check when do we do it, because	2	They are the people on the ground; they know what is going
3	if we do it during the day it may sometimes cause problem,	3	on, and they are best placed to make the decision.
4	hence they are already armed.	4	BRIG MKHWANAZI: It depends, Counsellor,
5	MR BUDLENDER SC: Yes, the sensible time	5	where the overall commander is at that stage. He may
6	to do it would be when they came out in the morning.	6	sometimes be in a JOC, or maybe he can be somewhere, but
7	BRIG MKHWANAZI: If the information is	7	these are two people who must make decisions.
8	well, given plan is in place properly, I will agree with	8	MR BUDLENDER SC: And it's a decision
9	you, Counsellor.	9	which must be taken at the time in question just before you
10	MR BUDLENDER SC: We've agreed that the	10	implement, in the light of all the circumstances which then
11	further option was a cordon and search of the hostels	11	prevail.
12	before confronting the people on the koppie.	12	BRIG MKHWANAZI: It will depend, because
13	BRIG MKHWANAZI: Yes, Counsellor, I'm in	13	all decision must be made based on the operational plan
14	agreement. The only thing I'm saying is that proper	14	that is in place, unless if it is a new information that
15	information must be, actually be obtained. Hence the	15	comes up, then that decision will be taken right at that
16	hostel got lots of rooms, know exactly where the weapons	16	point and say what has to be done to deal with that
17	are, then you have a proper plan and you'd be able to	17	situation. But if it is on the plan, the only thing is to
18	search without any problem and be able to disarm whoever is	18	say when are we activating, or should we activate paragraph
19	having anything in his possession at that stage.	19	so-and-so and do what we're supposed to do.
20	MR BUDLENDER SC: And we've agreed that a	20	MR BUDLENDER SC: It would be wrong – let
21	further option would be to deploy a filtering police line	21	me put it differently. It would be wrong to make the
22	to stop people reaching the koppie with weapons.	22	decision the day before to say we're going to implement
23	BRIG MKHWANAZI: My point, Counsellor,	23	this strategy, regardless of what the circumstances are
24	was that if this was done in a proper way, notice given,	24	tomorrow?
25	condition put in place, as well as marshals in place as the	25	BRIG MKHWANAZI: Counsellor, right from
		100	
	As any a		
	Page 3089		Page 3091
1	people are moving to the koppie, the job for the Police was	1	Page 3091 the beginning I said always there will be influencing
2	people are moving to the koppie, the job for the Police was going to be too little because they were going to manage	R 2	Page 3091 the beginning I said always there will be influencing factors that come during the operation. You have the plan,
	people are moving to the koppie, the job for the Police was going to be too little because they were going to manage themselves and Police were going to assist where it is	2 3	Page 3091 the beginning I said always there will be influencing factors that come during the operation. You have the plan, but it's not Alpha and Omega. There will be some changes
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## Marikana Commission of Inquiry

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1	Page 3092		Page 3094
1	anticipated situation. However, during the day of the	1	information it's through from the side of the Police with
2	situation something happened; decision need to be taken	2	our own chain of command, how we have to do the job. But
3 4	now, and definitely the operational commander together with	3 4	on political side to say now do the following, it has never
4 5	an overall commander, they will take a decision to say let's activate this type of a plan and address the	4 5	happened to my side. MR BUDLENDER SC: Yes, and if it were to
6	situation. I agree with you.	5 6	happen it would be a bad thing?
7	MR BUDLENDER SC: Yes, I understand that.	7	BRIG MKHWANAZI: Ja, for me it would be
8	You have an operational plan, but of course you don't	8	for the first time, Sir.
0 9	implement it blindly. You look at the situation on the	9	MR BUDLENDER SC: And you would consider
9 10	ground at the time before you decide to implement.	10	it to be a bad thing? That's why it's never happened
11	BRIG MKHWANAZI: That's correct,	11	before.
12	depending to what issues that are transpiring during the	12	CHAIRPERSON: In the witness's
13	course of the event.	13	experience?
14	MR BUDLENDER SC: Yes, exactly. Now	14	MR BUDLENDER SC: In the witness's
15	these are difficult decisions which the operational	15	experience, yes.
16	commander and the overall commander have to make.	16	BRIG MKHWANAZI: Ja, on my opinion really
17	BRIG MKHWANAZI: I will agree and say	17	it would be a first time to have political role players
18	again that it depends what type of a situation actually	18	coming in and give instructions to Police how to police a
19	that they are coming across then, but yes, decision needs	19	situation. That would be a new thing. The only thing,
20	to be taken.	20	Counsellor, that can be done if we talk about the situation
21	MR BUDLENDER SC: My point is that these	21	of Marikana, we can look of the influential figures in
22	are difficult decisions and they should be taken by	22	politic who can come in and talk to the people maybe to
23	somebody with good operational experience.	23	assist, to make sure things can be actually peacefully
24	BRIG MKHWANAZI: Correct.	24	resolved. That can be done, but not to say how the Police
25	MR BUDLENDER SC: And if someone other	25	or the police functions must be executed on that particular
	Are I and Re	14	ie II:HV.
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	Page 3093		Page 3095
1	Page 3093 than the operational commander and the overall commander	1	Page 3095
1 2		1	day. [12:01] MR BUDLENDER SC: Brigadier, I want to be
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	Page 3096		Page 3098
1	because nobody maybe was aware that it will happen and what	1	you, Chair. Now, Brigadier, to move to a new point, you
2	decision, what steps to be followed to deal with that	2	made reference in your evidence-in-chief to the Goldstone
3	particular problem.	3	Commission. Do you remember that?
4	CHAIRPERSON: The reason I ask the	4	CHAIRPERSON: Correct, Sir.
5	question is, what interests me is was it considered	5	MR BUDLENDER SC: That was the commission
6	necessary for the operational plan to be put into operation	6	of inquiry regarding the prevention of public violence and
7	on that Thursday. In other words was it also possible that	7	intimidation.
8	the matter could be held over till the next day, till the	8	BRIG MKHWANAZI: Correct, Sir.
9	Friday when something could have happened overnight, as Mr	9	MR BUDLENDER SC: And are you aware that
10	Budlender has suggested. Now you've agreed, if I	10	the commission put together a panel of experts to give it
11	understood you. In other words, as you see it on the facts	11	advice regarding a new system of legal control of
12	that have been put before you, was there any compelling	12	demonstrations in South Africa?
13	operational necessity for the plan to be put into operation	13	BRIG MKHWANAZI: That's correct, Sir.
14	on Thursday the 16th?	14	However, I never have an opportunity to read the report,
15	BRIG MKHWANAZI: The only information,	15	Sir.
16	Chairperson, I received was that for the plan to be delayed	16	CHAIRPERSON: You might find it helpful
17	was due to the fact that there was an agreement that the	17	in your work if you do so. It's a comprehensive report,
18	arms will be laid down, and that's the information I got.	18	compiled by an international panel, who actually rafted the
19	If you look to that position, if the arms were laid down,	19	Regulation of Gatherings Bill –
20	it means everything is peacefully, wasn't going to be any	20	BRIG MKHWANAZI: Yes.
21	problem that comes out. That's the only information I got.	21	CHAIRPERSON: - which was adopted by
22	I don't have another reason around that.	22	parliament.
23	CHAIRPERSON: Apparently it must have	23	BRIG MKHWANAZI: That's correct, Sir.
24	become clear in the course of the morning that if there was	24	CHAIRPERSON: It was chaired, I met the
25	such an agreement, as you will have heard there's debate	25	people concerned at the time in 1993, but the chairman was
		ñ	m lo have
1	Page 3097 about that, but if there was such an agreement it wasn't	1	Page 3099 an eminent Professor of Law from Harvard, who was very
2	being adhered to. The weapons were not being laid down and	2	largely responsible for a good deal of the thinking that
3	the strikers were not prepared, despite pleas to them from	3	went into the bill and now the act, and it's all explained
4	Mr Mathunjwa, to leave the koppie. That must have been	4	in the book which counsel has referred to.
5	apparent at least by the middle of the day, between say	5	BRIG MKHWANAZI: Okay, thanks.
6	noon and 2 o'clock. So the question that arises then is	6	CHAIRPERSON: I think we still don't have
7	was there any compelling necessity, given that situation,	7	an exhibit number, so we will ask Ms Pillay once again to
8	for the plan to be put into operation on that day?	8	assist us.
9	BRIG MKHWANAZI: I do understand,	9	MS PILLAY: Chair, it would be TT1.
10	Chairperson, your question very well. However, I won't be	10	CHAIRPERSON: Thank you.
11	able to have a proper answer to say why they decided to	11	MR BUDLENDER SC: Brigadier, you have in
12	proceed with the plan after they have learned that people	12	front of you a part of the, an extract from the report
13	are not prepared to lay down their arms. There maybe can	13	which was produced by that panel.
14	be lot of reasons around, of which maybe the people who	14	BRIG MKHWANAZI: Thank you.
15	were involved on the operation said they will be in a	15	MR BUDLENDER SC: Perhaps we can start by
16	position to indicate, really, I couldn't manage to get that	16	identifying who the members of the panel were to whom the
17	information exactly to say why immediately after they pick	17	Chair referred. If you'll go to the last page but two,
18	it up that people are not going to lay down the arms, why	18	it's called page 69, you'll see appendix A, you see that?
19	they decided to go and activate level 3. I'm not having	19	BRIG MKHWANAZI: I see it, Sir.
20	that information.	20	MR BUDLENDER SC: And we see who the
21	CHAIRPERSON: Thank you, Brigadier.	21	people were. There was Lee Brown, who was the Commissioner
22	Sorry, Mr Budlender. You wanted to move on to another	22	of Police of the City of New York, correct?
23	point now. I thought that point's physically in the	23	BRIG MKHWANAZI: Correct.
24	context of the subject which you'd just been dealing with.	24	MR BUDLENDER SC: And there was Prof Dr
25	MR BUDLENDER SC: Very much so. Thank	25	Fijnaut, F-I-J-N-A-U-T, who was a Professor of Criminology
1			

# Marikana Commission of Inquiry

Page 3100		Page 3102
and Criminal Law from Holland, and the book tells us that	1	operation, and it's said that he frequently lectures at the
he has written a great number of books, reports and	2	National Police Staff College in the United Kingdom.
articles in the field of policing, organised crime, general	3	BRIG MKHWANAZI: I see that.
criminology and comparative and international criminal law.	4	MR BUDLENDER SC: I'm sure you'll agree,
		Brigadier, that that's a group of very eminent people with
-		very great knowledge of policing, including public order
		policing, both in theory and in practice. Would you agree
· · · · · ·	-	with that?
		BRIG MKHWANAZI: I do.
		MR BUDLENDER SC: Incidentally, have you
-		heard before of Prof PAJ Waddington? Have you heard
		anything about him?
		BRIG MKHWANAZI: No, it's first time to
	-	hear, Sir.
		MR BUDLENDER SC: I'm told he's a former
		policeman; he's known as Tank Waddington. It may tell us
		something about him. Tank.
	_	BRIG MKHWANAZI: No, I haven't met him,
5		Sir.
		MR BUDLENDER SC: Now would you go to the
		page which is printed page 37? Do you see the sub-heading
		at the foot of page 37, "Command and control of police?"
	1 P*	BRIG MKHWANAZI: Correct.
DO TRACK	1 15	MR BUDLENDER SC: Now I would like to
MR BUDLENDER SC: Yes. Then we have Pro	25	read a passage to you from there, and you can follow it as
Page 3101		Page 3103
Philip Heymann, H-E-Y-M-A-N-N, who was an eminent professor	14	I go. Quote, "Each of the preceding scenarios presumes the
at Harvard, director at the Centre for Criminal Justice, v $\in$ F 0	R2 .	effective deployment of tactics within some clearly
and has held very many senior positions in the United	3	formulated strategy. It is of the utmost importance that
States government. See that? Then we have the late Adv	4	the policing of public order operations is characterised by
Louw, who was an advocate of the Supreme Court of South	5	thorough planning and preparation. Senior officers must
Africa. Then we have Dr Olivier, who was the head of	6	consider and make contingency plans for various scenarios,
Conflict Analysis at the Human Sciences Research Council.	7	from those thought to be highly probable, through to those
BRIG MKHWANAZI: Yes, Sir.	8	considered possible, however unlikely. Through these means
MR BUDLENDER SC: It tells us that he was	9	the police will avoid being surprised by unexpected events
engaged in extensive research on civil unrest and political	10	and thus retain maximum control over their own officers and
violence in South Africa. Then we have Prof Clifford	11	the events themselves." You see that?
	11 12	
violence in South Africa. Then we have Prof Clifford		the events themselves." You see that?
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	MR BUDLENDER SC: Yes. Then we have Prof Page 3101 Philip Heymann, H-E-Y-M-A-N-N, who was an eminent professor at Harvard, director at the Centre for Criminal Justice, and has held very many senior positions in the United States government. See that? Then we have the late Adv Louw, who was an advocate of the Supreme Court of South Africa. Then we have Dr Olivier, who was the head of Conflict Analysis at the Human Sciences Research Council.	BRIG MKHWANAZI:I see that, yes.6MR BUDLENDER SC:Perhaps to go back to7Mr Brown, we see that Mr Brown was the president of the8International Association of Police Chiefs. Then we have9Prof Don Foster. You see that?10BRIG MKHWANAZI:I see that, yes.MR BUDLENDER SC:He was a Professor ofPsychology at the University of Cape Town and he –13CHAIRPERSON:He still is.MR BUDLENDER SC:- still is, and he haspublished, or had published and has published in the area16of the psychology of crowds and crowd violence, and he had17acted as expert witness or consultant in 10 trials18involving collective violence. You see that?19BRIG MKHWANAZI:I see that.20MR BUDLENDER SC:Then we have Prof21Tertius Geldenhuys, who 1 think is now a general in the22South African Police Services.23BRIG MKHWANAZI:I know him, Sir.24MR BUDLENDER SC:Yes. Then we have Prof1at Harvard, director at the Centre for Criminal Justice,33States government. See that? Then we have the late Adv4Louw, who was an advocate of the Supreme Court of South4Africa. Then we have Dr Olivier, who was the head of6Conflict Analysis at the Human Sciences Research Council.7

## Marikana Commission of Inquiry

1	Page 3104	1	Page 3106 a contingency to if something happens, goes wrong.
1	you don't have an adequate plan. BRIG MKHWANAZI: Correct.	2	MR BUDLENDER SC: Yes, the plan was, the
2 3	BRIG MKHWANAZI: Correct. [12:21] MR BUDLENDER SC: Now let's look at the	3	contingency was that if things went wrong, the TRT, the
4	plan in this case. Would you go to L177? Do you have it?	4	NIU, and the SDF would come into play either from those
4 5	And we see there, that the plan was first to – we are now	4 5	already on the site, or from those at the forward holding
	talking about plan of stage 3, that's correct?	6	areas. Is that correct?
6		_	
7	BRIG MKHWANAZI: That is correct, yes.	7	BRIG MKHWANAZI: Yes, that's my
8	MR BUDLENDER SC: And the plan was to	8	understanding, they will be moving from the reserve
9	enclose the neutral area with barbed wire.	9	position in the holding area, and assist where there is a
10	CHAIRPERSON: There's an attempt being	10	problem, if something goes wrong.
11	made to show us slide 177, but we are in fact seeing slide	11	MR BUDLENDER SC: Now these are people
12		12	who use equipment which is not designed to be used for
13	MR BUDLENDER SC: Thank you, Chair. So	13	public order policing or crowd control, they carry sharp
14	the phase 1 was going to be enclose the neutral area with	14	weaponry.
15	barbed wire, that is correct?	15	BRIG MKHWANAZI: It is correct.
16	BRIG MKHWANAZI: Yes.	16	MR BUDLENDER SC: And give the nature of
17	MR BUDLENDER SC: Phase was going to be	17	the weaponry which they carry, we know that if they use it,
18	to form lines, I beg your pardon, form two lines of Public	18	there is a probability that people will be killed.
19	Order Police with Nyalas and water canons, and then the –	19	BRIG MKHWANAZI: Correct.
20	and with the TRT and the NIU and the SDFs behind them,	20	MR BUDLENDER SC: So what we have arrived
21	correct?	21	at, is the following, the only contingency plan in this
22	BRIG MKHWANAZI: Correct.	22	plan, was that if things didn't work out as intended, the
23	MR BUDLENDER SC: And then there was to	23	people with sharp ammunition would be brought into play and
24	be the use of force in a continuum, firstly the instruction		it was then likely that people would be killed.
25	to disperse, to which you have already referred us. That	25	BRIG MKHWANAZI: On my understanding,
	Daringhe house the		or to time
1	is correct? Page 3105	1	Page 3107
1 2	is correct?	1	Counsellor, from the reserve group which were placed on the
1 2 3	is correct?		Page 3107 Counsellor, from the reserve group which were placed on the holding areas, there was Public Order Policing members as
2	is correct? BRIG MKHWANAZI: MR BUDLENDER SC: And then the move to	R 2	Counsellor, from the reserve group which were placed on the
2 3	is correct? BRIG MKHWANAZI: MR BUDLENDER SC: Water canons, stun grenade and teargas, and rubber bullets.	2 3	Counsellor, from the reserve group which were placed on the holding areas, there was Public Order Policing members as well with them.
2 3 4	is correct? BRIG MKHWANAZI: MR BUDLENDER SC: And then the move to	2 3 4	Counsellor, from the reserve group which were placed on the holding areas, there was Public Order Policing members as well with them. MR BUDLENDER SC: That may be so but the contingency plan involved bringing in to play the TRT, the
2 3 4 5	is correct? BRIG MKHWANAZI: MR BUDLENDER SC: And then the move to water canons, stun grenade and teargas, and rubber bullets. The plan was that this would lead to dispersion of the people on the koppie and thereafter they would be circled	2 3 4 5	Counsellor, from the reserve group which were placed on the holding areas, there was Public Order Policing members as well with them. MR BUDLENDER SC: That may be so but the contingency plan involved bringing in to play the TRT, the NIU, and the SDF, if things went wrong.
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# Marikana Commission of Inquiry

		1	
1	Page 3108	1	Page 3110
1	Counsellor, normally briefing must be given thoroughly.	1	BRIG MKHWANAZI: It can be possible, Sir.
2	MR BUDLENDER SC: Thank you, Brigadier, I	2 3	MR BUDLENDER SC: Well, you wouldn't be surprised if that happened, would you? You wouldn't be
3 4	now want to move onto the looking at the plan itself to ask you some questions about the plan itself. I'll take you to	4	surprised if that happened, would you? You wouldn't be surprised if some people said to themselves, hang on,
4 5	specific pages, if I – where I get there, I won't have to	5	things are getting rough here now, the barbed wire is
6	do much of that, I don't think, but I think we know, I am	6	coming out, I am going home.
7	sure we have agreed, that the basic premise of the plan was	7	BRIG MKHWANAZI: As, Counsellor, you have
8	that while the razor wire was being rolled out, the	8	said that some of them may happen that they never knew what
9	strikers would remain on the koppie.	9	was happening, it's normal, it can be possible.
10	BRIG MKHWANAZI: Information that I	10	MR BUDLENDER SC: You wouldn't be
11	received, Counsellor, was that after the deployment, the	11	surprised by that and in fact that was part of the plan
12	participants will be dispersed from the koppie.	12	that people should leave without any force being used.
13	MR BUDLENDER SC: In other words, it was	13	BRIG MKHWANAZI: It's part of the plan,
14	anticipated that all or most of them would remain on the	14	of course.
15	koppie, until after the deployment of the barbed wire when	15	MR BUDLENDER SC: Now, the direction of
16	the dispersal would take place.	16	the settlement, the informal settlement, where some of the
17	BRIG MKHWANAZI: That's information I	17	people lived, is north west of the koppie.
18	got, I think so, Sir.	18	CHAIRPERSON: I take it Mr Budlender, if
19	MR BUDLENDER SC: Now, we also know from	19	you look at slide 81, you will see the koppie, you will see
20	what happened, that that's not what transpired, in fact	20	the various police forces arraigned and then behind them,
21	many people moved off the koppie once the police started	21	is the informal settlement.
22	deploying the barbed wire.	22	MR MAHLANGU: Sir, it's 181? 81.
23	BRIG MKHWANAZI: Information received	23	CHAIRPERSON: Well it's various places
24	from my side, Counsellor, is that when the barbed wire was	24	but I think the slide 81 is a convenient one.
25	deployed, and it was breached by some of the group of the	25	BRIG MKHWANAZI: Yes, I got it, north
		1 T	m to have
1	Page 3109 people, and there were some people who were actually moving	1	Page 3111
2	away as well, and they were not confronted by anybody.	and has	TUS MR BUDLENDER SC: Now if you'll look at
3	They were able just to move in the meantime.	3	that slide, Brigadier, you will see –
4	MR BUDLENDER SC: I think you'll agree	4	CHAIRPERSON: Mr Semenya wishes to say
5	also that it's not really surprising that people	5	something.
6	experienced barbed wire or razor wire as threatening, and	6	MR SEMENYA SC: Chair, I don't mean to be
7	some of them would have been afraid that they were going to	7	difficult, but is the proposition that the ones who were in
8	be surrounded and encircled.	8	the group, passed the kraal, some of them lived in that
9	BRIG MKHWANAZI: It is possible, but on	9	area? Are they posting that a fact?
10	that day, I am not sure the purpose of the barbed wire was	10	CHAIRPERSON: Mr Budlender, you heard the
11	to encircle the people. I don't think so it was that	11	question, I am not sure it's an objection, but it's a
12	purpose, Sir.	12	question which might lead to an objection if you don't
13	MR BUDLENDER SC: I understand it,	13	answer properly.
14	Brigadier, but of course the people on the koppie didn't	14	MR BUDLENDER SC: Well, according to the
15		15	IPID statements which we have some of the strikers lived in
	know why the barbed wire was being put in place.		
16	BRIG MKHWANAZI: Possible.	16	the informal settlement. Can I just finish, Chair? I put
16 17	BRIG MKHWANAZI:Possible.MR BUDLENDER SC:We have seen from the	16 17	it to the witness on this basis, I don't want to give
16 17 18	BRIG MKHWANAZI: Possible. MR BUDLENDER SC: We have seen from the statements produced by the – according to the statements	16 17 18	it to the witness on this basis, I don't want to give evidence, but if some of – let me put it to you this way,
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	Page 3112		Page 3114
1	informal settlement, can you make that assumption for the	1	in place and then we roll out these vehicles and people in
2	moment. If I am wrong in that, and none of the strikers	2	order to carrying out the dispersal action?
3	came from the informal settlement, then of course what will	3	MR MKHWANAZI: I see that.
4	follow will be irrelevant, but can you make that assumption	4	MR BUDLENDER SC: Now if there were
5	for the moment? Right, okay, now Brigadier, can you locate	5	people on the Koppie who lived in the settlement and wanted
6	the koppie where the strikers were on that diagram, if I	6	to go there, the logical thing would have been for them to
7	have it correctly, it's K1. Can you see that?	7	head in a north-westerly direction, really through that
8	BRIG MKHWANAZI: I saw it yesterday, oh,	8	area where the barbed wire and the – had not reached and
9	ja. That's it.	9	where these other troops were going to be deployed, but
10	MR BUDLENDER SC: Alright.	10	hadn't yet arrived? Can you see that?
11	BRIG MKHWANAZI: I see it.	11	MR MKHWANAZI: Yes.
12	MR BUDLENDER SC: Now, you can see in the	12	MR BUDLENDER SC: That would be the
13	top right-hand corner of that, to orientate ourselves on	13	obvious way to go home if you wanted to go home to the
14	the top right-hand corner of that diagram is the north	14	informal settlement?
15	sign, do you see that? It's very small.	15	MR MKHWANAZI: That's correct.
16	BRIG MKHWANAZI: I see that.	16	MR BUDLENDER SC: And now if you were
17	MR BUDLENDER SC: Sir, if we now relate	17	going in that direction, you couldn't go too far West,
18	K1 to the informal settlement, in fact the statement is due	18	because there is a negative attraction point. There was
19	north of the koppie, can you see that?	19	IRA2, which was the TRT and other people, you see that
20	BRIG MKHWANAZI: Yes.	20	green one? So if you were sensible in wanting to avoid
21	MR BUDLENDER SC: Now we know that the	21	trouble, you wouldn't hit straight towards them. That
22	razor wire was extended on that yellow line, or more or	22	would be trouble. You would bend around to the right
23	less on that yellow line which is shown there, can you see	23	towards the informal settlement.
24	that?	24	MR MKHWANAZI: I see that, but I wonder
25	BRIG MKHWANAZI: I see that.	1 15	if I can explain my understanding in disperse? From the
	As and the	12	
	Page 3113		Page 3115
1	Page 3113 MR BUDLENDER SC: It blocks mainly the	1	Page 3115 situation explained to me, I would like to say I was going
1 2			Page 3115
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	Page 3116		Page 3118
1	are now and what is the position, please.	1	if they were all from the side of the settlement.
2	MR BUDLENDER SC: Let me try to show you,	2	MR BUDLENDER SC: Well, those who were
3	Brigadier. If you look at – let's look at slide L200.	3	from the settlement?
4	MR MKHWANAZI: I've got it.	4	MR MKHWANAZI: Definitely. They will
5	MR BUDLENDER SC: Right. Now what that	5	have definitely want to go home.
6	shows us firstly, the dotted yellow line shows us how far	6	MR BUDLENDER SC: Yes.
7	the deployed barbed wire actually reached. It was not as	7	MR MKHWANAZI: It's a fact.
8	far as had been planned on L81, which you've been shown.	8	MR BUDLENDER SC: That's a positive
9	Can you see that? For the sake of fairness, I should – and	9	attraction point as you call it?
10	completeness, I should say that there was an attempt to	10	MR MKHWANAZI: Yes.
11	close that gap between the front Nyala and that first	11	MR BUDLENDER SC: And there was nothing
12	kraal, but that's as far as that barbed got on the most	12	to stop them doing that at that time?
13	generous reading. You see that?	13	MR MKHWANAZI: Counsellor, that's
14	MR MKHWANAZI: I see it.	14	information I got that during the deployment of the barbed
15	MR BUDLENDER SC: And this is a	15	wire, some of the people they were as well moving, nobody
16	photograph taken at about the time shortly before the	16	stopped there.
17	deployment of the barbed wire came to an end, because you	17	MR BUDLENDER SC: And even if they were
18	can see how far it's already got.	18	armed, they could go home with their arms?
19	MR MKHWANAZI: I see that.	19	MR MKHWANAZI: I haven't checked on that
20	MR BUDLENDER SC: Now if you look on the	20	position, Sir, I would be lying, I'm not sure.
21	right of that photograph, you will see the area where the,	21	MR BUDLENDER SC: Well, we've see there
22	if I can call them the dispersal team were going to be.	22	was nothing to stop them doing that. There was no-one in
23	The water canon, the POP units, the TRT behind them, the	23	place to stop them?
24	NIU and the STF behind them, they were all going to be on	24	MR MKHWANAZI: I'm not sure. I'm not
25	the right and they were going to give effect to the	25	certain how to answer that question really.
20	the right and they were going to give enect to the	25	certain now to answer that question really.
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	Page 3117		Page 3110
1	dispersal, you see that?	1	Page 3119
1 2			MR BUDLENDER SC: Why don't you just say
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1	Page 3120	1	Page 3122
1	MR BUDLENDER SC: I understand,	1	MR BUDLENDER SC: Brigadier, I'm just as
2	Brigadier, you weren't there and I don't want to ask, I	2	ignorant as you are. All I'm saying to you is, that this
3	really don't want to ask you questions about the detail of	3	plan had the result that as far as people leaving to go to
4	the operation. All I want to put to you is this. That	4	the North West after the settlement is concerned, it would
5	once the barbed wire was rolled out or was being rolled	5	achieve the goal of dispersal, but if some of them had
6	out, it was natural that some of the people on the Koppie	6	weapons with them, it would not achieve the goal of
7	would head in a North Westerly direction and try to	7	disarming them. Is that a fair proposition?
8	outflank the barbed wire which was being put in place.	8	MR MKHWANAZI: In that position, yes.
9	MR MKHWANAZI: It's possible, Sir.	9	MR BUDLENDER SC: In our position of
10	MR BUDLENDER SC: And there was no	10	mutual ignorance, we can reach the same conclusion?
11	contingency plan to deal with that?	11	CHAIRPERSON: Is it appropriate for us to
12	MR MKHWANAZI: I won't say it wasn't	12	take the adjournment on that note? The Commission will
13	there or it was there, but the main thing is, it's obvious	13	adjourn till half past one.
14	if people see that particular situation happen, definitely	14	[COMMISSION ADJOURNS COMMISSION RESUMES]
15	would like to go out and move back to their homes. I think	15	[13:29] CHAIRPERSON: The commission resumes.
16	the objective as well from SAPS on the day, was to have	16	Brigadier, you are still under oath. Mr Budlender.
17	people moving out from that position. I don't see any	17	MR BUDLENDER SC: Brigadier, just to tidy
18	problem around that position, that definitely you would	18	up one small point before I move onto the next part of this
19	need a contingency plan to stop them, because I don't see	19	subject. The purpose of the barbed wire was to prevent the
20	anything that says, stop them. What I see, is to split	20	strikers moving in an easterly direction, is that correct?
21	them into smaller manageable groups, disarm the	21	MR MKHWANAZI: I think it will be
22	participants, that's all what I'm seeing. So I don't see a	22	incorrect, counsellor, with the information I have received
23	problem on that.	23	from the people who brief me that the purpose of the barbed
24	MR BUDLENDER SC: What I put to you,	24	wire was to protect members of the SAPS as well as to
25	Brigadier, if that happened, the operation would succeed in	25	protect media people, as well as other VIP, if possible
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1	Page 3121	1	Page 3123
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2	part of its goal, but fail in another and important part of its goal. It could – it would succeed to that extent that	R 2	they come in. JUS MR BUDLENDER SC: I am sorry, I ran two
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# Marikana Commission of Inquiry

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	Page 3124	-	Page 3126
1	MR BUDLENDER SC: And that is to the, and	1	MR BUDLENDER SC: As we have previously
2	we see K3 which is where the koppie is, I am sorry not K3,	2	agreed the plan was that the people or most of them would
3	K1, I beg your pardon. You see K1?	3	remain on the koppie while the barbed wire was deployed.
4	MR MKHWANAZI: Yes.	4	The other police officers will be brought around with
5	MR BUDLENDER SC: The koppie. And then	5	teargas, water cannons, stun grenades and so on and they
6	if we move to the right behind that cordon, that was the	6	would disperse the people who had remained on the koppie?
7	police and media safe area, do you see that?	7	MR MKHWANAZI: That is correct.
8	MR MKHWANAZI: Okay, I see that.	8	MR BUDLENDER SC: Instead of that a
9	MR BUDLENDER SC: Behind the cordon is	9	substantial number of people left the koppie going in a
10	the police and media safe area, do you see that?	10	north westerly direction, I think, but going towards, going
11	MR MKHWANAZI: I see that.	11	in the direction of the cordon, of the barbed wire. Or
12	MR BUDLENDER SC: And that's to the east	12	trying to go around the barbed wire. And there was never
13	of koppie 1.	13	an opportunity to do the deployment of the dispersal group
14	MR MKHWANAZI: Right, I see that.	14	which had been planned.
15	MR BUDLENDER SC: So this time I got it	15	MR MKHWANAZI: What I understand,
16	right. The cordon was to prevent the people from the	16	counsellor, is that the moment the barbed wire is deployed
17	koppie moving in an eastwards direction. Towards where the	17	there was a breach by some of the participants. If you
18	police and media safe area was.	18	mean that that is correct, there was a breach.
19	MR MKHWANAZI: The information I got is	19	MR BUDLENDER SC: Well ,Brigadier, there
20	that the cordon with the barbed wire was to protect media	20	are two different views as to what happened when the barbed
21	and as well members of SAPS. And at the same time	21	wire was deployed. One view is the one which you have put
22	participants were allowed to move if they move, at that	22	forward, that there was an attempt to breach the cordon.
23	stage there wasn't any problem. That's what I have got.	23	The other view was that there was an attempt to outflank,
24	MR BUDLENDER SC: The only point is this,	24	or to go around the cordon. You and I don't have to debate
25	that the area, the direction which they were prevented in	25	that, that will be dealt with by the people who were there.
	Page 3125		Page 3127
1	moving was an easterly direction. The cordon prevented the	1	But all I am putting to you, is that, that movement had the
2	moving in an easterly direction. Is that correct?	R 2	result that the next phase or the next stage, namely
3	MR MKHWANAZI: Looking to the position	3	bringing up the people who were going to carry out the
4	where the barbed wire ends, it is correct.	4	dispersal action, couldn't proceed as planned because, well
5	MR BUDLENDER SC: So the barbed wire,	5	we know it ended up in a shooting.
6	that barbed wire cordon was erected because it was	6	MR MKHWANAZI: That's correct,
7	anticipated that otherwise some of the strikers might move	7	counsellor, it actually disrupted the next stage of giving
8	in an easterly direction and the aim was to prevent that.	8	warning, disperse the people.
9	MR MKHWANAZI: The information I got is	9	MR BUDLENDER SC: And if the TRT and NIU,
10	that the barbed wire's purpose was only to protect media	10	and STF had to be brought into play there was a real risk
11	and police officials. I haven't received information that	11	of fatalities, because they are people who carry sharp
12	says it was stopping the participants to go to a certain	12	weapons.
13	direction. However, counsellor, I do agree with the	13	MR MKHWANAZI: It is a fact, counsellor,
14	position, where it ends it may definitely cause a problem	14	that if you bring TRT, national intervention, as well as
15	for them to go through if they have to go through. But the	15	special task force they carry live ammunition. And to take
16	information I got is that they were still allowed to move	16	that decision you must know exactly when and why they must
17	whatever direction they want to move.	17	intervene.
18	MR BUDLENDER SC: Let's move on. When	18	MR BUDLENDER SC: Yes, because if they do
19	the plan did not go as intended, things didn't proceed as	19	intervene, given the nature of the weapons that they carry
20	intended, that left the TRT and the NIU and the STF as the	20	and the nature of their functions, it's likely that some
21	back up to deal with the situation which had arisen.	21	people will be killed?
22	MR MKHWANAZI: Counsellor, maybe if I can	22	MR MKHWANAZI: It is normal, it is
23	understand at what stage maybe we are actually referring	23	possible. That's why I am saying your assessment must be
		24	preferred, when do you bring them in the position.
24	to, where the plan actually came to a position to say now		
24 25	to, where the plan actually came to a position to say now is not actually achievable.	25	MR BUDLENDER SC: Those sharp weapons are

	Page 3128		Page 3130
1	really the only means that those groups have of dealing	1	MR MKHWANAZI: It's one of the, I would
2	with the situation when they are called in.	2	say one of the lessons learned out of that, that those
3	MR MKHWANAZI: Come again, counsellor,	3	people were really coming forward, not doing what normally
4	you are saying, those?	4	is happening with the normal crowd situation we meet every
5	MR BUDLENDER SC: Those sharp weapons are	5	time.
6	really the only means that those units have of dealing with	6	MR BUDLENDER SC: Just to make clear that
7	the situation when they are called in. They don't carry	7	when I talk about the people I have been referring to, I am
8	non lethal weaponry.	8	not referring to all of the 3 500 strikers. There was
9	MR MKHWANAZI: That is correct.	9	clearly a very diverse group, I am referring to some of the
10	MR BUDLENDER SC: And they are also not	10	people in the group. I am sure you will agree with that?
11	trained in crowd management, that's what the public order	11	MR MKHWANAZI: Yes, maybe if I can have
12	police are for.	12	clarity, which is this group, are we talking about?
13	MR MKHWANAZI: That is correct, although	13	MR BUDLENDER SC: I don't want to attempt
		13	·
14 15	the national intervention members, the old ones are coming from that background.	14	to define the group, I am just saying there were such people amongst the bigger crowd.
	C C		
16		16	MR MKHWANAZI: Okay –
17	us by a senior police official, that the STF don't have the	17	CHAIRPERSON: You can assume that the
18	training, the TRT don't have the training in it, but the	18	people who were involved in the engagement, if one can call
19	NIU had some training in their previous life and so some of	19	it that, on the 13th where the two policemen were killed
20	them know something about it.	20	were part of the group who were on the koppie –
21	MR MKHWANAZI: That is correct.	21	MR MKHWANAZI: The bigger group.
22	MR BUDLENDER SC: I want to look at the	22	CHAIRPERSON: The bigger group on the
23	situation in which the plan was designed and implemented		16th.
24	and I want to put the following to you. Firstly, the	24	MR MKHWANAZI: Okay.
25	police knew that there were some violent people amongst the	25	MR BUDLENDER SC: And I have listed all
	Page 2120		Page 2121
1	Page 3129 strikers because they had already killed some mine	1	Page 3131
1	strikers because they had already killed some mine	1	Page 3131 the things, all the characteristics that, or some of the
			Page 3131 the things, all the characteristics that, or some of the characteristics that the police knew about of some of the
2	strikers because they had already killed some mine         officials and police members.         MR MKHWANAZI:	R 2	Page 3131 the things, all the characteristics that, or some of the characteristics that the police knew about of some of the people in the crowds. I won't repeat all of that. Now,
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	Page 3132		Page 3134
1	MR MKHWANAZI: I am not sure, counsellor,	1	believed.
2	what was their belief from the side of the police after	2	MR MADLANGA SC: Maybe what was reported
3	actually noticing the rituals being practised, it may	3	to them, not what the police believed.
4	happen they have that belief or it may happen they never	4	MR MKHWANAZI: It was reported.
5	have it but from our position I never received that	5	CHAIRPERSON: Yes, I think that is a
6	information that tells me clearly that it actually, it came	6	valid objection, isn't it. The next point of course, the
7	as a belief to them that really it will make participants	7	first part is, the information was that the Nyanga had been
8	to actually, to conduct themselves the way the counsellor	8	imported for this particular reason, and that in order that
9	is mentioning.	9	a ritual should be performed, on the second paragraph it
10	MR BUDLENDER SC: Think for a moment	10	indicates the police knew that a ritual of some kind had
11	about what the police probably believed. They didn't, they	11	been performed because that is seen - that's referred to in
12	took great care to observe and photograph these ritual	12	the second paragraph of 85 and is seen in the slide 86.
13	practices, you can see some of the photographs.	13	MR BUDLENDER SC: Brigadier, this is a
14	MR MKHWANAZI: I saw those.	14	report or reports which reached the police and it is what
15	MR BUDLENDER SC: The police didn't think	15	the police themselves observed.
16	these were wedding ceremonies that were being carried out.	16	MR MKHWANAZI: It definitely looks like
17	MR MKHWANAZI: That is correct, they	17	it is a report, of which I am struggling to understand
18	never thought that.	18	where it was from, but it was reported, yes.
19	MR BUDLENDER SC: The police thought that	19	MR BUDLENDER SC: And the next paragraph
20	these were rituals carried out to make people confident and	20	tells us that the police actually observed protestors
21	to give them confidence and to make them feel strong.	21	undergoing a ritual.
22	MR MKHWANAZI: Counsellor, as I have	22	MR MKHWANAZI: That is correct.
23	indicated I am not sure what was their belief after seeing	23	MR BUDLENDER SC: Do you see that?
24	this practice of rituals, I have said already that it may	24	MR MKHWANAZI: I see that, Sir.
25	happen that they have some sort of belief that maybe	25	MR BUDLENDER SC: Can I read you what was
	As and the	12	15 / Cly La
	Page 3133		Page 3135
1	definitely they will do as the counsellor is indicating, or	1	Page 3135 said by my learned friend, Mr Semenya in his opening
2	definitely they will do as the counsellor is indicating, or maybe not. I am not sure but definitely they saw this,	R 2	Page 3135 said by my learned friend, Mr Semenya in his opening statement on behalf of the police, paragraph 55. I will
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tually police officials lost their lives and some of the mmittee members as well, lost their lives and one injured	9	
mmittee members as well, lost their lives and one injured		frank with each other.
-	10	BRIG MKHWANAZI: That's correct.
	11	MR BUDLENDER SC: And so it was entirely
ow if I haven't share it enough, to say really by that	12	foreseeable that they disperse and search and arrest plan
he police were at the position to say teargas is not more	13	would not proceed in the manner which was provided for in
		the plan.
0		
		· · · · ·
5		won't be able to comment except to say it will definitely
-		depend to the operational commander and overall commander to say how they were seeing the situation at that moment
		to say how they were seeing the situation at that moment.
		MR BUDLENDER SC: And the only
		contingency plan provided for this situation was police
-		members with sharp ammunition.
		BRIG MKHWANAZI: Counsellor, I indicated
	- p	from the beginning that from the reserve team or reserve
DO DO	1 8	group there was public order policing that is armed with
m what happened on the 13th of August.	25	shotguns and rubber bullets.
During the Days 2027		m / have 2120
		Page 3139 MR BUDLENDER SC: Brigadier, but if the
	and have	police, if the POPS police on the scene could not achieve
		what they wanted with rubber bullets and teargas, it was
		hardly likely that the reserved POPS members would achieve
		it by the same method.
		BRIG MKHWANAZI: Counsellor, I believe
-		the planning place was not only to address shooting rubber
		or shooting teargas, it was to address dispersing,
		arresting, meaning if one has to call public order policing
		they were not only to be called to come in and do shooting,
		but as well to perform other tasks to reinforce those
5		members who need some help.
	12	·
e koppie waiting to be dispersed or arrested.		MR BUDLENDER SC: Well, Brigadier,
DDIC MVUNANATI I am not auro about that	14	perhaps you can help the commission, what you suggested, that the POP members who were in the reserve areas would be
BRIG MKHWANAZI: I am not sure about that	1 Г	
int, it can be possible but normally it doesn't happen	15	
int, it can be possible but normally it doesn't happen at way, but yes.	16	able to achieve that the POP members on the scene couldn't
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	rking at all. I haven't received that information before s, Sir. MR BUDLENDER SC: I don't want to go back that, Brigadier, it's on the record and we'll deal with it in due course. The police knew on the 16th of August m the events of the 13th of August that rubber was gely ineffective against this group. B:58] BRIG MKHWANAZI: I hear that, Counsellor. MR BUDLENDER SC: The police knew that ey were dealing with determined people who wouldn't heaply do what the police told them to do. They knew that m what happened on the 13th of August. Page 3137 BRIG MKHWANAZI: I then received the prmation but it is possible looking to what happened on 13th. MR BUDLENDER SC: And we've been in ail through the reports which the police received and observations which they made about the rituals and the e of muti. BRIG MKHWANAZI: I heard about it. MR BUDLENDER SC: And I want to put it to a that having regard to all of those circumstances it was irely foreseeable that when the razor wire was deployed se strikers would not simply stand in docile fashion on	b., Sir.15MR BUDLENDER SC:I don't want to go back16that, Brigadier, it's on the record and we'll deal with17at in due course.The police knew on the 16th of August18m the events of the 13th of August that rubber was19gely ineffective against this group.20BRIG MKHWANAZI:I hear that, Counsellor.MR BUDLENDER SC:The police knew thatey were dealing with determined people who wouldn'tmy what happened on the 13th of August.Page 3137BRIG MKHWANAZI:I then received theprmation but it is possible looking to what happened on13th.MR BUDLENDER SC:And we've been inail through the reports which the police received and observations which they made about the rituals and thee of muti.BRIG MKHWANAZI:I heard about it.MR BUDLENDER SC:And want to put it to91 that having regard to all of those circumstances it was10irely foreseeable that when the razor wire was deployed

## Marikana Commission of Inquiry

	Page 3140		Page 3142
1	that we see that the problem gets bigger we can bring them	1	Waddington.
2	to reinforce or if any member need to be taken out in the	2	BRIG MKHWANAZI: No –
3	line, the other member can come in and assist on that.	3	MR BUDLENDER SC: Do you know that book?
4	MR BUDLENDER SC: Well, let's get to the	4	BRIG MKHWANAZI: No.
5	point, Brigadier, the additional POP members were not in	5	MR BUDLENDER SC: Can you tell us the
6	fact able to resolve the matter without the lost of life,	6	names of any books dealing with public order policing?
7	correct?	7	BRIG MKHWANAZI: Ja, it will be a
8	BRIG MKHWANAZI: Counsellor, I am not	8	challenge to me, I forgot the names, I could have maybe
9	clear with your statement please?	9	brought something with me, at this stage I don't have
10	MR BUDLENDER SC: The situation was not	10	anything.
11	resolved without the loss of life, correct?	11	MR BUDLENDER SC: Have you ever heard of
12	BRIG MKHWANAZI: I will agree,	12	Professor David Waddington?
13	Counsellor, looking to the outcome of the operation on that	13	BRIG MKHWANAZI: No.
14	day.	14	MR BUDLENDER SC: Well, - so you're not
15	MR BUDLENDER SC: So we know that the	15	in a position to confirm or deny that he is an
16	additional POP members from the reserve area were not able	16	international expert in public order policing?
17	to resolve the matter without the loss of life.	17	BRIG MKHWANAZI: No.
18	BRIG MKHWANAZI: It is true, Sir.	18	MR BUDLENDER SC: Now I am going to give
19	MR BUDLENDER SC: Now, Brigadier, you	19	you an extract from this last book to which I've referred
20	know that there is a lot of literature internationally	20	now and I want to ask you some questions about that.
21	about public order policing.	21	CHAIRPERSON: Before you do that, in
22	BRIG MKHWANAZI: Yes, that's true.	22	fairness to the witness you might tell us, you say he is a
23	MR BUDLENDER SC: It is a subject which	23	professor, you might tell us at what university he is a
24	is intensively studied and written about in serious books	24	professor, you might tell us who the publisher is of the
25	and journals.	25	book, so that we can form some assessment as to whether it
			or to have
	Page 2141	1 L	Dago 21/2
1	Page 3141 BRIG MKHWANAZI: That's correct.	1	Page 3143
1	BRIG MKHWANAZI: That's correct.		Page 3143 is something to be taken seriously.
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2 3	BRIG MKHWANAZI:       That's correct.         MR BUDLENDER SC:       I've got some of those         books here with me.       I've got a book called Public order	2	Page 3143 is something to be taken seriously. MR BUDLENDER SC: Chair, can I say that I understand there will be a witness in due course who will
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	Page 3144		Page 31	46
1	interestingly the sociology of mining communities. Then,	1	that would be conducive to violent confrontation? You	
2	Brigadier, if you'll go to that TT2, could you just go to	2	understand the exercise we're doing?	
3	the table of contents of the book?	3	BRIG MKHWANAZI: Yes.	
4	BRIG MKHWANAZI: I am there already.	4	MR BUDLENDER SC: Now the first one is a	1
5	MR BUDLENDER SC: You will see that	5	hard line government willing to sanction police repression	on,
6	Chapter 1 deals with public order policing, theoretical	6	do you agree that that would be conducive to violent	
7	approaches.	7	confrontation?	
8	BRIG MKHWANAZI: I see that.	8	BRIG MKHWANAZI: I do agree.	
9	MR BUDLENDER SC: Chapter 2 deals with	9	MR BUDLENDER SC: Number 2 is explicit	
10	theories of public disorder.	10	pressure on the police from government and the other	
11	BRIG MKHWANAZI: Correct.	11	politicians, interest groups, general public, the media,	
12	MR BUDLENDER SC: Chapter 3 deals with	12	police personnel to apply uncompromising tactics and	
13	the American Urban Riots from 1991 to 2001.	13	strategies. Do you agree that that would be conducive	to
14	BRIG MKHWANAZI: Ja, I see it.	14	violent confrontation? Do you agree with -	
15	MR BUDLENDER SC: Chapter 4 deals with	15	[14:18] BRIG MKHWANAZI: I do agree.	
16	the British Urban Riots from 1991 to 2001.	16	MR BUDLENDER SC: Then the next one I	
17	BRIG MKHWANAZI: Correct, I see it.	17	want to refer to is under the sub-heading institutional,	
18	MR BUDLENDER SC: Chapter 5 deals with	18	the first one, centralised rather than local control over	
19	worldwide anti globalisation protests post Seattle.	19	police operations. Do you agree that that would be	
20	BRIG MKHWANAZI: I see that.	20	conducive to violent confrontation?	
21	MR BUDLENDER SC: Chapter 6 deals with	21	BRIG MKHWANAZI: Which is one is – you	
22	the GA to Justice and Home Affairs Ministers' meeting in	22	are at number 3?	
23	Sheffield in June 2005.	23	MR BUDLENDER SC: Number 1, under	
24	BRIG MKHWANAZI: That's correct.	24	institutional.	
25	MR BUDLENDER SC: Chapter 7 deals with	25	BRIG MKHWANAZI: Under institution, you	
	AS and A	~	T T Le	
			m la Lana	
	Page 3145		Page 31	47
1	English football fans abroad from 1990 to 2006.	1	Page 31 know, I'm lost. Centralised rather than local control over	47
2	English football fans abroad from 1990 to 2006. BRIG MKHWANAZI: I see that.	R2	Page 31 know, I'm lost. Centralised rather than local control over police operation.	147
2 3	English football fans abroad from 1990 to 2006.BRIG MKHWANAZI:I see that.MR BUDLENDER SC:And Chapter 8 is the	2	Page 31 know, I'm lost. Centralised rather than local control over police operation. MR BUDLENDER SC: Do you agree with	147
2 3 4	English football fans abroad from 1990 to 2006. BRIG MKHWANAZI: I see that. If the football fans abroad from 1990 to 2006. MR BUDLENDER SC: And Chapter 8 is the conclusions of the study. It includes theoretical	2 3 4	Page 31 know, I'm lost. Centralised rather than local control over police operation. MR BUDLENDER SC: Do you agree with Professor Waddington that that is a factor which is	147
2 3 4 5	English football fans abroad from 1990 to 2006. BRIG MKHWANAZI: I see that: MR BUDLENDER SC: And Chapter 8 is the conclusions of the study. It includes theoretical foundations, the case studies and the policy implications.	2 3 4 5	Page 31 know, I'm lost. Centralised rather than local control over police operation. MR BUDLENDER SC: Do you agree with Professor Waddington that that is a factor which is conducive to violent confrontation? Do you agree?	147
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## Marikana Commission of Inquiry

	Page 3148		Page 3150
1	MR MADLANGA SC: Where is what?	1	BRIG MKHWANAZI: It's correct.
2	MR HANABE: The paragraph.	2	MR BUDLENDER SC: And then under the sub-
3	MR BUDLENDER SC: Top of the page.	3	heading contextual, number 1, "a history of previous
4	MR MADLANGA SC: Top of the page, yes.	4	incidents or negative encounters with possible scores to
5	Counsel if you had noticed when Hennie refers to each one	5	settle. Professor Waddington says that's a factor which is
6	of these, at the end he says it would be conducive to	6	conducive to violent confrontation," do you agree?
7	violent confrontation. With each one of those, so your	7	BRIG MKHWANAZI: That's giving me a
8	interpretation should also convey the same meaning and -	8	little bit of a problem this one, Counsellor, because what
9	MR HANABE: Thank you very much,	9	we are normally doing is that we are helped by the
10	Advocate.	10	historical background to be able to plan properly. But if
11	MR MADLANGA SC: - but it depends on	11	doing that will actually contribute to a violent
12	whether you accept that I'm correct in what I'm saying.	12	confrontation then I have a problem on that because on my
13	MR HANABE: I will accept it, thank you.	13	experience I never have that situation. Always it used to
14	MR BUDLENDER SC: Then Brigadier, the	14	assist me.
15	next one I want to refer to is under cultural. Do you have	15	MR BUDLENDER SC: I understand your
16	the sub-heading cultural?	16	point, Brigadier. You say and I'm sure that's right, that
17	BRIG MKHWANAZI: Yes, I've got it.	17	you need to know that history in order to be able to deal
18	MR BUDLENDER SC: This one – officers	18	with the situation in a non-confrontational manner. That I
19	from outside the locality who are unfamiliar with local	19	think is the point you're making. But of course, I accept
20	customs and sensibilities and do not have a full commitment	20	that.
21	to maintaining good long term relationships or relations	21	BRIG MKHWANAZI: Thank you.
22	with the public. Do you agree that that would be a factor	22	MR BUDLENDER SC: But you will accept,
23	conducive to violent confrontation?	23	I'm sure, that if there is in fact a background of previous
24	BRIG MKHWANAZI: It's correct.	24	incidents or negative encounters with some people possibly
25	MR BUDLENDER SC: Paragraph 2, under	25	wanting to settle scores, that is a factor conducive to
	As and the	2	is / St Va
	Page 3149		Page 3151
1	cultural, special units subscribing to norms of		violence. Page 3151
2	cultural, special units subscribing to norms of confrontation. Did you agree that with Professor error	R2	violence.       Page 3151         BRIG MKHWANAZI:       Some people want to
	cultural, special units subscribing to norms of confrontation. Did you agree that with Professor e o Waddington that that is a factor conducive to violent		violence.       Page 3151         violence.       Some people want to settle scores.
2 3 4	cultural, special units subscribing to norms of confrontation. Did you agree that with Professor <b>CON</b> Waddington that that is a factor conducive to violent confrontation?	2 3 4	Page 3151 violence. BRIG MKHWANAZI: Some people want to settle scores. MR BUDLENDER SC: Yes.
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# Marikana Commission of Inquiry

			Rustenburg
	Page 3152		Page 3154
1	that especially on crowd management environment, it	1	conducive to violent confrontation?
2	definitely, we need to ensure that some of these type of	2	BRIG MKHWANAZI: I do agree.
3	units are placed in a position whereby they cannot actually	3	MR BUDLENDER SC: I'm nearly finished,
4	be in a position to aggravate the situation as long as they	4	Brigadier, I promise. Paragraph 9 under situational, "a
5	are kept in - we have like the reserves where it was they	5	symbolically significant location e.g. a frontline to be
6	away from that position. They can only be called up if	6	defended by a community or subculture or no-go-area to be
7	there's a situation. So I have a problem but I'm not sure	7	retaken by the police." Do you agree that that is a factor
8	how they deploy because my question was to say as well the	8	which is conducive to violent confrontation?
9	writer is from South Africa or is not from South Africa.	9	BRIG MKHWANAZI: It's correct.
10	Yes, we have to learn from other people, I do agree, but at	10	MR BUDLENDER SC: Brigadier, only 3 more,
11	the same time is to say which situation are we talking	11	I promise. Under interactional, "sudden or overdramatic
12	about because the crowd in Belgium is not the same as crowd	12	police interventions which suggest overkill." Do you agree
13	behaviour in South Africa as well. So I'm looking at that	13	that that is a factor which is conducive to violent
14	to say how are we deploying. But in this essence I'm a	14	confrontation?
15	little bit - in this position I'm having a little bit of a	15	BRIG MKHWANAZI: I do agree.
16	problem.	16	MR BUDLENDER SC: Now, Brigadier,
17	MR BUDLENDER SC: I'll move on, paragraph	17	paragraph 6 under interactional, "dispersal tactics by the
18	3 under situational. "Deployment of officers from a	18	police that serve only to spread the crowd geographically
19	variety of different forces leading to poor coordination	19	and make its activities more unpredictable and less easy to
20	and blurred lines of command." Do you agree that if that	20	control." Do you agree that that's a factor which is
21	happens, that increases the risk of violent confrontation?	21	conducive to violent confrontation?
22	BRIG MKHWANAZI: I do agree.	22	BRIG MKHWANAZI: It's correct.
23	MR BUDLENDER SC: The next one, 6 under	23	MR BUDLENDER SC: And the last one to
24	situational. "Police definitions of public behaviour as	24	which I want to refer you, paragraph 8 under interactional,
25	sinister, illegitimate or ill-intentions." Do you agree	25	"a failure to engage in or a rejection of opportunities to
-	Divinta Laure View		m to have
1	Page 3153 that, 6 under situational. Do you agree that if the police	1	Page 3155 arbitrate or negotiate a reduction of hostilities
2	have this definition of the behaviour of the protestors as	2	especially when credible representatives are present and
3	sinister, illegitimate or ill-intentioned, that increases	3	issues do not seem intractable." Do you agree that that's
4	the risk of violent confrontation? You agree?	4	a factor which is conducive to violent confrontation?
5	BRIG MKHWANAZI: Yes, I do.	5	BRIG MKHWANAZI: I agree.
6	MR BUDLENDER SC: Thank you. Then item 8	6	MR BUDLENDER SC: Right. Thank you and
7	under situational, a strategic intention by the police to	7	just one point which is related, I'm not sure that I
8	engage in confrontation e.g. to clear an area or win by	8	understood your evidence yesterday correctly. Did you say
9	appearing to lose. Do you agree with the professor that	9	that when there is the show of force with the vehicles, the
10	that is conducive to violent confrontation?	10	police members should or should not display their arms?
11	BRIG MKHWANAZI: Ja, that part I'm not	11	BRIG MKHWANAZI: They actually conduct or
12	clear with, counsellor you can maybe indicate where it say	12	do the show of force without being having all the firearm,
13	or win by appearing to lose.	13	like shotguns and all that, it can be a side firearm of
14	MR BUDLENDER SC: Brigadier, we're again	14	course, but shotgun no, if they do that.
15	equally ignorant as far as that is concerned. Let's leave	15	MR BUDLENDER SC: Thank you, that's what
16	out that phrase.	16	I thought you had said. Then I'm moving, you'll be pleased
17	BRIG MKHWANAZI: - you say agree or not.	17	to hear, to a new topic which is negotiations. Now you
18	MR BUDLENDER SC: Let's – no, fair	18	train members of the South African Police Service in
19	enough. Shall we say a – I think it's described –	19	negotiation.
20	discussed in fact in his book, but I don't want to go	20	BRIG MKHWANAZI: Maybe I should maybe
21	there.	21	explain this way, Counsellor, that if we talk about
22	BRIG MKHWANAZI: Okay.	22	negotiation it's not negotiation as a course on its own,
23	MR BUDLENDER SC: "A strategic intention	23	but it's being presented together with a lecture regulation
24	by the police to engage in confrontation, e.g. to clear an	24	of Gatherings Act when we are busy giving information to
25	area." Do you agree that that is a factor which is	25	the members. So we theme that and negotiation is being
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	Page 3156	-	Page 3158
1	explained as well, how it has to be handled but there is a	1	MR BUDLENDER SC: It's at page 2967 of
2	course where we have a course for hostage negotiator, those	2	the record, where Mr Semenya put to you, "there will be
3	are the specific course where a person has a person has	3	evidence of Fanagalo interpreters used, giving the audience
4 5	attend to that but this one is included during the time of	4	that was going to be addressed," and your answer was, "It
	the presentation of regulation of Gathering Act. [14:38] MR BUDLENDER SC: I understand. You	5	is correct, as long as there was somebody really from SAPS
6 7		6 7	who can interact with that, if you never had a problem with
7 8	yourself, have been trained in negotiation. BRIG MKHWANAZI: A course, hostage	8	that. I think it was correct as well, because dialogue
0 9	BRIG MKHWANAZI: A course, hostage negotiation, no, I never done it, but under regulation of	0 9	must be in the language people can understand." BRIG MKHWANAZI: What really I meant is
			5
10 11	Gathering Act, of course I've gone through a lot of time	10 11	that really from the SAPS side, we've got a person who can
	whereby we get lectured how we have to conduct ourselves,	12	manage to understand and be able to communicate with the
12	if we deal with discussions with the organisers or the	12	people who are going to march, for instance, if I speak
13	leaders of the organisation that is going to march on the		Tswana and somebody from the crowd, as a leader, speaks
14 15	day. So actually work under regulation of Gathering Act,	14	Tswana, obviously we will be able to communicate and solve
15 14	I've done that. MR BUDLENDER SC: We know, I think you'll	15	the problem. Then in that position I don't see there's any
16	. 5	16	problem, because what is the main objective here, is to say, let's solve the problem, let them actually manage to
17 10	agree that the first thing in negotiation is to gain the confidence of the party with whom you are negotiating. And	17	
18 19	I think you will agree that the essence of successful	18 19	reach their objective. The only thing is that it has to be
20	negotiation is give and take. Each party gives up	20	done and it has to be done within the legal framework of
20	something, in return for getting something it couldn't	20	the law, and if we manage each other to communicate in Tswana and definitely we manage to get things done
22	otherwise have.	21	properly, I don't see a problem into that position, Sir.
22	BRIG MKHWANAZI: It is correct, Sir.	23	MR BUDLENDER SC: Let me put it this way,
23	MR BUDLENDER SC: Just one further	23	Brigadier, the first prize is that the negotiator can speak
25	background question, we know that from the point of view of	24	the language of the people he or she is negotiating with.
20	background question, we know that norm the point of view of	14	the language of the people he of she is negotiating with.
			and I among the Second
	Page 3157		Page 3159
1	Page 3157 the strikers, Lonmin, their employer was their opponent.	1	Page 3159
1 2		and have	Page 3159
	the strikers, Lonmin, their employer was their opponent.	and have	Page 3159 BRIG MKHWANAZI: It is correct, but we
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	Page 3160		Page 3162
1	BRIG MKHWANAZI: Counsellor if I listen	1	will be a problem. Some people won't trust, whether we are
2	properly, what is written there is that I said an	2	discussing in a good faith or not.
3	interpreter has to come from the side of the police. I am	3	MR BUDLENDER SC: Can I come to the last
4	not sure if I put it that way, but I don't dispute it if I	4	aspect on negotiation. From your attendance at
5	did, but as I am saying it cannot be a fast rule where the	5	Potchefstroom and your reading of the papers, you know that
6	interpreter comes from. Can an interpreter come from the	6	what the police asked the strikers to do was to surrender
7	side of the people who are actually marching as well. The	7	their weapons and leave the koppie.
8	main thing here, the objective let's understand each other,	8	BRIG MKHWANAZI: The core point I
9	let's solve the problem, nobody must be injured, lets have	9	received was that the main request was that they must lay
10	an objective being reached at the end of the day as police	10	down their arms, that was the main part.
11	officials.	11	MR BUDLENDER SC: What did the police
12	MR BUDLENDER SC: I understand that. It	12	offer the strikers in return, if they did that?
13	would be fine to have – it would be acceptable to have an	13	BRIG MKHWANAZI: Truly speaking,
14	interpreter who came from the side of the people you are	14	Counsellor, I never have that information. What maybe, as
15	negotiating with.	15	you said, if we negotiate, give and take but I never have
16	BRIG MKHWANAZI: From my experience,	16	any information to say what was there between the people,
17	Counsellor, working in Johannesburg with different marches,	17	because what I know normally is to look to say, what is the
18	COSATU, SATAWU, you name it, I never have a problem from	18	problem that need to be actually discussed or be
19	which side a person can come from. The main thing's the	19	negotiated, but in issue of what was the give and take
20	objective on the day, is to deal with the task before us	20	between the two parties negotiating, in most cases, I am
21	and make sure that it is successful. Counsellor, maybe if	21	not sure what was discussed, because I believe, Counsellor,
22	I may say, Sir, that I've never been challenged in most of	22	is that as we talk about negotiating, we are talking
23	my marches I've actually managed before with the language,		negotiation that is taking place before the koppie.
24	because always there will be a way how to communicate and	24	MR BUDLENDER SC: Brigadier, in the
25	how to move forward. So I don't think it is a problem at	24	papers which you read, and the meetings you've had, have
20	now to move forward. So I don't think it is a problem at	14	papers which you read, and the meetings you ve had, have
	Page 3161		Page 3163
1	all every time.	1	you seen any evidence of something which the police offered
2	MR BUDLENDER SC: Brigadier, I am not	R 2	the strikers in return for surrendering their weapons? Any
3	arguing with you at all, I am agreeing with you, that the	3	inducement of any kind.
4	best thing is, if a negotiator can speak the language –	4	COMMISSIONER TOKOTA: Sorry, before you
5	BRIG MKHWANAZI: Yes.	5	answer, when did you consider General Mpembe's offer that,
6	MR BUDLENDER SC: - but it's acceptable	6	we don't have a problem with you, give us your arms, then
7	if either side produces an interpreter, if either the	7	we will let you go.
8			we will let you go.
-	police produce an interpreter or if the people they are	8	MR BUDLENDER SC: Thank you, Commissioner
9	negotiating with produce an interpreter or if the people they are	8 9	
9 10			MR BUDLENDER SC: Thank you, Commissioner
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1 2 3	Page 3164 cooperativeness of the Brigadier of course. Brigadier, when you are dealing with the people who are now on the koppie, they have their traditional weapons with them, and	
4	they are, have some number of firearms with them. The	
5	police have stated that people on the koppie, please hand	
6	down – surrender your weapons. Have you seen any evidence	
7	anywhere in the papers, or anything you've heard that they	
8	were offered any reward or return or inducement if they did	
9	that?	
10	BRIG MKHWANAZI: Ja, as an offer in	
11	return, I would say I couldn't pick it up anything except	
12	that there were times whereby during the negotiations, was	
13	if anybody got those rifles that were taken, they can just	
14	leave them right there where they are at the koppie.	
15 16	Police will pick them after, that's the only thing which, to me is a sign to say no matter what had happened, leave	
17	it there we can't hunt off somebody who was having the	
18	firearm and arrest and all those things.	
19	MR BUDLENDER SC: Last question,	
20	Brigadier, if the police had been able to say to the	
21	strikes, you hand over your weapons, and we will bring your	
22	employer to the koppie to speak to you, that would have	
23	been a real inducement which might have resulted in a	84
24	successful negotiation.	0 A 2010
25	BRIG MKHWANAZI: Normally it help a lot.	the field
	Page 3165	10 mile
1	MR BUDLENDER SC: Thank you, Chair, that	
2 3	is all I have for the moment. A R C H I V E F O [14:58] CHAIRPERSON: Mr Semenya, you did	RJUSTICE
4	[14:58] CHAIRPERSON: Mr Semenya, you did indicate that we were going to get some documents which you	
5	didn't have last time. Now you may well have them now but	
6	all I am saying to you is, perhaps you can give them to us	
7	on Tuesday morning?	
8	MR SEMENYA SC: Thank you, Chair.	
9	CHAIRPERSON: If they're ready by then, I	
10	take it they are ready now, you don't have to give them to	
11	us now.	
12	MR SEMENYA SC: I'll do my best, Chair.	
13	CHAIRPERSON: The commission will then	
14	adjourn until ten o'clock on Tuesday morning.	
15	[COMMISSION ADJOURNED]	
16		
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				Page
A	3104:1	agreements 3151:13	approach 3046:1	3142:25
<b>able</b> 3046:9 3047:24	adhered 3097:2	ahead 3066:24	3079:5 3086:18	assist 3045:17,17
3048:16,17 3049:7	<b>adjourn</b> 3077:1	<b>aim</b> 3048:24 3083:5	approaches 3144:7	3049:7 3085:19,21,22
3053:23 3054:13	3122:13 3163:20	3125:8	approaching 3079:5	3086:7 3089:3
3057:6,13 3082:5,20	3165:14	aimed 3052:7,8	3086:17	3094:23 3099:8
3085:6 3088:17,18	adjourned 3044:8	alleged 3058:25	appropriate 3072:10	3105:24 3106:9
3091:17,23 3097:11	3048:5 3165:15	3061:19 3062:3	3122:11	3140:3 3147:19
3105:23 3107:14	adjournment 3076:21	allow 3080:25 3163:11	appropriateness	3150:14
3109:3 3115:22	3076:23,24 3077:2,10	allowed 3119:23	3069:6,8	assistant 3050:23
3123:10 3138:16	3122:12	3124:22 3125:16	approximately 3051:7	Association 3100:9
3139:16 3140:6,16	<b>ADJOURNS</b> 3077:3	Alpha 3091:3	3051:22	3101:17
3150:10,17 3157:18	3122:14	Alright 3075:11	arbitrate 3155:1	assume 3074:22
3158:11,14 3159:7,8	administering 3066:2	3078:25 3112:10	area 3045:8 3046:9	3111:22,24 3130:17
3164:20	admitted 3054:20	3163:24	3056:8 3080:4 3084:1	assumption 3112:1,4
	adopted 3098:21	alternative 3076:16	3084:17,19 3100:16	assumptions 3062:24
abroad 3145:1	Adv 3101:4 3119:10	3077:15 3083:10	3104:9,14 3105:25	attack 3057:19 3058:2
absence 3147:8	advice 3098:11	3086:15 3087:17,24	3106:9 3111:9 3114:8	3059:23 3060:19,25
3151:12 absorbed 2072:10	advised 3141:21	alternatives 3082:9	3116:21 3123:4	3061:16 3062:2
absorbed 3072:19	advocate 3101:5	amended 3063:19	3124:7,10,18,25	3064:24 3065:10,16
academic 3143:12	3148:10	amendment 3063:1	3140:16 3153:8,25	3066:6
accept 3117:13 3148:12	Affairs 3144:22	<b>American</b> 3144:13	areas 3045:13 3048:17	attacked 3066:13
3148:13 3150:19,22	afraid 3048:10 3109:7	amicably 3046:15	3106:6 3107:2	3129:7,13
acceptable 3069:17	Africa 3047:16,22	ammunition 3106:23	3139:15	attempt 3104:10
3157:22 3159:23	3098:12 3101:6,11	3127:15 3138:21	arguing 3161:3	3116:10 3126:22,23
3160:13 3161:6,16	3152:9,9,13	analysed 3049:3	arisen 3125:21	3130:13 3147:22
Accord 3101:16	African 3054:9	analysing 3052:7	arises 3091:19 3097:6	attempted 3086:24
accountability 3045:1	3073:10,13 3100:23	analysis 3057:22,23,23	arm 3101:20 3141:19	attend 3156:4
ACCU 3067:18,21	3101:15 3147:23	3058:3,5 3060:16,24	armed 3066:7,14	attendance 3162:4
3068:11,17	3155:18 3157:23	3061:7,7,13 3062:2	3079:4 3083:6,13	attended 3053:20
accurate 3060:24	afternoon 3071:7	3101:7	3086:16 3088:4	attraction 3114:18
achievable 3125:25	age 3149:18	annexure 3062:13,19	3118:18 3119:21	3118:9
achieve 3054:17	agencies 3047:15	3064:9,14 3105:16	3133:15 3138:24	audience 3158:3
3075:14 3121:17,18	aggravate 3069:20	answer 3044:12,14	arms 3096:18,19	August 3058:11,25
3122:5,6 3139:2,4,16	3152:4		3097:13,18 3118:18	
3139:17	aggravated 3115:10	3048:8 3053:24 3057:16 3058:18,20	3119:5,21 3121:12,19	3059:1 3060:11,25 3064:23 3065:3,8
acquaint 3053:25	ago 3081:24	3058:22 3061:3	3155:10 3162:10	3069:23,24 3078:17
acquainted 3054:6	agree 3054:22,23	3063:15 3085:6,12	3163:6,10,13	3078:18 3079:20
act 3086:11 3087:6,15				
3095:5 3099:3	3055:7 3059:13,21 3060:21 3062:6	3097:11 3105:19 3111:13 3118:25	<b>arose</b> 3087:3 <b>arraigned</b> 3110:20	3080:1 3081:6 3084:12 3095:16
3155:24 3156:5,10,14	3072:11 3073:2	3136:7 3151:24		
acted 3048:14 3050:9			arrangement 3123:11	3129:5,17,23 3133:8
3100:18	3075:11,16 3077:14	3158:4 3163:5	arrest 3075:13 3079:8	3135:25 3136:18,19
action 3065:7 3071:25	3084:21 3086:13,19	answerable 3093:9 anti 3144:19	3138:12 3139:24	3136:25 3145:22
3114:2 3127:4 3147:9	3087:11 3088:8		3164:18	authority 3143:15
3149:21	3089:4 3092:6,17	anticipate 3103:21	arrested 3074:16	available 3046:19
activate 3090:18	3102:4,7 3103:13,14	anticipated 3068:11	3075:23 3076:6	3047:4 3053:25
3092:5 3095:22	3107:19 3109:4	3092:1 3108:14	3137:13,20 3138:4	3062:13 3082:19
3097:19	3117:25 3125:13	3125:7	arresting 3075:15	avoid 3046:20 3103:9
activated 3061:22	3129:11,15 3130:10	anticipating 3058:9	3076:3 3139:9	3114:20 3137:23
3105:23	3140:12 3145:24	anybody 3059:19	arrests 3105:7	3138:1 3151:18
activating 3090:18	3146:6,8,13,14,15,19	3109:2 3164:13	<b>arrival</b> 3052:16 3053:4	aware 3065:4 3084:7
activities 3070:8	3147:3,5,9,15	anyway 3053:15	arrived 3079:15 3080:3	3096:1 3098:9
3074:18 3154:19	3148:22 3149:2,6,24	apparent 3087:20	3106:20 3114:10	3113:13 3131:17
ad 3087:2	3150:6 3151:16,23,25	3097:5	3117:13,20 3119:24	<u> </u>
added 3062:19	3152:10,20,22,25	apparently 3065:3	3119:25	
additional 3107:11	3153:1,4,9,17,25	3078:6 3096:23	arrives 3074:24	back 3046:24 3052:17
3140:5,16	3154:2,7,12,15,20	appear 3066:15	articles 3100:3	3062:20 3080:11,24
address 3044:25	3155:3,5 3156:17,19	3131:17	asked 3044:7 3051:14	3086:20 3100:7
3053:6 3057:23	3159:6 3161:11	appeared 3063:2	3111:22 3162:6	3105:18 3120:15
3066:9 3092:5 3139:7	agreed 3087:19,23	3139:20	asking 3051:15	3125:21 3131:24
3139:8	3088:10,20 3096:10	appearing 3153:9,13	3145:21	3135:20 3136:16
	3108:7 3126:2	appears 3066:17	aspect 3066:16 3067:5	<b>backed</b> 3066:8
addressed 3056:22	2125 2 :		3162:4	background 3128:15
<b>addressed</b> 3056:22 3057:22,24 3058:4	3135:24	3131:16		-
	agreeing 3161:3	appendix 3099:18	assegai 3083:15	3150:10,23 3156:25
3057:22,24 3058:4	agreeing 3161:3 agreement 3062:16	<b>appendix</b> 3099:18 <b>apply</b> 3146:12	<b>assegai</b> 3083:15 <b>assessment</b> 3057:19	3150:10,23 3156:25 <b>bad</b> 3046:18 3094:6,10
3057:22,24 3058:4 3158:4	agreeing 3161:3	appendix 3099:18	assegai 3083:15	3150:10,23 3156:25

Tel: 011 021 6457 Fax: 011 440 9119

				Page
barbed 3070:16,21	books 3100:2 3140:24	3130:18 3139:9	3096:23 3097:10,21	colleagues 3107:13
3071:17,20 3081:7,8	3141:3 3142:6	called 3079:14 3080:3	3098:4,16,21,24	collected 3068:3
3081:11,11,17	3143:14	3099:18 3101:20	3099:6,10 3100:14	collective 3100:19
3089:19 3104:9,15	<b>box</b> 3078:12,22	3128:2,7 3139:10	3104:10 3110:18,23	College 3102:2
3108:15,22,24 3109:6	brave 3133:18	3141:3,8,13,18,24	3111:4,10,20 3117:3	Colonel 3058:24
3109:10,15,23 3110:5	breach 3081:14	3143:6 3152:6	3122:11,15 3130:17	3060:1 3061:1,13,18
3113:20,25 3114:8	3126:17,18,22	<b>calm</b> 3076:3	3130:22 3131:13	3084:11
3115:3,4,8 3116:7,12	breached 3108:25	cannons 3126:5	3133:5 3134:5	<b>come</b> 3046:14 3047:6
3116:17 3117:16	breaching 3058:2	<b>canon</b> 3046:3 3066:2	3142:21 3143:9,12,14	3054:2 3056:6
3118:14 3119:6,14,16	break 3045:12	3066:11 3116:23	3163:18,24 3165:3,9 3165:13	3057:10,13 3062:18 3063:7 3064:9 3072:7
3120:5,8 3122:19,23 3123:22,23 3124:20	Brearley 3141:5 brief 3122:23	<b>canons</b> 3104:19 3105:4 <b>can't</b> 3051:14 3058:21	challenge 3056:4	3078:21 3082:6,17
3125:4,5,6,10 3126:3	briefed 3079:17	3058:21,22 3059:2,5	3083:3 3093:23	3084:15 3091:2,8
3126:11,12,16,20	briefing 3078:12	3091:14,15 3164:17	3142:8	3093:8 3094:22
<b>based</b> 3052:15 3062:2	3101:25 3108:1	<b>Cape</b> 3100:13 3101:14	challenged 3160:22	3106:4 3113:17
3062:22,25 3090:13	Brigadier 3044:3,7	capturing 3147:21	challenging 3082:25	3123:1 3128:3
basic 3108:7	3048:4,12 3052:6	care 3132:12 3139:23	chance 3057:11	3135:20 3138:7
<b>basis</b> 3048:1 3061:14	3053:7 3054:8	careful 3083:17 3095:3	3075:15,25 3076:10	3139:10 3140:3
3071:14 3111:17	3058:20 3061:3	carefully 3093:15	3076:10 3115:14	3160:3,6,19 3162:3
3145:17	3063:16 3064:20	3135:3	change 3064:18	<b>comes</b> 3063:6,6,17,24
beg 3104:18 3124:3	3065:21 3067:8	carried 3132:16,20	changed 3054:4	3064:2,8,16,19
beginning 3047:17	3071:16 3072:14	carry 3074:5 3078:2	changes 3047:18	3071:5 3089:6
3059:15 3063:4,13	3074:21 3077:5,9	3106:13,17 3127:3,11	3050:15 3063:9	3090:15 3095:25
3085:1 3091:1	3078:5 3080:14	3127:15,19 3128:7	3091:3,4	3096:21 3133:22
3138:23 3139:19	3083:23 3086:9,23	carrying 3114:2	<b>Chapter</b> 3144:6,9,12	3160:6
3161:22	3087:16 3089:9,12	3129:19	3144:15,18,21,25	coming 3052:17 3064:3
<b>behalf</b> 3135:2,4	3091:18 3093:14	case 3104:4 3105:22	3145:3	3079:3 3080:17
3159:25	3095:2 3097:21	3145:5	characterised 3103:4	3083:6 3085:9
<b>behaviour</b> 3152:13,24 3153:2	3098:1 3099:11	cases 3093:11 3162:20	characteristics 3131:1	3086:16 3092:19
Belgium 3047:18	3102:5 3105:15 3108:2 3109:14	<b>cater</b> 3063:1 <b>cause</b> 3072:22 3088:3	3131:2 charge 3067:22 3093:7	3094:18 3110:6 3128:14 3130:3
3152:12	3111:3,19,24 3112:5	3125:14	charging 3135:9	<b>command</b> 3044:20,21
<b>belief</b> 3131:11 3132:2,4	3116:3 3117:14	centralised 3146:18	chase 3091:19	3044:21,25 3045:5,6
3132:7,23,25 3135:7	3120:2,25 3121:17	3147:1	check 3058:4 3086:20	3045:18 3055:24
<b>believe</b> 3139:6 3145:23	3122:1,16,17 3126:19	Centre 3101:2	3087:5 3088:2	3056:7 3067:18
3162:21	3134:13 3136:17	ceremonies 3132:16	checked 3118:19	3094:2 3102:22
believed 3131:4,23	3138:7 3139:1,13	certain 3065:3,3,16	checking 3046:23	3152:20
3132:11 3133:16,18	3140:5,19 3144:2	3067:3 3070:21	3047:14 3088:1	commander 3045:9,10
3134:1,3	3148:14 3150:16	3111:21 3118:25	<b>chest</b> 3071:2	3045:11,19,20
<b>bend</b> 3114:22	3151:7,11 3153:14	3125:12 3129:13	<b>Chiefs</b> 3100:9	3081:21 3089:21,24
best 3046:6 3090:3	3154:4,10,16 3157:12	3131:5,20,24 3133:13	<b>choices</b> 3087:17	3089:24 3090:5
3091:23 3159:19	3158:24 3159:19	certainly 3067:7	<b>chose</b> 3121:19	3092:3,4,16,16
3161:4 3165:12	3161:2 3162:24	<b>chain</b> 3045:4 3094:2	<b>circled</b> 3105:6	3093:1,1,5,6,12,13
better 3070:23 3080:25	3164:1,1,20	Chair 3044:5 3066:19	circumstances 3090:10	3095:21,21 3138:17
3083:18	bring 3127:14,24	3066:25 3067:8	3090:23 3091:22	3138:17
<b>big</b> 3045:8 3051:3 3083:5	3140:1 3161:25 3164:21	3071:15 3076:20 3098:1 3099:9,17	3137:10,18 City 3099:22	<b>commanders</b> 3045:21 3051:10,11 3053:3
<b>bigger</b> 3069:16 3130:15	bringing 3107:5 3127:3	3104:13 3111:6,16	<b>civil</b> 3101:10	commenced 3069:23
3130:21,22 3140:1	British 3144:16	3117:5,12 3143:2,16	<b>CJ</b> 3101:16	comment 3065:1,18
<b>bill</b> 3098:19 3099:3	brought 3047:8	3143:18 3165:1,8,12	clarification 3065:7	3070:21 3138:16
<b>bit</b> 3046:17 3048:12	3053:14 3056:5	<b>chaired</b> 3098:24	clarify 3044:22	comments 3050:20,21
3060:23 3064:6,11	3106:23 3126:4	chairman 3061:8	3064:21 3070:23	commission 3044:2
3150:8 3152:15,15	3127:10 3142:9	3098:25 3147:18	clarity 3130:12	3049:8 3052:9 3053:1
blindly 3092:9	Brown 3099:21 3100:8	chairperson 3044:2,6,9	class 3149:18	3053:14 3077:4
<b>block</b> 3117:12	3100:8	3044:11,13,15,16	clear 3062:23 3085:16	3098:3,5,10 3122:12
blocks 3113:1	Budlender's 3071:10	3046:17 3047:10	3095:3 3096:24	3122:14,14,15 3135:4
<b>blue</b> 3113:14	build 3161:18,23	3048:3,7,11,16	3113:24 3123:8	3135:17 3139:14
<b>blurred</b> 3152:20	<b>bullets</b> 3105:4 3138:25	3050:17 3051:9	3130:6 3140:9	3141:22 3165:13,15
Board 3101:15	3139:3	3053:21 3061:6,9	3145:20 3153:8,12,24	commissioner 3091:20
<b>body</b> 3071:6	<b>bundle</b> 3060:7	3062:8,15,21 3063:3	clearly 3074:21	3093:7,9 3099:21
<b>book</b> 3099:4 3100:1	<b>busy</b> 3155:24	3063:14,20 3065:11	3101:18 3103:2	3163:4,8
	1	3065:21 3066:1,23	3130:9 3132:6	Commissioners
3101:20 3141:3,5,6,8	C			
3141:11,13,16,16,18	$\frac{\mathbf{C}}{\mathbf{C}^{2141,10}}$	3067:1 3070:24,25	<b>Clifford</b> 3101:11	3147:19
3141:11,13,16,16,18 3141:22,24 3142:3,19	<b>C</b> 3141:10	3071:4,9 3076:22	close 3046:12 3047:24	commitment 3148:20
3141:11,13,16,16,18				

Tel: 011 021 6457 Fax: 011 440 9119

**RealTime Transcriptions** 

				Page 3
<b>committee</b> 3136:10	confrontation 3145:14	cooperativeness 3164:1	3149:1,17	3093:19,20 3095:18
3141:21	3146:1,7,14,20	coordinated 3056:9	currently 3047:14	3095:20 3096:2
<b>common</b> 3073:18,24	3147:5,11,16,22	coordination 3152:19	customs 3148:20	3127:16
3074:3 3075:12,17	3148:7,23 3149:2,4,8	cordon 3082:12,20	<b>cut</b> 3091:18	decisions 3089:23
3077:20 3159:6	3149:9,12,13,24	3083:24 3084:18		3090:7 3092:15,22
communicate 3045:10	3150:6,12 3151:23	3088:11 3123:21,21	D	deemed 3079:13,14
3158:11,14,20	3152:21 3153:4,8,10	3123:22 3124:6,9,16	danger 3068:22	deeply 3072:5,15,24
3159:24 3160:24	3153:24 3154:1,8,14	3124:20 3125:1,6	3083:12,13	<b>defended</b> 3154:6
communication	3154:21 3155:4	3126:11,22,24	dangerous 3083:25	<b>define</b> 3130:14
3045:12,16	<b>confrontations</b> 3133:14	core 3072:15,24	3084:19 3105:7	definitely 3051:9,12,19
communities 3144:1	confronted 3084:24	3073:11,25,25	date 3060:8,13	3054:5,25 3056:4
community 3054:17	3109:2	3075:24 3076:9	<b>David</b> 3141:10,25	3059:20 3064:18
3055:2 3068:24		3162:8		
3055.2 5008.24 3154:6	<b>confronting</b> 3088:12 3089:10		3142:12 3143:4	3076:5 3084:8 3086:22 3092:3
		<b>corner</b> 3112:13,14	day 3048:1,14 3049:15	
comparative 3100:4	<b>consider</b> 3050:9	3123:18	3049:23 3052:8,21	3118:4,5 3120:14,18
compelling 3096:12	3083:24 3094:9	<b>correctly</b> 3048:14	3056:9,16 3057:3,5,8	3125:14 3131:9
3097:7	3103:6 3163:5	3050:9 3112:7 3155:8	3058:15,17 3063:12	3133:1,2 3134:16
compilation 3049:8	considered 3066:16	correctness 3053:9	3069:4 3075:22	3137:21 3138:16
compile 3059:16	3076:16 3077:15	COSATU 3160:18	3076:1 3080:21	3152:2 3158:21
3091:6	3078:6 3079:2,6,12	<b>couldn't</b> 3053:9	3081:2,21 3083:19	definition 3153:2
compiled 3060:11,13	3082:10 3096:5	3081:15 3097:16	3088:3 3090:22	definitions 3152:24
3061:19 3063:21	3103:8 3143:21	3114:17 3119:5	3091:14,15 3092:1	delayed 3096:16
3064:5,7 3098:18	consistent 3070:4	3127:4 3139:16	3095:1,20 3096:8	demonstrating 3159:3
complaint 3157:4	consolidated 3050:12	3156:21 3164:11	3097:5,8 3109:10	demonstration 3072:4
<b>complete</b> 3084:16	constable 3074:15	could've 3082:9	3120:16 3129:7	3072:14,25 3073:4
completely 3058:16	constituencies 3076:5	Council 3101:7	3140:14 3156:14	demonstrations
3109:23	consult 3119:4	counsel 3099:4 3148:5	3159:16 3160:10,20	3098:12 3101:23
completeness 3116:10	consultant 3100:18	counsellor's 3115:9	daylight 3080:17	demonstrators 3101:24
3135:14	contact 3091:9	count 3051:14 3089:16	days 3049:10,13,14	deny 3142:15
comprehensive	contain 3081:1	countries 3047:20	3051:21,25 3079:25	departure 3091:25
3098:17	contaminated 3056:21	course 3061:4 3079:25	3089:15	depend 3075:21
concede 3131:25	contamination 3046:20	The second secon	deal 3046:14 3047:9,25	3090:12 3095:24
		3092:8,13 3096:24		
concept 3057:24	Contemporary 3141:4	3107:20 3109:14	3056:7 3057:25	3138:17
<b>concerned</b> 3074:23	contents 3144:3	3110:14 3112:3	3063:10,12 3064:10	depending 3077:17
3098:25 3122:4	context 3095:14,15	3134:6 3136:18	3064:15,19 3075:20	3081:2 3089:16
3136:2 3153:15	3097:24	3143:3 3150:19	3077:19,21 3080:20	3092:12 3163:25
<b>conclude</b> 3068:17	contextual 3150:3	3155:14,22 3156:2,2	3082:6,21,24 3083:21	depends 3090:4
conclusion 3122:10	3151:12	3156:3,8,10 3164:1	3087:19 3090:16	3092:18 3148:11
conclusions 3061:2	contingencies 3103:17	<b>Court</b> 3101:5	3091:5,10 3095:25	deploy 3081:11 3085:9
3117:21 3145:4	contingency 3064:22	create 3069:16	3096:2 3099:2	3086:16 3088:21
<b>condition</b> 3088:25	3103:6,20 3105:17	created 3061:1 3065:9	3101:18 3111:23	3113:19 3115:3,5,14
conditions 3064:1	3106:1,3,21 3107:5	creates 3046:17	3120:11 3123:3	3115:21,22 3152:8
3085:15 3145:21,25	3107:17,21 3120:11	credible 3155:2	3125:21 3136:17	deployed 3056:2
conducive 3145:14	3120:19 3138:20	crime 3100:3	3150:17 3156:12	3070:22 3071:21,21
3146:1,6,13,20	3151:13	criminal 3074:18	3160:20	3081:7,12,17 3108:25
3147:5,10,16,21	continuous 3048:1	3100:1,4 3101:2	dealing 3053:2 3056:13	3109:24 3113:11
3148:6,23 3149:3,9	continuously 3063:7	criminology 3099:25	3086:1 3095:12	3114:9 3115:9 3116:7
3149:13,24 3150:6,25	3064:17	3100:4 3101:12	3097:24 3128:1,6	3119:7 3126:3,16,21
3151:14,22 3153:10	<b>continuum</b> 3104:24	cross 3111:20	3129:23 3136:23	3137:11 3151:20
3154:1,8,13,21	<b>contribute</b> 3052:12,13	cross-examination	3142:6 3147:9 3164:2	deploying 3079:4
3155:4	3150:11	3067:6	deals 3067:5,11,16,25	3108:22 3152:14
<b>conduct</b> 3047:12	contributed 3050:25	cross-examining		deployment 3078:24
			3078:2 3144:6,9,12	1 0
3056:12 3132:8	3051:1	3044:4 3077:7	3144:15,18,21,25	3103:2 3108:11,15
3135:9 3155:11	<b>contribution</b> 3048:2	cross-purposes	dealt 3063:2 3087:2	3115:3 3116:17
3156:11	<b>control</b> 3044:21,21,22	3117:12	3126:25	3117:16 3118:14
confidence 3132:21	3044:25 3045:4,7,18	crowd 3072:18,20,21	<b>debate</b> 3096:25	3119:13,16 3126:13
3156:18 3157:13	3055:24 3056:8	3081:18 3082:1	3126:24	3152:18
3161:18	3068:18 3098:11	3084:24 3091:10	<b>DECEMBER</b> 3044:1	deployments 3078:21
confident 3132:20	3102:22 3103:10	3100:17 3106:13	decide 3092:10	<b>Der</b> 3101:16
	0106 10 0146 10	3117:9 3128:11	decided 3093:2	described 3143:24
<b>confirm</b> 3142:15	3106:13 3146:18		-	
<b>confirm</b> 3142:15 3143:17	3106:13 3146:18 3147:1,15 3154:20	3130:4,15 3141:14	3097:11,19	3153:19
				3153:19 designed 3106:12
3143:17	3147:1,15 3154:20	3130:4,15 3141:14	3097:11,19 <b>decision</b> 3080:11 3089:14,18,25 3090:3	
3143:17 confiscated 3074:12 confiscating 3076:11	3147:1,15 3154:20 controlled 3068:11 convener 3085:13	3130:4,15 3141:14 3147:14 3152:1,12,12	<b>decision</b> 3080:11 3089:14,18,25 3090:3	<b>designed</b> 3106:12 3128:23
3143:17 confiscated 3074:12 confiscating 3076:11 3082:12	3147:1,15 3154:20 controlled 3068:11 convener 3085:13 convenient 3076:21	3130:4,15 3141:14 3147:14 3152:1,12,12 3154:18 3158:13 3159:2	<b>decision</b> 3080:11 3089:14,18,25 3090:3 3090:8,13,15,22	<b>designed</b> 3106:12 3128:23 <b>despite</b> 3097:3 3135:10
3143:17 confiscated 3074:12 confiscating 3076:11	3147:1,15 3154:20 controlled 3068:11 convener 3085:13	3130:4,15 3141:14 3147:14 3152:1,12,12 3154:18 3158:13	<b>decision</b> 3080:11 3089:14,18,25 3090:3	<b>designed</b> 3106:12 3128:23

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

				Page
deter 3129:6 3136:1	dispersion 3066:6	<b>early</b> 3071:9	estimated 3079:8	3107:17 3121:2
determined 3129:24	3105:5	easier 3082:1	etcetera 3151:21	extract 3099:12
3136:23	display 3151:22	east 3123:5,24,25	event 3052:1 3056:3	3142:19
diagram 3112:6,14	3155:10	3124:12	3087:6 3089:6,6	E-N-S-E-N 3141:15
dialogue 3158:7	displayed 3135:10	easterly 3113:2,2	3092:13 3113:6	e.g 3149:19 3153:8,24
didn't 3050:1 3053:4	<b>dispute</b> 3160:4	3122:20 3125:1,2,8	events 3049:2 3053:10	3154:5
3066:12 3086:25	disrupted 3127:7	eastwards 3124:17	3081:8 3103:9,11	
3105:11,17 3106:22	dissipate 3073:5	easy 3077:21 3154:19	3113:10 3129:5,17,23	F
3109:14 3113:5	distance 3080:3	edited 3063:19 3141:10	3135:25 3136:19	face 3056:3 3080:14,15
3125:19 3132:11,15	distant 3079:15	3141:14	everybody 3119:5	3089:8
3165:5	diverse 3130:9	edition 3143:20,22,22	evidence 3048:12	faced 3045:22
different 3062:22	divided 3049:18,19	effect 3060:11 3116:25	3053:9 3071:1 3073:9	fact 3062:5 3064:23
3063:8,15 3066:22	3052:17	effective 3063:18	3073:13 3081:24	3065:2 3071:11
3126:20 3152:19	docile 3137:12	3103:2	3095:13 3111:18	3078:4,5 3081:5
3160:17	doctrine 3045:2	effectively 3054:14	3135:5 3143:6,7	3084:6 3093:16
differently 3051:23		either 3106:4 3161:7,7	3155:8 3158:3 3163:1	
e e	<b>document</b> 3062:13 3087:20	· · · · · · · · · · · · · · · · · · ·	3164:6	3096:17 3104:11
3052:2,20 3059:4		element 3079:6		3108:20 3110:11
3090:21	documented 3062:12	elements 3103:16	evidence-in-chief	3111:9 3112:18
<b>difficult</b> 3054:10	documents 3165:4	embark 3047:12	3098:2	3113:24 3118:7
3059:20,24 3064:6,11	doesn't 3054:21	3054:4 3064:3	exactly 3058:18	3127:13 3140:6
3065:19 3086:22	3061:18 3062:25	embarked 3085:24	3082:23 3088:16	3150:23 3153:20
3092:15,22 3111:7	3064:17 3072:1	eminent 3099:1 3101:1	3091:9 3092:14	factor 3147:4,10,15
difficulty 3065:22	3076:4 3086:12	3102:5	3097:17 3127:16	3148:22 3149:3
directed 3061:17	3107:20 3137:15	<b>employee</b> 3161:17	examination 3101:21	3150:5,25 3151:14,22
direction 3044:19	dogged 3135:5	employer 3157:1	3111:21	3153:25 3154:7,13,20
3109:25 3110:15	doggedly 3055:5	3164:22	excluding 3115:23	3155:4
3113:2 3114:7,17	dogs 3151:21	<b>enable</b> 3077:1	<b>execute</b> 3115:6	factors 3059:16 3063:5
3117:24 3120:7	doing 3052:17 3080:8	encircle 3079:7	executed 3084:18	3091:2 3145:13,18
3121:19 3122:20	3115:18 3118:12,22	3109:11	3094:25	facts 3096:11
3124:17,25 3125:1,2	3130:3 3146:2 3150:9	encircled 3109:8,20	execution 3057:25	fail 3046:11 3085:22
3125:8,13,17 3126:10	3150:11	enclose 3104:9,14	3063:17	3121:1
3126:11	<b>Don</b> 3100:10	encounters 3150:4,24	exercise 3146:2	failing 3085:19
directions 3123:5	don't 3045:15 3056:23	ended 3127:5	exhibit 3049:25 3050:2	fails 3046:14 3047:25
director 3101:2	3064:25 3070:25	ends 3125:4,14	3050:6 3053:11,14,23	failure 3056:25 3059:2
disarm 3079:8 3085:10	3075:19 3077:6	energy 3073:5	3060:4 3066:1 3099:7	3061:24,25,25
3085:21 3088:18	3083:3,7 3086:4,23	engage 3085:3 3153:8	existed 3080:8 3145:21	3154:25
3120:21 3135:6	3092:8 3093:16	3153:24 3154:25	3145:25	<b>fair</b> 3061:3 3122:7
disarmed 3121:9	3096:22 3099:6		expectation 3059:4	3153:18
disarming 3084:16	3103:18,25 3104:1	<b>engaged</b> 3101:10 3131:10	experience 3074:15	fairness 3116:9
3121:18 3122:7			3075:7 3092:23	
	3107:24 3108:6	engagement 3130:18		3142:22
discipline 3047:8	3109:11 3111:6,12,17	England 3047:22	3093:24 3094:13,15	<b>faith</b> 3151:12 3162:2
3056:5	3115:6,13,16 3119:1	English 3145:1	3095:6 3101:18	fall 3072:20 3145:22
disciplined 3056:2	3120:2,3,17,19,22	ensure 3063:9 3068:21	3150:13 3160:16	<b>fallen</b> 3080:2
discussed 3049:3	3126:24 3128:7,17,18	3121:8 3133:14	3161:19,20	Fanagalo 3158:3
3153:20 3162:18,21	3130:13 3131:14	3152:2	experienced 3072:3	fans 3145:1
discussing 3162:2	3133:19 3136:11,16	entirely 3137:11	3109:6	far 3057:10,13 3070:15
discussions 3156:12	3142:9 3143:7 3149:7	3138:11	expert 3048:13,13,20	3113:6 3114:17
disorder 3141:25	3153:20 3158:15,22	entrenched 3045:2	3100:18 3142:16	3116:6,8,12,18
3143:25 3144:10	3159:10 3160:4,25	environment 3152:1	3143:4	3117:6 3122:3
dispersal 3108:16	3163:6 3165:10	equally 3153:15	experts 3098:10	3153:15
3114:2 3115:6	dotted 3116:6	equipment 3047:3,4,25	explain 3114:25	fashion 3137:12
3116:22 3117:1	doubting 3123:7	3106:12	3155:21	fast 3159:11 3160:5
3119:12 3121:3,17	<b>Dr</b> 3099:24 3101:6,19	<b>ere</b> 3157:18	explained 3053:16	fatalities 3127:11
3122:5 3126:13	draft 3050:14 3091:5	erected 3125:6	3061:13 3099:3	fear 3074:11
3127:4 3154:17	draw 3059:16 3117:21	error 3057:1,7 3093:3	3115:1 3128:16	feasible 3079:13,14
<b>disperse</b> 3046:10	drawn 3058:25	escort 3163:12	3156:1	feel 3132:21
3066:12 3080:24	due 3061:4 3079:14	especially 3045:6	explains 3135:8	feeling 3045:12
3104:25 3113:21	3096:17 3112:18	3050:22 3051:3	explanation 3052:15	3056:21
	3115:19,23 3136:18	3056:3,19,20 3063:22	3058:8,23	<b>field</b> 3100:3
2114.95 2115.4 7 14	-			
3114:25 3115:4,7,14	21/2.2 21/0.10	3072:18 3080:19	explicit 3146:9	<b>fight</b> 3076:5
3126:6 3127:8	3143:3 3149:18		arm and 2047.10	
3126:6 3127:8 3138:12	duration 3059:7	3082:18 3085:20	<b>explore</b> 3047:19	<b>figure</b> 3080:22
3126:6 3127:8 3138:12 <b>dispersed</b> 3066:13	duration 3059:7 duty 3077:5	3082:18 3085:20 3091:9 3152:1 3155:2	express 3048:13	figures 3051:12
3126:6 3127:8 3138:12 <b>dispersed</b> 3066:13 3108:12 3115:15	duration 3059:7	3082:18 3085:20 3091:9 3152:1 3155:2 essence 3152:14	<b>express</b> 3048:13 3051:22	<b>figures</b> 3051:12 3094:21
3126:6 3127:8 3138:12 <b>dispersed</b> 3066:13 3108:12 3115:15 3121:9 3137:13,20	duration 3059:7 duty 3077:5 dynamics 3072:18	3082:18 3085:20 3091:9 3152:1 3155:2 essence 3152:14 3156:19	express 3048:13 3051:22 extended 3112:22	figures 3051:12 3094:21 Fijnaut 3099:25
3126:6 3127:8 3138:12 <b>dispersed</b> 3066:13 3108:12 3115:15	duration 3059:7 duty 3077:5	3082:18 3085:20 3091:9 3152:1 3155:2 essence 3152:14	<b>express</b> 3048:13 3051:22	<b>figures</b> 3051:12 3094:21

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

				Page 5
3088:21	foundations 3145:5	3080:1 3081:6,12,17	gradual 3046:4	happy 3115:2
final 3049:20 3050:6,11	four 3089:15	3087:11,11 3088:8,24	great 3077:8 3100:2	hard 3146:5
3053:13	framework 3158:19	3089:5 3097:7 3108:1	3101:18 3102:6	harder 3076:6
<b>find</b> 3056:12 3098:16	frank 3138:9	3127:19	3132:12	Harvard 3099:1 3101:2
<b>fine</b> 3160:13 3161:10	frankly 3054:20	gives 3048:20 3115:17	green 3114:20 3117:8	hasn't 3093:16
finger 3121:16	frequently 3102:1	3156:20	3117:12	haven't 3102:18
<b>finish</b> 3111:16	Friday 3076:25 3096:9	giving 3048:12 3052:18	grenade 3105:4	3107:22
finished 3154:3	friend 3135:1	3067:2 3080:22	grenades 3065:17	head 3101:6 3107:21
<b>firearm</b> 3065:13	front 3050:21 3099:12	3081:22 3127:7	3066:3,11 3126:5	3109:25 3114:7
3068:21 3074:17	3116:11	3150:7 3155:24	3129:6,8,14 3136:1	3117:23 3120:7
3155:12,13 3164:18	frontline 3154:5	3158:3	ground 3089:20 3090:2	headed 3078:11,12
firearms 3068:13,19	full 3061:25 3107:16	globalisation 3144:19	3092:10 3107:23	3145:9
3074:3 3076:11	3148:20	go 3047:22 3050:11	group 3049:12 3072:6	heading 3065:23
3082:23 3164:4	functions 3094:25	3053:15,24 3057:11	3073:11,14 3074:22	3147:8,14 3150:3
<b>firm</b> 3143:10	3127:20	3060:6,14 3062:19	3075:13,24 3076:3,9	hear 3073:21 3074:9
first 3050:2 3053:10	further 3057:11	3067:8 3069:22	3076:15 3077:11,21	3102:14 3109:21
3058:24 3078:16,22	3061:21 3084:19	3072:1 3074:25	3087:1 3102:5 3107:1	3115:2,6,25 3119:4
3080:23 3094:8,17	3088:11,21 3135:16	3078:6 3080:11,24	3108:25 3111:8	3135:5,6,12 3136:21
3102:13 3104:5	3156:24	3083:21 3084:11	3126:13 3129:18	3155:17
3105:15 3113:25	furthermore 3066:4	3086:4 3097:19	3130:9,10,12,14,20	heard 3096:25 3102:11
3116:11 3119:3	future 3044:20,24	3099:17 3100:7	3130:21,22 3131:5	3102:11 3111:10
3133:24 3134:7	3045:15 3047:3	3102:20 3103:1,18,22	3136:20 3138:24	3119:10 3121:23
3146:4,18 3156:17	F-I-J-N-A-U-T	3104:4 3105:11,17,18	groups 3049:18,19,19	3137:8 3141:16,16
3158:24	3099:25	3107:24 3113:6	3052:17 3120:21	3142:11 3164:7
firstly 3044:20 3075:15		3114:6,13,13,17	3128:1 3146:11	held 3063:25,25
3104:24 3116:6	G	3118:5,18 3119:24		3068:13 3096:8
3117:7 3128:24	<b>GA</b> 3144:22	3120:15 3121:19	<u> </u>	3101:3
first-hand 3072:9	gain 3156:17 3157:13	3122:3 3125:12,15,15	hadn't 3061:23	help 3086:12 3107:21
flexible 3064:19	gap 3046:5,6,12	3125:19 3126:12,24	3114:10 3117:13,20	3139:12,14 3163:13
floor 3050:20	3047:24 3070:7	3136:16 3143:21	half 3071:13,13	3164:25
<b>flowing</b> 3062:5	3116:11 3121:11	3144:2,2 3145:8	3122:13	helped 3150:9
follow 3080:22 3086:3	gaps 3053:5	3151:6,7 3153:20	Hallam 3143:23	<b>helpful</b> 3098:16 3163:9
3086:10 3087:10 3089:6 3102:25	<b>gas</b> 3046:19,21 3056:17 3056:23 3057:1	3163:7 goal 3121:1,2 3122:5,6	HANABE 3147:24 3148:2,9,13	Hemraj 3063:16 3091:20 3151:9
3112:4 3117:5	gathered 3133:15	goals 3052:21	hand 3058:10 3059:2	Hennie 3148:5
followed 3085:16	gathering 3063:22,25	goes 3054:19 3105:22	3062:3 3078:16	hesitate 3075:20
3086:3 3087:13	3073:4,7,8 3076:1	3106:1,10	3123:18 3164:5,21	heterogeneous 3149:19
3096:2	3085:13 3086:2,10	going 3046:16 3052:24	handed 3059:5 3061:23	Heymann 3101:1
following 3045:25	3087:12 3156:5,10,14	3056:7 3057:12,25	3062:6	he'd 3071:9
3058:15 3066:3,8,17	gatherings 3086:11	3059:24 3060:23	handle 3069:1 3085:20	he's 3056:21 3102:15
3079:1,6 3080:2	3087:5,15 3091:11	3061:24 3064:15	handled 3087:7 3156:1	3102:16
3081:12 3094:3	3098:19 3155:24	3068:25 3075:4	hang 3110:4	high 3151:20
3106:21 3128:24	Geldenhuys 3100:22	3084:15 3085:17	hangers-on 3072:7	highest 3067:17
foot 3102:22	general 3065:9,13	3086:4 3089:2,2,3	happen 3054:21	highly 3103:7
football 3145:1	3078:4 3086:21,24,24	3090:2,22 3091:10,11	3058:13 3059:25	historical 3150:10
force 3077:22 3104:24	3100:3,22 3146:11	3096:20 3097:18	3062:9 3067:3 3076:7	history 3083:14 3150:3
3110:12 3127:15	3163:5,10	3103:17 3104:14,17	3086:8 3094:6 3095:4	3150:17
3135:10 3155:9,12	generous 3116:13	3107:12,24 3109:7	3095:4 3096:1 3110:8	hit 3114:21
forceful 3147:8	geographically 3154:18	3110:6 3114:9,17	3115:11 3120:14	<b>hoc</b> 3087:2
forces 3079:14 3080:2	getting 3071:20	3115:1,11,17 3116:22	3132:4,4,25 3137:15	holding 3105:25 3106:5
3110:20 3152:19	3078:10 3110:5	3116:24,25 3126:9,10	3137:19 3139:21	3106:9 3107:2
foreseeable 3109:23	3156:21	3126:10 3127:3	happened 3050:18	Holland 3100:1
3137:11 3138:12	<b>give</b> 3044:14,15	3135:15 3142:18	3057:2 3058:17	home 3074:5,25 3075:4
forgive 3131:15	3045:21 3047:5	3145:19,23 3151:7	3063:11 3067:2,3	3080:24 3081:18
forgot 3142:8	3048:24 3049:20	3156:13 3158:4,12	3072:8,23 3092:2	3110:6 3114:13,13
<b>form</b> 3104:18,18	3051:14 3053:9	3163:19,20 3165:4	3094:4,10 3096:9	3118:5,18 3144:22 homes 3117:24 3120:15
3115:14 3142:25 formations 3151:20	3054:6,7 3058:23 3059:19 3081:6,15,25	Goldstein 3141:21 Goldstone 3098:2	3108:20 3110:3 3120:25 3126:20	homes 3117:24 3120:15 hope 3163:22
former 3102:15	3083:2 3091:4	good 3075:15,24	3120:23 3120:20	horse 3151:21
formulated 3103:3	3094:18 3098:10	3076:10 3080:13	3136:25 3137:2	horse 3151.21 hostage 3156:2,8
3151:13	3106:16 3111:17	3084:3,23 3092:23	3139:25 3164:16	hostel 3082:11 3083:1,5
forward 3106:5	3116:25 3132:21	3099:2 3103:15,16	happening 3110:9	3083:7,8,11 3088:16
3111:23 3126:22	3142:18 3156:20	3148:21 3157:12	3119:4 3130:4	hostels 3082:12,16
3130:3 3160:25	3162:15,19 3163:6	3162:2	3137:22	3083:25 3084:17
Foster 3100:10				3087:25 3088:11
	3165:6,10	government 3101:4,19	<b>nappens</b> 3106:1	5067:25 5066:11
<b>found</b> 3071:6	3165:6,10 given 3059:25 3078:1	<b>government</b> 3101:4,19 3146:5,10	happens 3106:1 3152:21	hostilities 3155:1

Tel: 011 021 6457 Fax: 011 440 9119

				Page
hours 3069:25 3070:13	increase 3145:19	interactional 3154:11	3110:9,13,22,23	Kingdom 3102:2
3071:5,10,11,12,13	increases 3152:21	3154:17,24	3111:11,11 3112:7,15	knew 3110:8 3128:25
house 3074:19	3153:3	interest 3146:11	3113:24 3115:4,17	3129:4,12,16,22
Human 3101:7	independent 3048:21	interestingly 3144:1	3116:18 3118:7	3131:2 3134:10
<b>hunt</b> 3164:17	<b>indicate</b> 3047:10	interests 3096:5	3120:9,13 3127:20	3135:21,25 3136:18
H-A-L-L-A-M 3143:23	3048:16,17 3056:20	3143:24	3130:1 3136:17	3136:22,24
H-E-Y-M-A-N-N	3062:14 3097:16	interfered 3119:8	3147:17 3157:15	knopkieries 3133:15
3101:1	3151:25 3153:12	<b>interim</b> 3079:2	3158:1 3159:11,19,22	know 3047:16 3065:2
	3165:4	international 3098:18	3161:6 3163:20	3067:20 3070:25
<u> </u>	indicated 3056:2	3100:4,9 3142:16	<b>I'd</b> 3061:9 3095:12	3071:16 3079:11
identified 3055:12,19	3063:4,21 3084:25	internationally	<b>I'll</b> 3061:4 3074:9	3081:5,10 3082:22
3055:24 3057:2	3132:23 3138:22	3140:20	3108:4 3165:12	3083:20 3086:9
3058:2,3,6 3060:16	3139:18,20	interpret 3159:24	<b>I'm</b> 3044:22 3045:24	3088:16 3089:14
3087:17,18	indicates 3134:10	interpretation 3147:20	3046:5,16 3047:3	3090:2 3091:9
identifies 3052:25	indicating 3064:3	3148:8	3048:10 3049:11	3100:24 3106:17
3068:3	3133:1	interpreter 3147:20	3051:15 3058:19	3107:23 3108:6,19
identify 3052:21	individuals 3072:19	3157:19,22 3160:3,6	3059:9 3060:23	3109:15 3112:21
3057:7 3078:16	inducement 3163:3	3160:6,14 3161:7,8,9	3061:10 3064:8	3115:18 3119:23
3145:19	3164:8,23	3161:17	3065:1,15,19 3070:20	3127:5,16 3128:20
identifying 3099:16	ineffective 3129:17	interpreters 3158:3	3070:22 3071:7,20	3129:7 3131:14
identity 3072:20	3136:20	interrupt 3105:14	3072:4,16 3073:22,23	3133:20 3135:21
ignorance 3122:10	inevitable 3117:22	<b>intervene</b> 3127:17,19	3074:7,9,20 3086:14	3136:12 3140:15,20
<b>ignorant</b> 3122:2	inexplicable 3135:9	intervened 3087:8	3088:13,14 3095:3,19	3141:5,6,10,22
3153:15	influence 3063:4	intervention 3069:13	3097:19 3102:4,15	3142:3 3147:1
<b>illegitimate</b> 3152:25	influencing 3059:16 3091:1	3069:15,20 3093:12 3127:14 3128:14	<b>I've</b> 3044:13 3051:1 3057:11 3060:5	3150:17 3156:16,25
3153:3	influential 3094:21	3127:14 3128:14 interventions 3154:12	3057:11 3060:5	3157:17 3162:5,17
ill-intentioned 3153:3 ill-intentions 3152:25	inform 3121:24	intimidation 3098:7	3061:20 3074:16	knowledge 3072:9,17
	informal 3110:16,21	intractable 3155:3	3107:8 3141:2,3,8,13 3141:18,24 3142:19	3102:6 3145:23 3147:8
image 3046:18 immediately 3071:21	3111:16 3112:1,3,18	invincible 3131:6	3156:10,15 3160:22	<b>known</b> 3061:23
3097:17 3161:24	3114:14,23 3119:20	3135:8	3160:23	3102:16 3143:10
implement 3089:19	informed 3107:9	invisible 3135:8	5100.25	<b>Knutsson</b> 3141:15
3090:10,22 3091:21	3119:6	involved 3050:23	Ma J	koppie 3073:12,14
3092:9,10	informers 3059:18	3053:3 3065:24	ja 3051:18 3068:8	3074:4,22 3075:1,2,9
implementation 3061:1	initial 3079:2	3066:2,10 3072:5	3093:22 3094:7,16	3075:14,24 3076:9
implemented 3128:23	initiated 3070:11	3075:22 3097:15	3112:9 3142:7	3077:11 3079:3,7
implementing 3046:12	injured 3070:18	3107:5 3130:18	3144:14 3149:5,15	3083:6 3084:24
3107:22	3136:10 3159:15	involving 3100:19	3151:24 3153:11	3085:10.10.24 3086:6
implications 3145:5	3160:9	invulnerable 3135:8	3164:10	3086:16 3087:12,19
importance 3103:3	inquiry 3077:3,3	<b>IPID</b> 3109:19 3111:15	job 3083:5 3086:7	3088:12,22 3089:1,10
important 3044:23	3098:6	<b>IRA2</b> 3114:19 3117:19	3089:1 3094:2	3089:15 3093:2,18
3047:11 3054:9	inside 3074:18	<b>iron</b> 3133:16	<b>JOC</b> 3078:11 3090:6	3097:4 3105:6 3108:9
3069:5,15 3082:22	<b>insist</b> 3055:5	irrelevant 3112:4	<b>Johannes</b> 3141:15	3108:12,15,21
3091:16 3121:1	instance 3158:12	isolated 3105:7	Johannesburg 3160:17	3109:14,24 3110:17
3157:16	institution 3146:25	issue 3057:1 3162:19	journals 3140:25	3110:19 3111:25
imported 3131:20	institutional 3146:17	issued 3056:16,22	judge 3091:23	3112:6,19 3114:5
3133:12 3134:8	3146:24	issues 3044:17,18	jumped 3066:23	3115:5,7 3117:23
improved 3055:25	instruction 3065:12,16	3045:1 3053:6 3056:3	<b>June</b> 3144:23	3119:7 3120:6 3121:4
improving 3045:14	3065:20 3093:25	3056:7 3085:20	Justice 3101:2 3144:22	3121:22 3123:5
incident 3069:25	3104:24	3091:10 3092:12		3124:2,5,13,17
Incidentally 3102:10	instructions 3049:6	3141:9 3155:3	K	3126:3,6,9 3130:20
incidents 3074:16	3052:13 3065:9	item 3078:20 3153:6	Karee 3084:17	3133:15 3137:13,20
3150:4,24	3094:18	<b>it's</b> 3046:22 3048:11,16	keep 3074:4 3075:2,8	3157:8 3162:7,23
include 3060:19	integrated 3046:1,18	3049:25 3055:21	3115:18	3163:11,17 3164:3,5
3073:19	3047:7	3056:1 3057:4	keeping 3075:10	3164:14,22
included 3062:15	intelligence 3059:18	3058:18 3059:9,13	kept 3082:11,23 3152:5	koppies 3133:17
3156:4	3062:10,17,23 3063:7	3061:3 3062:15,18,18	key 3073:20 3103:16	kraal 3111:8 3116:12
includes 3045:16	3063:17 3064:2	3064:6,7,11 3068:6	killed 3055:7 3065:2	Kritcher 3141:10
2017.15 2145.4	1 2025 10 2000 17	3068:11 3071:13,19	3070:18,20,22	K-N-U-T-S-S-O-N
3047:15 3145:4	3075:19 3082:17			
including 3101:24	intended 3106:22	3073:23,24 3074:1,3	3071:10 3083:16	3141:15
<b>including</b> 3101:24 3102:6	<b>intended</b> 3106:22 3125:19,20	3075:7 3076:13,17,24	3106:18,24 3127:21	<b>K1</b> 3112:7,18 3124:3,3
<b>including</b> 3101:24 3102:6 <b>incorporate</b> 3062:1,1	<b>intended</b> 3106:22 3125:19,20 <b>intensively</b> 3140:24	3075:7 3076:13,17,24 3087:8 3090:8 3091:3	3106:18,24 3127:21 3129:1,9 3130:19	
including 3101:24 3102:6 incorporate 3062:1,1 incorporated 3063:12	intended 3106:22 3125:19,20 intensively 3140:24 intention 3081:6	3075:7 3076:13,17,24 3087:8 3090:8 3091:3 3093:3,19,20 3094:1	3106:18,24 3127:21 3129:1,9 3130:19 <b>killings</b> 3081:9	<b>K1</b> 3112:7,18 3124:3,3 <b>K3</b> 3124:2,2
including 3101:24 3102:6 incorporate 3062:1,1 incorporated 3063:12 incorporation 3062:5	intended 3106:22 3125:19,20 intensively 3140:24 intention 3081:6 3113:25 3153:7,23	3075:7 3076:13,17,24 3087:8 3090:8 3091:3 3093:3,19,20 3094:1 3094:10 3098:17	3106:18,24 3127:21 3129:1,9 3130:19 <b>killings</b> 3081:9 <b>kind</b> 3129:18 3131:10	K1 3112:7,18 3124:3,3 K3 3124:2,2 L
including 3101:24 3102:6 incorporate 3062:1,1 incorporated 3063:12	intended 3106:22 3125:19,20 intensively 3140:24 intention 3081:6	3075:7 3076:13,17,24 3087:8 3090:8 3091:3 3093:3,19,20 3094:1	3106:18,24 3127:21 3129:1,9 3130:19 <b>killings</b> 3081:9	<b>K1</b> 3112:7,18 3124:3,3 <b>K3</b> 3124:2,2

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

				Page 7
3053:23 3066:1	3153:15,18	loss 3140:11,17	3084:17 3094:21	<b>Mike</b> 3141:5
3087:20 3105:16	level 3067:17,17	lost 3083:14 3136:9,10	3145:22	mine 3129:1
lack 3061:7,13 3147:8	3097:19	3140:6 3147:1	marked 3060:8	mining 3144:1
3147:14 3151:12	Lieutenant-Colonel	lot 3056:5 3059:15	3113:15	Ministers 3144:22
laid 3058:15,16 3062:11 3096:18,19	3050:22 life 3128:19 3140:6,11	3061:2 3070:8 3083:1 3083:2 3091:12	marshals 3085:21 3086:6 3088:25	<b>minutes</b> 3070:17 3163:20
3097:2	3140:17	3097:14 3140:20	mask 3046:19,21	missing 3057:18
language 3147:23	light 3090:10 3091:22	3156:10 3164:25	masks 3056:17,23	mission 3079:16 3080:4
3157:14 3158:8,25	line 3066:6,7,9,14	lots 3088:16	3057:1	3139:23
3159:4,6,20 3160:23	3079:4 3081:14	Louw 3101:5	Mathunjwa 3097:4	<b>mistake</b> 3051:9 3057:2
3161:4	3085:9 3086:17	lower 3080:15 3089:9	matter 3057:16 3096:8	3057:7
large 3055:25 3072:4	3087:1 3088:21	3123:21	3111:23 3140:6,17	mistakes 3052:25
largely 3099:2 3136:20	3112:22,23 3113:5	lunch 3076:23	3164:16	mistrust 3149:17,22
lasted 3049:9	3116:6 3117:6	lying 3118:20	matters 3052:21	moment 3081:24
<b>late</b> 3101:4	3139:24 3140:3	L107 3135:14	3117:14	3112:2,5 3115:12
<b>law</b> 3099:1 3100:1,4 3101:21 3141:19	3146:5 lines 3095:16 3104:18	L108 3135:14 L177 3104:4	maximum 3103:10 mean 3045:2 3046:20	3119:6 3126:16 3132:10 3138:18
3158:20	3104:18 3113:14	<b>L1</b> 77 5104.4 <b>L200</b> 3116:3	3064:17 3111:6	3165:2
lay 3061:15,20 3065:13	3119:11 3152:20	L63 3078:7	3126:18	morning 3055:12,19
3097:13,18 3162:9	linking 3057:25	L83 3070.7 L81 3116:8 3123:12	meaning 3061:25	3058:10 3079:1,20
3163:10,13	list 3145:12	L82 3084:11	3139:9,25 3148:8	3088:6 3096:24
lead 3073:8 3105:5	listed 3130:25		means 3095:15 3096:20	3165:7,14
3111:12	listen 3050:8 3135:3	M	3103:8 3128:1,6	move 3046:10,24
leader 3158:13	3160:1	Madensen 3141:14	meant 3158:9	3061:5 3075:12
leaderless 3149:20	listened 3050:25	MADLANGA 3134:2	media 3122:25 3123:4	3080:23 3089:13
leaders 3072:25 3073:3	literature 3140:20	3147:18 3148:1,4,11	3124:7,10,18,20	3091:20 3095:10,11
3073:7,20,24 3075:16	little 3064:6,11 3089:2	magnitude 3044:23	3125:10 3146:11	3097:22 3098:1
3076:3,6 3143:6 3156:13	3150:8 3152:15,15 live 3109:25 3127:15	MAHLANGU 3055:16 3110:22	meet 3049:20 3130:4 meeting 3049:2,9	3105:3 3108:3 3109:3 3115:7 3120:15
leadership 3045:1	lived 3110:17 3111:8	main 3046:8 3049:5	3051:6,11 3052:7,20	3122:18 3124:6,22,22
leading 3050:6 3093:18	3111:15,25 3114:5	3054:1 3082:3	3052:25 3053:19	3125:7,16,17,18
3152:19	lives 3136:9,10	3120:13 3143:24	3063:8,23,23 3144:22	3138:1 3152:17
learn 3047:18 3152:10	local 3101:18 3146:18	3158:16 3160:8,19	meetings 3085:14	3160:25
learned 3097:12 3130:2	3147:1 3148:19	3162:9,10	3162:25	moved 3076:8 3108:21
3135:1	locality 3148:19	maintain 3062:16	member 3056:20	movement 3127:1
leave 3081:25 3097:4	locate 3112:5	maintaining 3148:21	3101:14 3140:2,3	moving 3061:6 3076:15
3110:12 3153:15	location 3154:5	making 3051:9 3086:1	3141:21	3077:11 3079:5
3157:8 3162:7	locations 3079:15	3089:5,14 3093:11	members 3046:20,22	3085:23 3086:18
3164:14,16 <b>leaving</b> 3082:4 3083:8	3080:3 logical 3114:6 3149:14	3095:18 3149:11	3046:24 3047:1,2,8 3053:2 3056:16,22	3089:1 3106:8 3109:1 3117:9 3118:15
3121:4 3122:3	London 3101:23	3150:19 <b>man</b> 3101:17	3057:1 3066:6,7,13	3119:7 3120:17
lecture 3155:23	long 3075:18 3148:21	manage 3047:9 3082:2	3066:15 3068:23,23	3122:20 3124:17
lectured 3156:11	3149:21 3152:4	3085:18 3089:2	3074:22 3083:12	3125:1,2 3137:23
lectures 3102:1	3158:5	3097:16 3115:3,21	3085:4 3087:8	3155:16
Lee 3099:21	longer 3080:8	3158:11,17,20,21	3099:16 3107:2,23	Mpembe 3065:9,13
left 3081:18 3121:14,22	Lonmin 3157:1,4,8	3159:13	3117:17 3122:24	3086:21,24,25
3121:23,25 3125:20	look 3045:5 3049:7	manageable 3120:21	3124:21 3128:14	3163:10
3126:9	3056:5 3068:10	managed 3049:12	3129:2 3131:5,6	Mpembe's 3163:5
legal 3098:11 3158:19	3069:1 3082:18	3057:10 3115:21	3136:10 3138:21	<b>Mpofu-like</b> 3048:11
lesson 3044:19 lessons 3130:2	3092:9 3094:21 3096:19 3104:3	3160:23	3139:4,12,15,16,22	<b>multi</b> 3047:7 <b>Municipal</b> 3101:17
lessons 3130:2 lethal 3045:24,24,25	3096:19 3104:3 3110:19 3111:2	management 3091:10 3128:11 3152:1	3139:24 3140:5,16 3155:10,18,25	Municipal 3101:17 muster 3077:22
3046:2,13 3047:13,13	3116:3,3,20 3123:12	managing 3044:24	memory 3077:8	muster 3077.22 muti 3131:5,10,19
3047:19,21 3056:13	3123:20 3128:22	manner 3048:22	men 3133:15	3133:13,17 3137:7
3128:8	3131:15 3133:4	3138:13 3150:18	mention 3046:16	mutual 3122:10
letter 3052:11,12,14	3135:14 3162:17	manual 3078:1	mentioned 3047:16	<b>M-A-D</b> 3141:14
letting 3075:3	3163:10	manufacture 3133:13	3056:19 3057:20	
let's 3047:3,5 3050:24	looked 3044:17	march 3063:22,25	3059:3,6 3063:13,14	N
	3045:23	3064:1,4 3091:11	mentioning 3132:9	name 3160:18
3074:22 3092:5		2156 12 2150 12	Merwe 3101:16	names 3067:21 3142:6
3074:22 3092:5 3104:3 3105:15	looking 3045:7,24	3156:13 3158:12		<b>01 10</b> C
3074:22 3092:5 3104:3 3105:15 3123:16 3125:18	<b>looking</b> 3045:7,24 3046:3 3047:22,23	3163:11	met 3098:24 3102:18	3142:8
3074:22 3092:5 3104:3 3105:15 3123:16 3125:18 3138:8 3140:4	<b>looking</b> 3045:7,24 3046:3 3047:22,23 3066:21 3108:3	3163:11 <b>marches</b> 3160:17,23	<b>met</b> 3098:24 3102:18 3143:5	Natal 3101:17
3074:22 3092:5 3104:3 3105:15 3123:16 3125:18 3138:8 3140:4 3158:17 3159:7	<b>looking</b> 3045:7,24 3046:3 3047:22,23 3066:21 3108:3 3125:3 3137:2	3163:11 marches 3160:17,23 marching 3087:2	<b>met</b> 3098:24 3102:18 3143:5 <b>method</b> 3139:5	<b>Natal</b> 3101:17 <b>national</b> 3049:6
3074:22 3092:5 3104:3 3105:15 3123:16 3125:18 3138:8 3140:4 3158:17 3159:7 3160:8,9 3163:16	<b>looking</b> 3045:7,24 3046:3 3047:22,23 3066:21 3108:3 3125:3 3137:2 3140:13 3152:13	3163:11 marches 3160:17,23 marching 3087:2 3159:3 3160:7	met 3098:24 3102:18 3143:5 method 3139:5 methods 3143:25	Natal 3101:17 national 3049:6 3052:13 3102:2
3074:22 3092:5 3104:3 3105:15 3123:16 3125:18 3138:8 3140:4 3158:17 3159:7	<b>looking</b> 3045:7,24 3046:3 3047:22,23 3066:21 3108:3 3125:3 3137:2	3163:11 marches 3160:17,23 marching 3087:2	<b>met</b> 3098:24 3102:18 3143:5 <b>method</b> 3139:5	Natal 3101:17 national 3049:6

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

## Rustenburg

				Dogo
				Page
nature 3063:22	3077:11 3078:2	observations 3137:6	3092:15,23 3093:1,6	outside 3047:15
3089:23 3106:16	3080:16 3083:19	<b>observe</b> 3132:12	3093:13,20 3095:21	3145:22 3148:19
3127:19,20	3087:18	observed 3134:15,20	3096:6,13 3113:24	overall 3045:20
nearly 3154:3	NIU 3066:8 3104:20	observing 3101:23	3138:17	3089:21,24 3090:5
necessary 3072:7	3106:4 3107:6	3131:23	operationalised 3064:7	3092:4,16 3093:1,5
3075:13 3089:4	3116:24 3117:19	obtained 3088:15	operationally 3093:10	3093:12 3095:21
3091:8 3096:6	3125:20 3127:9	obtaining 3056:12	operations 3046:2,6	3138:17
necessity 3096:13	3128:19	<b>obvious</b> 3114:13	3055:25 3056:13	overdramatic 3154:11
3097:7	non 3128:8	3120:13	3067:25 3078:2	overkill 3154:12
<b>need</b> 3045:5,13 3046:12	non-confrontational	obviously 3063:9	3084:18 3089:22	overnight 3055:13,20
3047:11,12,19 3053:8	3150:18	3064:9 3086:6 3091:5	3103:4 3146:19	3073:25 3075:1
3054:14 3055:4,9	non-hierarchical	3158:14 3161:25	opinion 3048:13,20	3096:9
3056:5,8,12,21	3149:19	occasioned 3062:3	3053:4 3058:13,19	overwhelming 3077:22
3064:16 3068:21	non-institutionalised	occur 3062:20	3062:15 3063:14	o'clock 3061:15
3082:7,16,18 3083:7	3149:20	offer 3162:12 3163:5	3094:16 3145:13,25	3070:12 3071:12
3083:17 3086:3	<b>noon</b> 3097:6	3163:12 3164:10	opponent 3157:1	3077:1 3097:6
3088:2 3089:6	normal 3110:9 3127:22	offered 3163:1 3164:8	opponents 3133:14	3165:14
3091:12,12,13,16	3130:4	officers 3051:11 3103:5	3161:17	o'clock 3079:1,20
3092:2 3119:3	normally 3062:8,11,12	3103:10 3117:17	opportunities 3154:25	
3120:19 3139:12	3072:19 3082:15	3126:4 3148:18	opportunity 3044:11	P
3140:2 3150:17	3085:12 3089:22	3151:19 3152:18	3053:15 3098:14	page 3060:7,15 3067:25
3152:2 3159:16	3093:4 3108:1 3130:3	official 3074:15	3126:13	3068:2 3078:11
3162:18	3137:15 3139:21	3083:15,16,16	option 3045:24 3076:14	3099:17,18 3102:21
needed 3053:10	3150:9 3159:5	3093:24 3115:2,5,7	3077:10,19 3078:6	3102:21,22 3133:22
3159:12	3162:17 3164:25	3115:13,20 3128:17	3083:17,18 3087:24	3145:9 3148:3,4
needs 3055:24 3089:25	norms 3149:1,8,12	officials 3071:22	3088:11,21	3151:7,10,17 3158:1
3092:19	north 3110:17,25	3075:20 3115:16,24	options 3045:24,25	pages 3108:5 3145:8
negative 3114:18	3112:14,19 3119:11	3125:11 3129:2	3046:7 3056:13	<b>PAJ</b> 3101:19 3102:11
3150:4,24	3120:7 3122:4	3136:9 3160:11	3083:24 3089:9	3141:20
·	3123:17 3126:10	oh 3112:8	4	
negotiate 3155:1	/	The second secon	orange 3113:14	panel 3098:10,18
3162:15	northerly 3113:2	okay 3055:15 3069:18	order 3045:3 3046:2,19	3099:13,16
negotiated 3162:19	north-westerly 3114:7	3071:21 3099:5	3047:17 3048:13	pangas 3133:16
negotiating 3156:18	3117:23	3112:5 3124:8	3051:3 3054:13	paper 3062:18
3157:14 3158:25	North-Western	3130:16,24 3149:15	3056:13,23 3061:5	papers 3162:5,25
3159:20 3160:15	3117:18	3153:22	3067:8,22,23 3068:25	3164:7
3161:9,16 3162:20,22	note 3122:12	<b>old</b> 3128:14	3077:25 3083:25	paragraph 3060:15
<b>negotiation</b> 3155:19,22	notice 3087:11,11	<b>Olivier</b> 3101:6	3084:16,19 3101:22	3067:11,13,14,15,24
3155:22,25 3156:7,9	3088:24 3089:5	Omega 3091:3	3102:6 3103:4	3068:4,7 3079:12
3156:17,20 3162:4,23	noticed 3133:21 3148:5	onboard 3093:9	3104:19 3106:13	3090:18 3133:25
3163:14 3164:24	noticing 3132:3	once 3099:7 3108:21	3107:2,8,12,13	3134:9,12,19 3135:2
negotiations 3101:24	<b>no-go-area</b> 3154:6	3120:5 3137:22	3113:21 3114:2	3147:13 3148:2,25
3155:17 3164:12	<b>no-one</b> 3118:22	3163:17	3115:25 3128:11	3149:16 3151:19
		ones 3111:7 3128:14		
negotiator 3156:2	<b>number</b> 3044:20		3134:8 3138:24	3152:17 3154:4,17,24
3158:24 3159:19,23	3051:14 3067:13	one's 3046:23	3139:9,22 3140:21	pardon 3104:18 3124:3
3161:4	3075:14 3080:25	opening 3135:1	3141:3,9 3142:6,16	parliament 3098:22
negotiators 3157:18	3082:19 3099:7	operation 3044:23,24	3143:5 3144:6	part 3057:10 3058:2
neutral 3104:9,14	3100:2 3126:9	3045:19 3047:6,7	3145:15 3147:9	3060:3 3081:1,18
3123:9	3139:23,24,25 3146:9	3053:3 3055:6	3150:17	3083:12 3084:11,20
never 3053:14,16	3146:22,23 3147:7	3061:22 3062:24	orders 3049:7 3052:14	3099:12 3107:8
3058:17 3080:11	3150:3 3151:10,12	3063:5 3068:12,23	organisation 3149:19	3110:11,13 3115:25
3085:2,5 3093:24	3164:4	3070:11 3075:20	3156:13	3121:1,1,19 3122:18
3094:3,10 3098:14	numbers 3077:23	3083:2 3087:18	organised 3100:3	3123:21 3130:20
3110:8 3115:21	Nyala 3116:11	3091:2,8 3095:15,24	organiser 3085:14	3134:7 3138:15
3121:13 3126:12	Nyalas 3104:19	3096:6,13 3097:8,15	organisers 3156:12	3147:21 3153:11
3132:4,5,18 3150:13	Nyanga 3131:19	3102:1 3120:4,25	orientate 3112:13	3162:10
3156:9 3158:6	3133:12,16 3134:7	3121:20 3140:13	3123:16	participants 3062:11
3160:18,22 3161:20		3147:2 3149:11	orientated 3079:16	3065:14 3068:14,18
3162:14,15	0	operational 3045:2,11	3085:4	3072:16 3075:6,25
	oath 3044:3 3077:6	-		
<b>new</b> 3064:19 3090:14		3045:19 3046:1	oriented 3080:4	3080:21 3087:12
3094:19 3095:6,10,11	3122:16	3054:5 3057:24	originally 3062:3	3108:12 3120:22
3098:1,11 3099:22	objection 3111:11,12	3059:17 3060:3,10	outbreak 3068:12	3124:22 3125:12
3155:17	3134:6	3065:23 3067:4,18	outcome 3069:16	3126:17 3131:9
	objective 3048:22	3068:17 3078:21,24	3129:10 3140:13	3132:7
Nigel 3141:5 night 3044:8 3048:5	3120:16 3158:16,18	3079:2 3081:21	outflank 3120:8	particular 3089:20
		3079:2 3081:21 3089:24 3090:13	outflank 3120:8 3126:23	3091:21 3094:25
night 3044:8 3048:5	3120:16 3158:16,18			

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RealTime Transcriptions

3120.14 3134.8         3151.13         9060.19 3097.16         3122.19 3124.10         profile 3102.20         passage 3102.25         passage 3102.25         passage 3102.25         passage 3102.25         passage 3102.25         passage 3102.25         passage 311.8         passage 3102.25         passage 311.8         passage 311.8         passage 3102.25         passage 311.81         passage 311.81         passage 311.82         passage 311.82         passage 312.25         passage 312.25         passage 312.25         passage 312.25         paromote 3055.1         promote 3055.1           genectury 3004.22         314.04.31 314.21         passage 311.81         passage 312.25         passage 312.2					Page
party 316:16.         312:10         311:15:16.17.20.21         prevented 3124-25         promote 305:11           passed 311:8         players 309:17         3119:23.3120:17.18         Preventing 304:10.14         promote 305:11           peacefull 309:42.3         3146:13.118:20         3121:22.328.3125:2.5         306:07.21         306:10.14           306:10         players 309:17         3121:22.33.3125:2.5         3150:3.23         306:94.412.84         306:81.13           319:11         305:12.23.306:16         316:13.31:42.15         3150:3.23         306:82.43.007:11           3139:11         306:42.33.06:16         316:12.32.46.15         316:12.33.082.16         306:82.43.007:11           3139:11         306:42.33.08:16         316:12.32.16         316:12.33.082.16         306:82.43.007:11           316:10.13         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1         306:42.33.095.1           person 13:16:12         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1           person 31:16:12         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1           person 31:16:12         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1         306:12.33.095.1           person 31:16:12	3120:14 3134:8	3151:13	3096:19 3097:16	3122:19 3124:16	profile 3151:20
316116         played 30513         31161 3118.20         31251         promoted 30551           passeg 3102.25         playes 309417         3119/23 312077.18         preventing 31411         promoted 30552           peace 305817 3101.16         playes 304415 3105.1         3149/23 31235 3132.31,42.24         3069/4 312819         31638.314215         31053.23         307612 30472.0         promoted 3055.20           performe 3055.11         305722 3062.15.21         postion 3101.3         pro-preganised 3086.25         pre-planned 3065.29         pros.3106.13         3057.22 3062.15.21         postion 3101.3         pro-planned 3065.23         3058.23 3097.12         3145.92         3055.3 3068.19         prior 306.13 106.18         3052.23 3097.23         3075.51 3068.09         prior 306.13 106.18         3072.23 3058.3 106.19         3062.2 3074.17         group and 306.22         3062.2 3074.17         3061.23 308.3 108.97         3061.23 308.3 108.97         3061.23 308.23 308.97.19         3062.2 3072.23         3062.2 3072.23         3062.2 3074.17         3061.23 306.14 305.23         3062.2 3074.17         3061.23 306.14 305.23         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24         3061.23 306.14 305.24					
passag 3102:25         phayers 309:17         3112:23 3120:17,18         Preventing 3141:14         promoting 3078:5           peace 3058:17, 310:16         please 3044:15 3116:1         312:23 212:29,9         previous 3067:21         promoting 3078:5           3096:20         please 3044:15 3116:1         312:23 312:25         3059:43 23:39         3076:12.13 3082:16           3131:21:03 313:17         3046:17 3047:10         3158:15.22 316:12         312:61         3136:12           3139:11         306:421 3080:19         posting 3118:8         pre-planning 3067:21         3068:23 3097:11           3134:9.11         308:123 3085:16         possibl 309:24         a068:22 302:17:17         a068:23 3088:3089:7           3155:3.3         3088:123 3085:16         possibl 309:89 80:02:2         printed 310:7:17         3156:33         a068:32 3088:3089:7           3160:19         309:1311:14         possibl 309:89 80:02:2         property 308:22:4         a069:13 10:16:11         a066:23 302:13         a06:13 308:16         a06:23 306:13         a06:23 306:23         a06:23 306:23         a06:23 306:23         a06:23 306:23         a06:23 306:24         a06:23 306:26 </td <td></td> <td></td> <td></td> <td></td> <td></td>					
passeä 3111:8         pleas 3097:3         3121:22 3122.8,9         prevention 3098:6         prompr 3063:11           peace 3058.77 1011:16         jata 3096:20         pleased 3155:16         31233 31235,314.21         3006:4 3123:9         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3078:13 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:14 3085:14         3085:12 3085:53 306:15         3085:12 3085:53 306:15         3085:23 3097:13         3086:22 3065:15         3086:22 3065:15         3086:22 3065:15         3086:22 3085:15         3086:22 3085:15         3086:22 3085:15         3086:22 3085:15         3086:22 3085:15         3086:22 3085:15         3086:22 3085:15         3086:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13         306:12 3082:13					
peace 1038:17 310:16         please 304:15 311.61         3123:83 3123:34 3132.5         3007:12         previous 3067:21         proper 3063:11           3006:20         peacefull 304:23         3140:40 3164:3         3123:43 3132.5         3106:33 3142:15         3106:33 3142:15         3106:42 31308:16         3123:43 132.5         3106:32 3143         30085:14 3085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:14 3082:14         30085:23 307:23         3012:11         3006:32 305:53         3052:35 305:23         3055:16         possession 3047:2         prite 310:21         30085:23 305:23 305:23         302:14 3003:1         30085:3 3068:19         3075:5 3088:19         prize 3138:11         30085:3 305:23 307:24         307:13 308:11         3006:13 108:10         305:15 3085:10         307:15 308:10         307:13 308:14         306:12 306:12         315:01         315:01         315:01         307:13 308:14         306:12 306:12         316:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315:01         315					
peacefully 3094:23         340:9:3164:5         3127:24 3132:5         3069:3 3126:1         3007:12,13 3082:16           3096:20         pelsase 3155:16         3136:13 3142:15         3105:3,23         3005:14 3088:14,17           3131:20 3131:31.7         306:17 3047:10         3153:13.7         3066:17 3047:10         3155:33           3131:20 3131:31.7         306:17 3047:10         305:15 3085:16         3156:12         306:17 3047:10           3131:20 3131:31.7         306:17 3047:10         306:15 3085:5 3086:1         postitive 3118:8         pre-phaned 3086:25         307:72.3 305:32.42.5           3160:19 316:12         300:16 3095:23 3097:23         307:52 3068:19         postitive 3118:8         pre-phaned 3086:25         307:52 305:9           916:19 316:12         300:15 3085:13 114:18         300:13 2085:12         300:12:13 111:13         300:13 208:12         300:13 208:12         300:13 208:12         300:13 208:12         300:12:13 315:11:13         300:12:13 111:13         300:12:13 111:13         300:12:13 111:13         300:13 208:12         300:14:3 308:14:13         310:10:10         300:12:13 30:11:13         310:10:10         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13         300:12:13 30:11:13 <td></td> <td></td> <td></td> <td></td> <td></td>					
3096:20         pleased 3155:16         3136:13 3142:15         3150:323         3085:14 3085:14 3088:14,17           3131:20 3133:13,17         3046:17 3047:10         3158:15,22 316:11.2         3126:13         3126:13         3126:13         3126:13         3126:13         3126:13         3085:14 3085:14 3088:14,37           perform 305:14 308:123         306:12 3080:10         3158:15,22 316:11.2         3126:13         3126:13         3085:14 3088:14,37           3134:9.11         306:13 3089:51.6         possession 3047:2         projenty 305:14 3088:20.22 3065:0         3045:23 3067:25         3045:23 3065:25         3045:23 3065:25         3045:23 3065:25         3058:23 307:25         3058:22 3069:15         3088:23 20:22 3085:16         3088:20 20:22 3085:16         3088:20 20:22 3065:0         3046:23 3068:3 3089:51         306:21 305:25         3045:23 3069:25         3065:25 3062:13         302:14 308:14,17         306:13 308:14         3150:10 310:15         306:13 308:14         3150:10 310:15         306:13 308:14         3150:10 310:15         306:12 306:25         306:23 306:16         306:12 306:25         306:23 306:16         306:12 306:12         306:12 306:12         306:12 306:12         306:12 306:12         306:12 306:12         3150:15         3150:13 310:12         306:12 306:12         306:12 306:12         306:12 306:12         306:12 306:12         306:12 306:12 <td< td=""><td></td><td></td><td></td><td></td><td></td></td<>					
performed         joint					
313:21:0         313:21:1         306:17         306:17         315:15:22         316:11         315:14         315:14           313:21:1         306:72         306					-
performed 313:17         3064:21 3080:19         positions 3101:3         pre-planned 3086:22         30473 2053:24,25           person 3156:3.3         30881:5 3085: 53 3086:1         possession 3047:2         print 3061:23         3082:22:3056:9         3082:22:3056:9           3158:01 3159:02         3090:16 3001:42:1         3005:23:3077:24         30756:3088:19         prior 3091:14:3151:13         3002:13:3088:3088:3088:3088:3089:3           personal 314:612         3098:13:11:12         30756:3088:19         prior 3091:14:3151:13         3001:15:17:3111:13           personal 314:612         3098:13:11:17;2         3122:17;2         3142:23:18:306:14         3132:11         proposibility 3082:14           perspectives 314:14         312:17;2         3146:53:14:06:13         3076:13:308:14         3066:12:3062:1         3122:7           pripation 311:5:7         3109:16         3105:15         3076:13:308:14         3066:23:308:14         3066:23:308:14         3122:7           pripation 311:5:7         3109:16         312:27         3122:7         3122:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7         312:7		<b>-</b>			3159:14
3134:9,11         3081:5 3085: 5 3086:1         positive 3118:8         pre-planning 3067:25         3058:25 3056:9           3156:10 3159:20         30981:23 3089:125         possitive 3087:24         printed 3102:21         printed 3102:21         3086:22 3074:17         3086:22 3074:17         3086:22 3074:17         3086:23 3088:33 8089.73           3160:19 316:12         3095:23 3097:23         3052:13 3097:23         3052:14 3053:11         3062:14 3063:11         3092:15 3011:13         3012:15:17 3111:13           personal 316:5,7         3115:9 3118:9         3052:13 3081:14         3062:14 3063:11         3160:12         3062:13 3081:14         3062:14 3063:11           3121:11/12         3121:13 12:14         3076:13 3081:14         3066:12 3088:309.306:12         3076:10 3066:4,20         3112:21           photograph 312:15,01         3150:16.19 3155:7         3109:16 3110:1.9         3065:12 3066:4,20         3076:10 306:4,20         3122:21:0           photograph 313:213         policeman 30:216         possibly 3038:21:23         3076:10 30:12:24         3122:12:1         3106:10 312:22:10         3106:10 312:22:10         3106:10 312:22:10         3106:10 312:22:10         3106:12 312:22:10         3106:12 312:22:10         3106:12 312:22:10         3106:12 312:22:10         3106:12 312:22:10         3106:12 312:22:10         3106:12 312:22:10         3106:12 312:22:10	3139:11	3057:22 3062:16,21	3161:22,25	pre-organised 3086:25	properly 3045:14
person 3156:3.3         3088:123 3089:5.16         possession 3047.2         print all 310:21         3082:20.22 3089:51           3158:10 3159:20         3099:16 3091:421         3095:22 3074:17         sprint 314:18         3095:3 3087:3088         3088:3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 3089.3 301:15.17 3111:13         3005:15,17 3111:13         3005:15,17 3111:13         3005:15,17 3111:13         3005:12 302:14 303.1 306:14         3132:11         propertion 304:15.17 310:13 307:14 307:83         3160:2         312:17         3160:2         312:17         312:12         3160:12         312:12         312:12         312:12         312:12         313:12         312:12         312:14         3160:12         306:12         306:12         306:12         306:12         306:12         306:12         306:12         306:12         312:14         313:12         313:12         313:12         313:12         313:12 <td></td> <td></td> <td></td> <td></td> <td></td>					
3158:10 3159:20 3160:19 3161:21 9ersonad 3145:23 9ersonad 3145:23 9ersonad 3145:23 3095:23 3097:23 3095:23 3097:23 3095:23 3097:23 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3095:13 1141;12 3062;14 3003;1 3122;12 projective 314:14;17 3127;2 3127;4 3	,				
3160:19 3161:21         3002:21 3005:13.19         3075:6 3088:19         probability 3106:18         3091:15,17 3111:12           personal 3146:12         3098:13 114:18         possibility 3008:14         probability 3106:18         3160:10 3158:22           personal 314:14         3121:17,21 3122:18         3005:14 3075:8         probability 3106:18         3160:2           property 308:214         3121:17,21 3122:18         3006:14 3063:1         3156:12         3160:2           phase 3104:14,17         3134:6 3137:15         3076:13 3081:14         306:12 3062:1         propointion 3111:7           3122:12         pointed 3055:9 3060:18         3122:25         3057:10 3086:42.0         proposition 3071:24           photog raphs 3132:13         pointer 3057:9 3060:18         3122:27         3138:08:09:12         protect 3122:24:20 3122:10           photog 3133:10         3130:19         3136:19         3156:19         3159:15         protect 312:24:20 312:21:10           photog 3133:10         policema 306:22         postility 3065:18         3150:14         312:12         a112:12:3082:1           pixteal 3067:5 3150:24         3130:19         3136:14         3136:14         312:13:14:14:19           pixteal 3067:5 3150:24         3136:14         3160:12         312:14:20 312:16         3159:15					-
personal 3145:23         3095:23 3097:23         3121:11,12         probability 3106:18         3150:10 3158:22           personel 3146:12         3098:1 3114:18         possibilit 308:12         probability 3102:18         property 308:24           personel 314:14         3121:17.21 3122:18         307:13 307:13 307:13         3123:11         property 308:24           phase 310:14.1,17         3134:6 3137:15         307:13 307:13 307:13         306:12 3042:14         3122:1           photograph 3116:16,21         3150:25 3152:7         3109:16 3110:1.9         306:22 3069:16         3122:7           3132:12         pointed 305:9 3060:18         3127:23 3137:2,15,22         3088:3,18 3093:12         3124:20 312:10           photograph 3116:16,21         3150:16 3049:63 002:13         306:12 3069:16         3109:15         propestion 307:24           photograph 3116:16,21         3109:16 3049:63 002:13         306:22 3069:16         308:3,18 3093:12         3124:20 312:10           photograph 316:16,21         pointer 309:75         305:12 306:13 306:64.20         3124:20 313:12         306:13 306:62,21         protectim 302:12         3135:13 1306:10           photograph 316:17.25         306:13 306:42         305:24 316:11,15         306:13 308:64,12         3131:12 313:12         3134:12 3134:20           site:13 309:12.3         306:12 306:12					
personal 14:6:12         3008:13 11:4:18         possibility 308:2:14         probable 3103:7         3160:2           Personal 15:5.7         311:5:9 311:8:9         possibility 308:2:14         probably 3129:18         property 308:2:24           Peter 3141:19         312:1:1         3076:13 308:1:14         306:2: 14 306:8:1         306:12 304:5:15         property 308:2:24           photograph 316:16.21         315:16:7         3106:16 310:1:6         306:12 304:2.1         property 308:2:24           photograph 316:16.21         315:16:7         3106:16 310:1:9         306:2: 306:16         311:2           photograph 316:16.21         315:6:25 316:2:6         312:2: 3137:1:2         306:12 304:2.0         proposition 301:1:4           photos 3133:3         policeman 306:2:         policeman 306:2:         3138:5:8 3150:4         3006:3:21 3016:10         3159:15           photos 3133:3         policeman 306:2:         policeman 306:2:         policeman 306:2:         policeman 306:2:         3139:14:19         312:2:10         3139:12:315:17           picked 3057:5 305:0:         policema 304:6: 302:13         policema 304:2:         3138:2:14:19         protection 307:7:9         protection 307:7:9           picked 3057:5: 305:0:         policema 304:6: 302:14         306:12:3:14:19         3106:12:3:14:19         3139:12:3:14:19					-
persons 3115:5,7         3115:9 3118:9         possible 3059:8 3062:2         probably 312:11         propertiv 308:2:4           Peter 3141:19         312:17:21 312:18         3076:13 308:1:4         3066:14 3063:1         313:11         proportion 3111:7           312:7:2         3140:5 3149:10         3096:7 310:8 3109:9         306:12 3062:1         3066:23 309:16         3111:21           Philig 3101:1         3156:25 136:28         3120:9 312:22         3075:10 3086:4.20         312:22,3         313:2:12           Photograph 3116:16,21         3156:25 136:28         3127:23 3137:2.15,22         3076:13 008:14         3169:15           Photograph 313:3:13         policemen 3065:2         pointed 3057:9         3067:5 3150:24         3017:12 3115:17           protest 304:4:19         policing 3045:14         3164:11,9         3152:13 136:2         313:12 314:20           pick 3053:4 306:4         9016:163 3045:14         3045:13 031:65         3165:12 316:17         3135:13 13:12 314:20           pick 3053:4 306:4         3067:5 3150:20         3067:5 23:00:16         3152:13 316:25         3165:12,13:13:12         314:20           3164:11,15         304:19 304:17         3049:5 3051:6         3162:13:18:13:12         313:20         313:23:12         provide 308:72:14         313:8:12:31:82           3105:21					
Perspectives 3141:4         312:17.21 3122:18         3062:14 3063:1         3132:11         proportionately 3066;9           Peter 3141:9         3124:24 3131:15         3074:1 3075:8         prolome 3045:15         3046:12 3048:2         3046:12 3048:2         3046:12 3048:2         3046:12 3048:2         3046:12 3048:2         3046:12 3048:2         3051:21 3062:11         proportionately 3066;3         3121:17         proportionately 3066;3         3121:17         3122:7         3135:16         3121:17         3121:22:25         3075:10 3066:4.20         protecti 312:2:42.55         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3134:20         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3124:20 3125:10         3133:13 3124:20         3133:13 3124:20         3133:13 3124:20         3133:13 3124:20         3133:13 3124:20         3133:14:14:19         3133:12:13 3124:20         3133:12:13 3124:20 <td>-</td> <td></td> <td></td> <td></td> <td></td>	-				
Peter         314:19         3124:24 3131:15         3074:1 3075:8         problem 3045:15         proposition 3111:7           3127:2         314:05 314:0:10         3096:7 3103:8 3109:9         3061:21 3062:1         3122:7           Philip 3101:1         3150:15 105:25 316:28         3120:9 3122:25         3075:10 3086:4:12 3048:2         3111:21           photograph 3116:16;21         3150:25 316:28         3120:9 3122:25         3075:10 3086:4:20         3122:24,25           3133:12         pointed 3055:9 306:18         3127:23 3137:2,15,22         3088:3,18 309:3112         3124:20 3125:10           photograph 513:21:15         policemen 306:2         3067:5 3150:21         3067:5 3150:21         3106:12 3124:20 3125:10           physically 3097:23         palices 049:6 3052:13         positing 3111:9         3125:14 3140:1         3125:14 3140:1           gick 3053:4 306:4:4         3106:12         3130:19         3125:14 3140:1         3125:14 3140:1         3135:23           3164:0:11,5         304:19 3047:17         3049:5 3051:6         3162:15         3168:13 306         provide 308:22           3164:318         3100:310         practice 3102:7         3135:41 419         provide 308:22         3087:14 4135:16         3087:14 414:19           gick 3057:5 3105:10:2         3067:12 3115:25 3138:12         moc				1 0	
phase 3104:14,17         3134:6 3137:15         3076:13 3081:14         3046:12 3062:1         3122:7           Philip 310:1         3140:5 3149:10         3096:7 3103:8 3109:9         306:12 1 3062:1         306:12 1 3062:1         3112:2           Philip 310:1         3150:16,19 3155:7         3109:16 3110:19         306:12 1 3062:1         3075:10 3068:420         3112:2         3112:2         3112:2         312:2					
312.72         3140:5 3149:10         30967 3103:8 3109:9         3061:21 3062:1         propositions 3071:24           Philip 3101:1         3150:16,19 3155.7         3109:16 310:1.9         3066:23 3069:16         3112:12           photographs 313:2:12         point's 3077:23         3135:5,8 510:42         3075:10 3086:4,20         3154:20 3125:10           shotographs 313:3:12         point's 3077:23         3135:5,8 510:42         3075:12 3086:21         3107:12 3157:10           phrase 308:22         policema 306:21         3067:5 3150:42         3075:13 510:42         3107:12 3157:16           pick 3053:4 306:4.1         3130:19         poticema 306:22         3067:5 3150:42         3107:12 3158:6,15,16,17.22         3135:16 3158:2           potext 3057:5 3105:20         3051:4 306:24         306:25 306:15         3159:8 316:10,183:308:7,1         3133:12 3134:20           3164:11.15         306:12 306:24         306:23 3064:5         3162:24 314:12         3067:13 3133:12         3162:1,18 3163:6           provide 3047:27         3166:23 306:12         3067:23 306:12         3162:1,18 3163:6         307:14,14 3135:16           3164:11.15         306:23 306:12         3106:12 3107:2         3162:1,18 3163:6         3067:12 3138:13           provide 305:12         306:13 3067:2         3067:12 312:6         3168:13 308:7,1					
photograph 3116:16.2.1         3156:25 3162:8         3120:9 3122:25         3075:10 3086:4.20         protect 3122:24,25           photograph 3132:13         points 305:9 3060:18         3127:23 3137:2,15,22         3088:3,18 3093:12         3124:20 3125:10           photograph 3132:13         points 305:9 3060:18         3127:23 3137:2,15,22         3088:3,18 3093:12         3124:20 3125:10           photograph 316:17,23         policeman 3102:16         sof5:3 510:24         3107:12 315:17         protection 3075:7,9           physically 3097:23         policies 3049:6 3052:13         sof5:3 510:24         3107:12 314:419         protectors 3079:3,7           glick 3037:5 3105:20         3067:3 3162:5         3163:12 3136:6,15,16,17,22         3135:6 3133:2         protectors 3079:3,7           glace 3065:23 3064:5         3100:3 310:12         practice 3102:7         3162:12 3136:2,4         provide 3103:16           place 3065:23 3064:5         3115:25 318:2,4         provide 3103:16         3132:24 314:25         3081:13 3086:2,11         3138:13,20           glace 3065:23 3064:5         3115:25 318:2,4         provide 3103:16         provide 304:23         3007:14,14 3135:16           glace 305:23 306:12         3100:45         predictable 317:22         3006:13 307:2         3007:13 318:13         provides 3087:6           place 305:23 300:14	-	3140:5 3149:10	3096:7 3103:8 3109:9	3061:21 3062:1	propositions 3071:24
3132:12 photographs 3132:13 photog 3133:3 photos 3132:13 policems 3102:16 policemen 3065:2 3133:16 policemen 3065:2 3133:16 policemen 3065:2 3133:16 policems 3102:16 policemen 3065:2 3133:16 policems 3049:6 3052:13 policies 3049:6 3052:14 3067:5 3150:24 3107:12 3115:17 a102:15 3105:10 3067:22 3106:10 3107:12 3115:17 3109:13 310:12 3107:12 3115:17 a102:13 310:12 307:17 3109:5 3106:24 3107:12 3115:17 3102:13 3100:12 31067:22 3106:20 3067:22 32 3066:25 3105:24         3127:13 52.12 307:17 3109:5 31067:22 3106:10 3057:5 3150:24 3107:12 3115:17 3107:12 3115:17 3107:12 3115:17 3107:12 3115:17 3107:12 3115:17 3107:12 3115:17 3109:15 3105:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3109:12 3106:10 3112:13 3109:12 31007:13 3109:12 3107:13 3109:12 3107:13 3109:12 3107:13 3109:12 3107:13 3109:12 3107:13 3109:12 3109:13 3109:12 31009:13 3109:12 3109:13 3109:13 3109:12 3109:13 3109:12 3109:13 31		-			3111:21
photographs 3132:13         point's 3097:23         3138:5,8 3150:4         3096:3,21 3106:10         3159:15           phrase 3088:22         policeman 3102:16         3107:12 3115:17         protection 30757,9           physically 3097:23         policies 3049:6 3052:13         3107:12 3115:17         protestors 3079:3,7           physically 3097:23         policies 3049:6 3052:14         positing 3114:9         protestors 3079:3,7           pick 3033:4 3064:4         3061:4 305:62.4         3094:5 3051:6         3139:8,5 8 3160:4,1340:1         3135:6 3133:2           307:7 3119:5         3046:19 3047:17         3046:2,19         3047:22,23 3068:25         protestors 3049:2         3163:12,113,13,12,0         3135:6 3133:2           3105:24         3100:3 3101:25         3100:2,57 3103:4         3162:1,18 3160:9,18,25         3087:14,14 3135:16           3070:9 3071:16         3139:2,2 3140:21         practice 3102:1         3087:10,13 3089:7         provides 3087:6           3083:11 3085:14         3106:13 3107:2         practice 3132:13         3087:10,13 3089:7         provides 3087:6           3070:9 3071:16         3139:2,2 3142:2         protestors 307:69         provides 3087:6         provides 3087:6           3083:11 3085:14         3109:12,3 316:12         3106:12         3097:12 3125:19         3093:6,7,10 <t< td=""><td></td><td></td><td></td><td></td><td></td></t<>					
photos 3133:3         policeman 3102:16         possibly 3058:21.23         3102:12         3115:17         protection 3075:7.9           physically 3097:23         policies 3049:6 3052:13         post 314:419         3125:14 314:0:1         3125:14 314:0:1         3135:6 3153:2           gick 3053:4 306:4:         3046:19 3047:17         3046:19 3047:17         3046:19 3047:17         3046:19 3047:17         3135:6 3153:2         3135:6 3153:2           3105:24         3067:22,23 3068:25         3067:3 3130:123         7700:46 3044:23         3087:10,13 308:2         3135:6 3153:2           3143:18         3106:13 3107:2         practice 3102:7         3087:10,13 308:2,11         3138:13,20           3070:3 207:16         3132:23 314:125         3087:10,13 308:2,11         3138:13,20         3097:12 3125:19         3093:6,7,10           3070:3 207:16         3132:23 314:125         practice 3132:13         procedures 3080:22         3097:12 3125:19         3093:6,7,10           3070:3 207:16         3132:24 314:25         predictable 3117:22         3127:4 3138:13         3097:12 3125:19         3093:6,7,10           3072:8 3075:19         3142:16 3143:5,55         predictable 3117:22         3127:4 3138:13         provide13093:7,9           316:23 319:12         politic 3093:4,7,1095:4         sprenola007:3,13         3097:3,13         <					
phrase 3058:22         policemen 3065:2         3153:16         polices 3049:6 3052:17         3120:18.23 3124:23         protestors 3076:25,17           abs3:16         polices 3049:6 3052:17         polices 3049:6 3052:17         post 3144:19         potst 3144:19         3135:12 3132:24         protestors 3076:25,17           abs3:17 3119:5         3046:19 3047:17         3046:19 3047:17         3049:5 3051:6         3159:8 3160:9,18,25         attract 314:19           picked 3057:5 3105:24         3007:12, 23 3068:25         attract 316:24         attract 316:24         attract 316:24         attract 316:24         attract 316:24         attract 316:24         attract 313:23         provide 3004:23         3087:14:14 315:16         attract 313:23         attract 316:24         attract 316:24         attract 316:24         attract 316:24         attract 316:24         attract 316:24         attract 316:25         attract 316:25         attract 316:25         attract 316:25         attract 316:25         attract 316:25         attract 312:24					
3153:16         3130:19         potels         3125:14         3140:19         potels         3125:14         3140:10         protestors         307:37           3163:12         3097:17         319:5         3064:19         3046:19         3046:19         3046:19         3155:6         3155:6         3155:6         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         3155:2         316:2:1         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         315:2         3097:12         312:2:19         3097:12         312:2:19         3097:12         312:2:19         3097:12         312:2:19         3097:12         312:2:19         3097:12         3097:12					
physically 3097:23         policies 3049;6 3052:13         posting 3111:9         3150:8,12 3152:7,16         3133:12 313:20           3057:17 3105:5         3045:13 3045:13         3045:12         3045:12         3159:8,150:9,18,22         3159:8,150:9,18,22         3159:8,150:9,18,22         3159:8,150:9,18,24         3159:8,150:9,18,24         3159:8,150:9,18,24         3159:8,150:9,18,24         3159:8,150:9,18,24         3159:8,150:9,18,24         3162:1,18 3163:6         proxide 3104:23         3087:12,13,13,24         proxide 3108:12         3087:10,13 3086:2,11         3188:13,20           3143:18         3106:13 3107:2         practice 3132:13         proxide 3132:14         3132:24 3141:25         3087:10,13 3086:7,11         3137:43 318:13         2087:6         provide 3087:6         provide 309:7,9         314:14:9,25 3142:6         3132:24 3141:25         3087:10,13 3089:7         provide 309:7,9         provide 309:7,9         309:36,7,10         3093:6,7,10         3093:6,7,10         3093:6,7,10         3093:6,7,10         309:12 3125:19         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 309:2,21         309:14:13 306:2,11         309:14:13 306:2,11         306:13 309:2,11         309:	-				
pick 3053:4 3064:4 3097:17 3119:5         policing 3045:3 3046:19 3047:17 3051:4 3056:24         policing 3045:3 3046:19 3047:17 3051:4 3056:24         policing 3045:3 3049:5 3051:6 30351:4 3056:24         3158:615,16,17,22 30351:9 3162:5         3135:6 3153:2 provide 3046:19 3161:12,13,12,4           picked 3057:5 3105:20 3105:24         3067:22,23 3068:25 3100:3 3101:23         autice 3102.7 3102:67, 3103:4         provide 3048:25 3067:12,23 3064:5         provide 3048:25 3087:10,13 3080:22         provide 3044:23 3087:10,13 3080:22           soro: 9 3071:16         3102:67, 3103:4         312:27, 3138:24         practice 3132:13 3072:8 3075:19         3141:49,25 3142:6 3144:61 3145:15         precenting 3103:1 3097:12 3125:19         3097:12 3125:19         3097:12 3125:19           3016:12,22 3109:14         3144:16 3145:15,25 politic 3094:22 prolitic 3094:22         predictable 3117:22 preparation 3103:5 3087:10,13 3086:27         30936:10,13,17 province 3052:12 3097:12 3128:10         provinci 3093:7,9 provisions 3101:15 provecast 915:120           3113:20,3114:1 3109:18,23 3119:12         3101:10 3101:10         preparation 3103:5 3056:13 3056:15 preparet 3050:23 3051:14         3046:13 3056:16 3059:14         3046:13 3056:16 3059:14           310:10         politic 3093:17,19;24         produce 3161:8,9 produce 3099:13 3056:13 3056:15 3056:13 3056:15         3056:13 3056:16 3056:13 3056:15         3056:13 3056:16 3056:13 3056:16 3059:11 3056:16 3059:14         3056:13 3056:16 3056:13 3056:15         3100:16,13 3107:23 3056:25         3106:12 3102:6 3105:23 3056:12				11	
3097:17 3119:5         3046:19 3047:17         3049:5 3051:6         3159:8 3160:9.18,25         protests 3144:19           3164:11,15         3051:4 3056:24         3053:19 3162:5         316112;13,13,24         provide 3044:23           3105:24         3100:3 3101:23         practice 3102:7         procedures 3080:22         3087:14,14 3135:16           3143:18         3100:3 3107:2         practice 3132:13         3087:10,13 3089:7         provide 3087:6           place 3063:23 3064:5         3115:25 3138:24         practice 3132:13         3087:10,13 3089:7         province 3052:12           3070:9 3071:16         3139:9,22 3140:21         preceding 3103:1         3097:12 3125:19         3093:6,7,10           3088:8.25,25 3090:14         3144:6 3145:14         predictable 3117:22         process 3050:14         province 3052:12           3091:8.25 3105:19,21         3041:1         3094:3,17 3095:4         greatice 3092:14         greatice 3032:5           30091:8.25 3105:19,21         3101:10         politic 3094:22         premise 3102:5         3089:14         greatice 3054:2           3109:18,19         3094:3,17 3095:4         3142:16 3143:5,25         greatice 3032:15         grootes 3050:14         grootes 3050:14           3109:18,25 3105:19,21         3101:10         politic 3094:22         preparation 3103:5 <t< td=""><td></td><td></td><td></td><td>PT V.</td><td></td></t<>				PT V.	
3164:11,153051:4 3056:243053:19 3162:53161:12,13,13,24provide 3103:16picked 3057:5 3105:203067:22,23 3068:25practicel 3141:9practicel 3102:7provide 3103:163105:243100:23 3101:25practicel 3102:7procedires 3080:223087:14,14 3135:16pilag 3099:7,9 3143:173106:13 3107:2practicel 312:133087:10,13 3089:7provide 3088:76pilace 3063:23 3064:53115:25 3138:24practicel 3132:133087:10,13 3089:7provide 3087:63070:9 3071:163139:9,22 3140:21preceding 3103:13097:12 3125:193093:6,7,103072:8 3075:193144:6 3145:14predictable 317:22process 3050:14provincial 30937,93088:12 3108:16politic 3094:3;17 3095:4preparation 3101:5goeces 3050:14psychology 3100:13,173091:8,25 3105:19,21politic 3093:17,19,25preparation 3101:5goeces 3050:14psychology 3100:13,173118:22 3108:16political 3093:17,19,25preparation 3101:5goeces 3050:14godece 3067:23 3064:13118:23 3119:123101:10prepare 3091:16produce 3099:133067:23 3064:23120:8 3123:4 3139:73106:13 3107:123097:3,13gorduce 3099:133067:23 3068:253120:23 119:123101:10gresent 3050:143050:6 3052:183067:23 3068:253120:23 119:123106:13 3107:123102:123102:123102:123120:23 119:123106:12 3139:15,163085:4 3155:2produce 3099:133067:23 3068:253120:24 3107:123146:63156:5Prof 3099:					
3105:243100:3 3101:23practice 3102:7procedures 3080:223087:14,14 3135:1691lay 3099:7,9 3143:173102:6,7 3103:43132:24 3141:253081:13 3086:2,113138:13,2091ace 3063:23 3064:53115:25 3138:24practices 3132:133087:10,13 3087:7province 3052:123070:9 3071:163139:9,22 3140:21preceding 3103:13097:12 3125:193093:6,7,103072:8 3075:193141:4,9,25 3142:6preceding 3103:13097:12 3125:193093:6,7,103088:8,25,25 3090:143144:6 3145:14prematurely 3078:5provinces 3050:14province 3052:123091:8,25 3108:16politic 3094:3,17,3095:4preparation 3101:253084:16,16 3085:24provinces 3050:143113:20 3114:13094:3,17,3095:4prepared 3054:2produce 3161:8,93056:13 3054:153162:23politic ans 3146:11grepared 3054:2produce 3099:133067:23 3068:253105:24 3107:13116:23 3139:15,163085:4 3155:23056:16 3059:183109:18,193162:23pols3139:19,163056:16 3059:183107:12 3102:6planed 3082:21goes 3068:17 3139:2,43050:21 3135:173053:133107:12 3102:63084:7 3103:18goes 3064:103155:233100:12 3101:113139:92.23 3140:213084:7 3103:183050:23 3053:53101:173053:133107:13 3115:25planed 3082:21goes 3068:12gresented 3050:193100:12 3101:113139:92.23 3140:213084:7 3103:18goes 3068:123155:233101:113139:92.23 3140:21316:12 </td <td></td> <td></td> <td></td> <td></td> <td></td>					
Pillay 3099:7,9 3143:173102:6,7 3103:43132:24 3141:253081:13 3086:2,113138:13.203143:183106:13 3107:2practices 3132:133087:10,13 3089:7provines 3087:6place 3063:23 3064:53115:25 3138:24practices 3132:133087:10,13 3089:7provines 3052:123070:9 3071:163139:9,22 3140:21preceding 3103:13097:12 3125:193093:6,7,103083:11 3085:143144:6,3145:14predictable 3117:223127:4 3138:13province 3052:123091:8,25 3105:19,21policy 3145:5prematurely 3078:53044:1province 3051:153091:8,25 3105:19,21politic 3094:22preparations 3101:253084:16,16 3085:24province 305:123113:20 3114:13094:3,17 3095:4grepare 3091:16processig 3079:9gots1:3 3044:153162:23politic:3139:15,16305:16 3059:18groduced 3099:133067:22 308:6253105:24 3107:13116:23 3139:15,163056:16 3059:18groduced 3092:133067:23 3068:253106:23 100:22post 3068:17 3139:2,43050:23 051:113109:18,193107:23 3107:2,8,123106:23 100:22post 3068:12gresentad 3050:143053:133107:13 3115:253110:23post 3068:12gresentad 3050:143050:6 3059:183100:113109:13,3107:2,8,123106:24 3107:13116:23 3139:15,163050:21 3135:173100:113109:22 3102:63110:23post 3064:103155:23100:113139:9,22 3140:213084:16:8126:143048:18 3049:113055:133100:113139:9,22 3142:6 <td>picked 3057:5 3105:20</td> <td></td> <td></td> <td>3162:1,18 3163:6</td> <td>provided 3044:23</td>	picked 3057:5 3105:20			3162:1,18 3163:6	provided 3044:23
3143:183106:13 3107:2practices 3132:133087:10,13 3089:7provides 3087:6place 3063:23 3064:53115:25 3138:24practised 3132:3proceed 3048:8province 3052:123070:9 3071:163139:9,22 3140:21preeding 3103:13097:12 3125:193093:6,7,103072:8 3075:193141:4,9,25 3142:6predictable 317:223127:4 3138:13provincial 3093:7,93083:11 3085:143142:16 3143:5,25prefered 3127:24PROCEEDINGSprovisions 3101:153091:8,25 3105:19,21policy 3145:5premise 3108:7process 3050:14psychology 3100:13,173105:22 3108:16political 3093:17,19,25preparation 3101:253084:16,16 3085:24public 3045:13 3046:113109:15 3113:10,16political 3093:17,19,25prepare 3091:16process 3050:143046:18 3047:173118:23 319:123101:10prepared 3054:2produce 3161:8,93056:13,23 3067:223120:8 3123:4 3139:7politicians 3146:113097:3,13produce 3161:73107:23 3068:25316:2:3noor 3152:19present 3050:2 3051:113109:18,193077:25 3098:6placed 3085:15 3090:3POP 3066:6,8,133056:16 3059:18produce 3161:73101:22 3102:63110:233139:19 3140:5,16gast4:43050:6 3059:143053:133107:13 3115:253110:24 3107:13139:19 3140:5,16gast4:43050:6 3059:143053:133107:13 3115:253110:23gose 3044:6js52:3gresentation 3050:143050:6 3052:183106:13 3107:28,123116:233139:19 3140:5,16 <td></td> <td></td> <td></td> <td></td> <td>-</td>					-
place 3063:23 3064:53115:25 3138:24practised 3132:3proceed 3048:8province 3052:123070:9 3071:163139:9,22 3140:213199:22 3140:213097:6,7,103093:6,7,103072:8 3075:193141:4,9,25 3142:6predictable 3117:223127:4 3138:13provincia 3093:7,93083:11 3085:143142:16 3143:5,25preferred 317:243127:4 3138:13provincia 3093:7,93091:8,25 3105:19,213144:6 3145:14prematurely 3078:5preferred 3103:7process 3050:14provocative 3151:203091:8,25 3105:19,21politic 3094:22preparation 3103:53084:16,16 3089:143045:3 3046:13105:22 3108:16political 3093:17,19,25preparation 3101:253089:143045:13 3046:13113:20 3114:13094:3,17 3095:4prepared 3054:2produce 3161:8,93056:13,23 3067:223120:8 3123:4 3139:73101:10prepared 3054:2produce 3161:8,93077:25 3098:63162:23poor 3152:19present 3050:2 3051:113109:18,193077:25 3098:63105:24 3107:13116:23 3139:15,163085:4 3155:2produce 3161:73101:12 3102:63123:4pose 3044:63050:12 3135:173056:13 3053:133107:13 3107:28,123106:12goes 3068:22present 3050:193100:21,25 3101:113139:9,22 3140:213108:143048:18 3049:113155:233100:113139:9,22 3140:213102:12goes 3066:123056:6 3059:9,21,223100:123100:12,3101:113139:19,3140:53goes 3066:23 3053:53101:173100:12,3101:113139:9,					
3070:9 3071:163139:9,22 3140:21preceding 3103:13097:12 3125:193093:6,7,103072:8 3075:193141:4,9,25 3142:63142:16 3143:5,25predictable 3117:223127:4 3138:13provincial 3093:7,93083:11 3085:143142:16 3143:5,25preferred 3127:24PROCEEDINGSprovincial 3093:7,93091:8,25 3105:19,21politic 3094:22prematurely 3078:5process 3050:14provincial 3093:17,19,253105:22 3108:16politic 3094:3,17 3095:4preparation 3103:5greparation 3103:5greparation 3103:53118:23 3119:123101:10prepared 3054:2produce 3161:8,93056:13,23 3067:223120:8 3123:4 3139:7goliticians 3146:11goog 305:14grepared 3052:10groduced 3099:13316:23politicians 3146:11goog 305:15 3090:3goog 305:15 3090:33056:16 3059:183105:24 3107:13116:23 3139:15,163085:4 3155:2gresentation 3050:143050:6 3052:183105:24 3107:13116:23 3139:15,163085:4 3155:2gresentation 3050:143050:6 3052:18310:23pose 3064:2pose 3064:2gresented 3050:193100:12,2 3101:10312:4goos:3553107:13 3115:253102:113139:9,22 3140:213084:7 3103:18gostion 3046:103155:23gresented 3050:193100:12,2 3101:113127:43056:6 3059:9,21,223100:123102:113143:2,22 3142:6316:23gostion 3046:103155:23gresented 3050:193100:12,2 3101:113127:43056:6 3059:9,21,223056:6 3059:9,21,223102:11 <t< td=""><td></td><td></td><td><b>-</b></td><td></td><td><b>-</b></td></t<>			<b>-</b>		<b>-</b>
3072:8 3075:193141:4,9,25 3142:6predictable 3117:223127:4 3138:13provincial 3093:7,93083:11 3085:143142:16 3143:5,25greferred 3127:24PROCEEDINGSprovisions 3101:153091:8,25 3105:19,21policy 3145:5prematurely 3078:53044:1provocative 3151:203091:8,25 3105:19,21politic 3094:22preparation 3103:53084:16,16 3085:24public 3045:3 3046:13109:15 3113:10,16political 3093:17,19,25preparations 3101:253089:143046:18 3047:173113:20 3114:13094:3,17 3095:4prepare 3091:16processing 3079:93051:3 3054:153120:8 3123:4 3139:7politicians 3146:11grepare 3091:36produced 3099:133067:23 3067:223162:23poor 3152:19present 3050:2 3051:113109:18,193077:25 3098:63105:24 3107:13116:23 3139:15,163085:4 3155:2produced 3099:133067:23 3068:253102:24 3107:13116:23 3139:15,163085:4 3155:2produced 3049:213106:13 3107:2,8,12310:23pose 3044:63156:5Prof 3099:24 3100:103128:11 3138:24310:23pose 3044:63155:233100:12 3101:113139:9,22 3140:213108:13 107:13 3115:25pose 3068:123155:33100:12 3101:113139:9,22 3140:213108:13 107:23 319:15,163085:4 3155:173100:12 3101:113139:9,22 3140:213101:23pose 3068:22presented 3050:193100:12,25 3101:113139:9,22 3140:213108:13 116:23 3136:143056:6 3059:9,2,1,223100:12 3101:113142:13,9,25 3142:6	-		<b>-</b>		-
3083:11 3085:14 3088:8,25,25 3090:143142:16 3143:5,25 3144:6 3145:14preferred 3127:24 prematurely 3078:5 premise 3108:7 preparation 3103:5PROCEEDINGS 3044:1 process 3050:14provisions 3101:15 provocative 3151:203091:8,25 3105:19,21 3105:22 3108:16 3113:20 3114:1politic 3094:22 political 3093:17,19,25premise 3108:7 preparation 3101:52 prepare 3091:16process 3050:14 3084:16,16 3085:24psychology 3100:13,17 public 3045:3 3046:13113:20 3114:1 3118:23 3119:123094:3,17 3095:4 3101:10prepared 3054:2 prepare 3091:16processing 3079:9 produce 3161:8,9 produce 3161:8,93067:23 3068:25 3109:18,193105:24 3107:1 3116:23 3139:15,16goes 3066:6,8,13 3139:19 3140:5,163085:4 3155:2 present 3050:21 3135:17 315:5produce 3161:7 product 3049:21 3050:61 3052:183106:12 3107:12 3104:18 3105:24 3107:1310:23 310:23 310:23 3108:221post 3068:22 present 3050:24 3106:12 3106:10present 3050:14 3050:21 3135:17 3100:21,25 3101:113100:12 3107:12 3104:24 3103:12 3107:28,312310:23 310:23 310:23 3107:13 318:24post 3046:10 3155:233100:21,25 3101:11 3100:21,25 3101:113149:2,214:23 3100:12 3101:103104:14 3107:13 315:23 3101:17goes 3068:22 presented 3050:19 3100:12 3101:11goes 3069:2,2 3102:113100:12 3101:10 3139:9,22 3140:213104:14 3107:13 315:23goes 3066:22 presented 3050:19 3100:12 3101:11goes 3069:2,2 3100:12 3101:113144:6,10 3145:15 3142:6 3143:4,253101:17 3127:4goes 3066:6 3059:9,2,2,2 3056:6 3059:9,2,2,2gressure		-			
3088:8,25,25 3090:143144:6 3145:14 policy 3145:5prematurely 3078:5 premise 3108:73044:1 process 3050:14provocative 3151:20 psychology 3100:13,173105:22 3108:16 3109:15 3113:0,16 3113:20 3114:1politic 3094:22 political 3093:17,19,25preparation 3103:5 preparations 3101:253084:16,16 3085:24 3089:143045:3 3046:13113:20 3114:1 3113:20 3114:13094:3,17 3095:4 s113:20 3114:1a094:3,17 3095:4 prepared 3054:2processing 3079:9 produce 3161:8,93056:13 3054:153113:20 3114:1 3116:23 319:123101:10 prepared 3054:2produce 3161:8,9 produce 3161:73056:13,23 3067:223120:8 3123:4 3139:7 3162:23poor 3152:19 poor 3152:19present 3050:23 051:11 3056:16 3059:183109:18,193077:25 3098:63105:24 3107:1 3110:233116:23 3139:15,16 3152:33056:16 3059:18 3056:13 3139:15,163056:16 3059:18 3056:12 3155:73106:13 3107:2,8,12 3050:21 3135:173050:6 3052:18 3100:21 3135:173106:13 3107:2,8,12 3100:21 3135:173110:23 3084:7 3103:18 3126:14post 3046:10 3048:18 3049:113155:23 presentd 3005:19 3100:12 3101:113128:11 3138:24 3109:21 3135:153127:4 3127:43050:23 3053:5 3105:23 3056:6 3059:9,21,22 3106:12 3105:17presture 3093:17 3100:12 3101:1,123144:6,10 3145:15 3144:6,10 3145:1531anneg 3058:14 3105:24 3005:123059:24 3063:8,11,15 3095:53 3166:103142:24 3143:2,23 3144:6,10 3145:153146:11 3147:9 3144:6,10 3145:15alanner 3059:24 3105:51 3160:17 3101:1253064:2,11,11 3070:19 3055:53 3166:103142:24 314:					
3091:8,25 3105:19,21 3105:22 3108:16 3109:15 3113:10,16 3113:20 3114:1policic 3094:22 politic 3093:17,19,25 3094:3,17 3095:4 3118:23 3119:12premise 3108:7 preparation 3103:5 preparations 3101:25 preparations 3101:25process 3050:14 3084:16,16 3085:24 3089:14psychology 3100:13,17 public 3045:3 3046:13113:20 3114:1 3113:20 3114:13094:3,17 3095:4 3094:3,17 3095:4preparations 3101:25 prepare 3091:16 prepare 3091:163084:16,16 3085:24 3089:143046:18 3047:17 3051:3 3054:153118:23 3119:12 3102:233101:10 prepared 3054:2 poor 3152:19prepare 3091:16 prepared 3054:2produced 3099:13 3007:23 3068:253105:24 3107:1 3105:24 3107:13116:23 3139:15,16 3139:19 3140:5,163056:16 3059:18 present 3050:14gresentation 3050:14 3050:21 315:173109:18,19 3077:25 3098:63106:23 3100:22grese 3068:17 3139:2,4 3052:13 319:19 3140:5,163056:12 3135:17 3052:13 315:173053:13 3100:21,25 3101:113106:13 3107:2,8,12 3103:4 3104:183084:7 3103:18 3084:7 3103:18 3084:7 3103:18postion 3046:10 3155:233100:21,25 3101:11 3100:21,25 3101:113139:9,22 3140:21 3139:9,22 3140:21 3139:9,22 3140:213106:13 3126:14 3106:23 3053:5 3127:43056:6 3059:9,21,22 3056:23 3053:5presumed 3051:17 3100:12 3101:1,123144:6,10 3145:15 3142:24 3143:22,23310anmer 3059:24 31059:24 3063:8,11,15 3103:5,16 3107:173059:24 3063:8,11,15 3059:53 3146:103142:24 3143:22,23 3142:21 3152:24planneng 3101:25 3103:5,16 3107:173064:2,11,11 3070:19 3059:24 3063:8,11,15gresume 3103:1 3144:6,1		-			
3105:22 3108:16 3109:15 3113:10,16politic 3094:22 political 3093:17,19,25preparation 3103:5 preparations 3101:253084:16,16 3085:24 3089:14public 3045:3 3046:1 3089:143113:20 3114:1 3113:20 3114:13094:3,17 3095:4 3101:103094:3,17 3095:4 3094:3,17 3095:4preparations 3101:25 prepare 3091:163089:14 precessing 3079:93051:3 3054:15 3056:13,23 3056:12 3057:23 3065:123120:8 3123:4 3139:7 3162:23politicians 3146:11 poor 3152:19gregaret 3050:2 3051:11 present 3050:2 3051:11 a 3056:16 3059:18 a 3055:16 3059:18groduce 3161:8,9 produce 3161:73067:23 3068:25 3109:18,19placed 3085:15 3090:3 3105:24 3107:1 3110:23POP 3066:6,8,13 3116:23 3139:19,3140:5,16 pose 3044:63056:16 3059:18 3050:21 3139:17groduces 3161:7 3050:21 3050:14 3050:6 3052:183106:13 3107:2,8,12 3103:4 3104:18glanned 3082:21 9lanned 3082:21 3116:8 3126:14 3127:4pose 3068:22 pose 3068:22presented 3050:19 3155:233100:12,5 3101:11 3109:24 3103:16 3050:23 3053:53100:12 3100:123109:24 3103:14 3109:23 3109:125glanner 3059:24 3105:243059:24 3063:8,11,15 3059:24 3063:8,11,15presumably 3068:14 3059:54 3068:12gresumably 3068:14 3142:12,233146:11 3147:9 3144:6,10 3145:15glanning 3101:25 3109:1253064:2,11,11 3070:19 3057:8 3080:123059:24,25 3085:16 3082:5,24,25 3085:163109:113142:24 3143:22,23 3144:12 3147:43151:14,22 3152:24 3146:10 3143:9,19glanning 3101:25 3139:73062:5,24,25 3085:163069:113155:93100:16 3143:9,19					
3109:15 3113:10,16 3113:20 3114:1political 3093:17,19,25 3094:3,17 3095:4 3118:23 3119:12preparations 3101:25 prepared 305:43089:14 processing 3079:9 produce 3161:8,9 produce 3099:133046:18 3047:17 3056:13,23 3054:153120:8 3123:4 3139:7 3162:23politicians 3146:11 poor 3152:19joor 3152:19 present 305:2 3051:11present 3050:2 3051:11 3056:16 3059:18joor 3152:3 states 316:23joor 3152:19 states 316:23joor 3152:19 states 316:23joor 3152:19 present 3050:2 3051:11joor 3152:19 states 3056:16 3059:18 states 316:23joor 3152:19 states 316:23joor 3152:19 states 316:23joor 3152:19 states 316:23joor 3152:19 states 316:23joor 3152:19 states 3139:15,16 states 3139:15,16joor 3152:19 states 3056:16 3059:18 states 3056:14joor 3152:19 states 3056:13 3107:25joor 3152:19 states 3056:14joor 3162:17 states 3050:21 states 3050:21 states 3050:21 states 3050:21joor 3162:17 states 3105:25joor 3102:12 states 3050:14 states 3107:28,122joor 3102:12 states 3107:28,122jlaneer 3059:24 states 3058:14 jlaneer 3059:24joos 3064:10 states 3059:9,21,22joos 53146:10 states 3059:17juo:12,3101:1,12 states 3102:11juo:12,3142:6 states 3102:11jlaneer 3059:24 states 3058:14joos 24 3063:8,11,15 states 3058:14joos 24 3063:8,11,15 states 3103:12juo:12,3147:4 states 3103:12juo:12,3147:4 states 3103:12juo:16,16,16 states 3103:12jlaneer 3059:24 states 3058:14joos 24 3063:8,11,15 states 3059:24,253 3063:55juo:16,116 states 3103:12juo:12,23142:16,3143:4,25 s					
3118:233101:10prepared3054:2produce3161:8,93056:13,233067:223120:83123:43139:73161:233097:3,13produced3099:133067:233068:253162:23poor3152:19present3056:163059:183109:18,193077:253098:63105:243107:13116:233139:15,163085:43155:2producet3049:213103:43104:183102:233139:193140:5,163050:213155:7producet3053:133107:133115:253110:23pose3044:63156:5Prof3099:243100:103128:113139:9.23107:133115:253110:23pose3068:22presented3050:193100:21,253100:113139:9.23142:123084:73103:18gostion3046:103155:233102:113141:3,9,253142:163116:83126:143048:183049:113155:233102:113141:3,9,253142:163127:43050:233053:53101:173100:123144:6,103142:163144:6,103127:43059:243059:243059:243059:243059:243048:183145:15planner3059:243064:2,11,113095:53146:103142:243142:12,233144:6,103142:223144:6,103142:223103:5,163107:173052:43064:2,11,113090:113149:2,113149:2,113151:14,223152:243103:5,16	3109:15 3113:10,16	political 3093:17,19,25	preparations 3101:25		-
3120:8 3123:4 3139:7 3162:23politicians 3146:11 poor 3152:193097:3,13 produced 3099:13produced 3099:13 3109:18,193067:23 3068:25 3077:25 3098:6placed 3085:15 3090:3 3105:24 3107:1POP 3066:6,8,13 3116:23 3139:15,16 3139:19 3140:5,163056:16 3059:18 3085:4 3155:2produces 3161:7 product 3049:213101:22 3102:6 3103:4 3104:18places 3047:22 3105:25 3110:23POPs 3068:17 3139:2,4 pose 3044:63050:21 3135:17 3155:53050:6 3052:18 3105:24 3100:103106:13 3107:2,8,12 3103:2,8,12planed 3082:21 3084:7 3103:18 3116:8 3126:14postion 3046:10 3048:18 3049:113155:23 president 3100:8 3105:23 3053:5Prof 3099:24 3100:10 3102:113128:11 3138:24 3139:9,22 3140:21 3141:3,9,25 3142:6planner 3059:24 3103:5,16 3107:17 3103:5,16 3107:173066:2,21,1,11 3070:19 3075:8 3080:12presumel 303:17 3095:5 3146:103142:24 3143:22,23 3142:12 3144:6,10 3145:15planning 3101:25 3103:5,16 3107:17 3139:73064:2,11,11 3070:19 3082:5,24,25 3085:16presumel 309:113149:2,11 3150:5 3103:1published 3100:16,16 3139:9	3113:20 3114:1	3094:3,17 3095:4	prepare 3091:16		
3162:23poor 3152:19present 3050:2 3051:113109:18,193077:25 3098:6placed 3085:15 3090:3POP 3066:6,8,133056:16 3059:18produces 3161:73101:22 3102:63105:24 3107:13116:23 3139:15,163085:4 3155:2product 3049:213103:4 3104:183152:33139:19 3140:5,16presentation 3050:143050:6 3052:183106:13 3107:2,8,12places 3047:22 3105:25POPs 3068:17 3139:2,43050:21 3135:173053:133107:13 3115:25planed 3082:21pose 3044:63156:5Prof 3099:24 3100:103128:11 3138:24planned 3082:21poses 3068:22presented 3050:193100:21,25 3101:113139:9,22 3140:213084:7 3103:18position 3046:103155:233102:113141:3,9,25 3142:63116:8 3126:143048:18 3049:11president 3100:8professor 3099:1,253142:16 3143:4,253127:43050:23 3053:53101:173100:12 3101:1,123146:10 3145:15planner 3059:243059:24 3063:8,11,153095:5 3146:103142:24 3143:22,233148:22 3149:18,23planner 3059:243059:24 3063:8,11,153095:5 3146:103142:24 3143:22,233148:22 3149:18,23planning 3101:253064:2,11,11 3070:19presumably 3068:143145:13 3147:43151:14,22 3152:243103:5,16 3107:173075:8 3080:12presumes 3103:13149:2,11 3150:5published 3100:16,163139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19					
placed 3085:15 3090:3 3105:24 3107:1POP 3066:6,8,13 3116:23 3139:15,16 3139:19 3140:5,163056:16 3059:18 3085:4 3155:2 presentation 3050:14produces 3161:7 subscita3101:22 3102:6 3103:4 3104:18glaces 3047:22 3105:25 3110:23POPs 3068:17 3139:2,4 pose 3044:63050:21 3135:17 3156:53050:6 3052:18 3050:21 3135:173106:13 3107:2,8,12 3050:21 3135:17glanned 3082:21 3084:7 3103:18 3116:8 3126:14poses 3068:22 poses 3068:22presented 3050:19 3155:233100:21,25 3101:11 3100:21,25 3101:113139:9,22 3140:21 3139:9,22 3140:213084:7 3103:18 3116:8 3126:14gostion 3046:10 3048:18 3049:113155:23 president 3100:8 3101:173100:21,25 3101:11 3100:21,25 3101:113141:3,9,25 3142:6 3142:16 3143:4,25glanner 3059:24 3050:23 3053:53050:5 3146:10 3059:24 3056:6 3059:9,21,22 3056:6 3059:9,21,22presume 3093:17 subsci 3093:173141:19 3142:12,23 3141:19 3142:12,233146:11 3147:9 3148:22 3149:18,23glanning 3101:25 3103:5,16 3107:17 3103:5,16 3107:173052:5,24,25 3085:16presumably 3068:14 prevail 3090:113149:2,11 3150:5 3153:93100:16 3143:9,19				-	
3105:24 3107:13116:23 3139:15,163085:4 3155:2product 3049:213103:4 3104:183152:33139:19 3140:5,16presentation 3050:143050:6 3052:183106:13 3107:2,8,12places 3047:22 3105:25POPs 3068:17 3139:2,43050:21 3135:173053:133107:13 3115:25jlanned 3082:21pose 3044:63155:23Prof 3099:24 3100:103128:11 3138:24j0ses 3068:22presented 3050:193100:21,25 3101:113139:9,22 3140:213084:7 3103:18position 3046:103155:233102:113141:3,9,25 3142:63116:8 3126:143048:18 3049:113155:233102:113141:3,9,25 3142:63127:43050:23 3053:53101:173100:12 3101:1,123144:6,10 3145:15planner 3059:243056:6 3059:9,21,22pressure 3093:173141:19 3142:12,233146:11 3147:9j1anning 3101:253064:2,11,11 3070:19presumably 3068:143145:13 3147:43151:14,22 3152:24j103:5,16 3107:173075:8 3080:12presumes 3103:13149:2,11 3150:5published 3100:16,163139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19					
3152:33139:19 3140:5,16presentation 3050:143050:6 3052:183106:13 3107:2,8,12places 3047:22 3105:25POPs 3068:17 3139:2,43050:21 3135:173053:133107:13 3115:253110:23pose 3044:63156:5Prof 3099:24 3100:103128:11 3138:24planned 3082:21soes 3068:22presented 3050:193100:21,25 3101:113139:9,22 3140:213084:7 3103:18position 3046:103155:233102:113139:9,22 3142:63116:8 3126:143048:18 3049:11president 3100:8professor 3099:1,253142:16 3143:4,253127:43050:23 3053:53101:173100:12 3101:1,123144:6,10 3145:15planner 3059:243056:6 3059:9,21,22pressure 3093:173141:19 3142:12,233146:11 3147:9planning 3101:253064:2,11,11 3070:19presumably 3068:143145:13 3147:43151:14,22 3152:243103:5,16 3107:173075:8 3080:12presumes 3103:13149:2,11 3150:5published 3100:16,163139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19	-				
places 3047:22 3105:25 3110:23POPs 3068:17 3139:2,4 pose 3044:63050:21 3135:17 315:53053:133107:13 3115:25 3128:11 3138:24planned 3082:21 3084:7 3103:18pose 3068:22 poses 3068:22presented 3050:19 3155:233100:21,25 3101:11 3102:113139:9,22 3140:21 3139:9,22 3140:213084:7 3103:18 3116:8 3126:14position 3046:10 3048:18 3049:113155:23 president 3100:8 3101:17professor 3099:1,25 3100:12 3101:1,123141:3,9,25 3142:6 3142:16 3143:4,25planner 3059:24 planner 3059:243056:6 3059:9,21,22 3056:6 3059:9,21,22pressure 3093:17 3055:5 3146:103142:24 3143:22,23 3142:24 3143:22,233146:11 3147:9 3148:22 3149:18,23planning 3101:25 3103:5,16 3107:17 3139:73064:2,11,11 3070:19 3082:5,24,25 3085:16presumes 3103:1 prevail 3090:113149:2,11 3150:5 3153:9Jublished 3100:16,16 3109:11				-	
3110:23pose 3044:63156:5Prof 3099:24 3100:103128:11 3138:24planned 3082:21poses 3068:22presented 3050:193100:21,25 3101:113139:9,22 3140:213084:7 3103:183048:18 3049:113155:233102:113141:3,9,25 3142:63116:8 3126:143048:18 3049:11president 3100:83100:12 3101:1,123142:16 3143:4,253127:43050:23 3053:53101:173100:12 3101:1,123144:6,10 3145:15planner 3059:243056:6 3059:9,21,22pressure 3093:173141:19 3142:12,233146:11 3147:9planners 3058:143059:24 3063:8,11,153095:5 3146:103142:24 3143:22,233148:22 3149:18,23planning 3101:253064:2,11,11 3070:19presumably 3068:143145:13 3147:43151:14,22 3152:243103:5,16 3107:173075:8 3080:12presumes 3103:13149:2,11 3150:5published 3100:16,163139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19		-	-		
planned 3082:21 3084:7 3103:18poses 3068:22 position 3046:10presented 3050:19 3155:233100:21,25 3101:11 3102:113139:9,22 3140:21 3102:113116:8 3126:14 3127:43048:18 3049:11 3050:23 3053:5jpresident 3100:8 3101:17jprofessor 3099:1,25 3101:173142:16 3143:4,25 3100:12 3101:1,12planner 3059:24 planners 3058:143059:24 3063:8,11,15 3059:24 3063:8,11,15jpressure 3093:17 3095:5 3146:103142:24 3143:22,23 3142:12,233146:11 3147:9 3148:22 3149:18,23planning 3101:25 3103:5,16 3107:17 3139:73064:2,11,11 3070:19 3082:5,24,25 3085:16presumes 3103:1 prevail 3090:113149:2,11 3150:5 3153:9jublished 3100:16,16 3109:11	-				
3084:7 3103:18 3116:8 3126:14position 3046:10 3048:18 3049:113155:23 president 3100:8 3101:173102:11 professor 3099:1,253141:3,9,25 3142:6 3142:16 3143:4,253127:43048:18 3049:11 3050:23 3053:5president 3100:8 3101:173100:12 3101:1,12 3100:12 3101:1,123142:16 3143:4,25 3144:6,10 3145:15planner 3059:243056:6 3059:9,21,22 3056:6 3059:9,21,22pressure 3093:17 3095:5 3146:103142:24 3143:22,23 3142:24 3143:22,233146:11 3147:9 3148:22 3149:18,23planning 3101:253064:2,11,11 3070:19 3075:8 3080:12presumably 3068:14 presumes 3103:13149:2,11 3150:5 3153:93100:16 3143:9,19		-			
3116:8 3126:14 3127:43048:18 3049:11 3050:23 3053:5president 3100:8 3101:17professor 3099:1,25 3100:12 3101:1,123142:16 3143:4,25 3144:6,10 3145:15planner 3059:243056:6 3059:9,21,22 3056:6 3059:9,21,22pressure 3093:17 3059:24 3063:8,11,153100:12 3101:1,12 3141:19 3142:12,233144:6,10 3145:15 3144:6,10 3145:15planning 3101:253064:2,11,11 3070:19 3075:8 3080:12presumably 3068:14 presumes 3103:13145:13 3147:4 3149:2,11 3150:53151:14,22 3152:24 3149:12,11 3150:53139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19	-	-		-	-
planner 3059:243056:6 3059:9,21,22pressure 3093:173141:19 3142:12,233146:11 3147:9planners 3058:143059:24 3063:8,11,153095:5 3146:103142:24 3143:22,233148:22 3149:18,23planning 3101:253064:2,11,11 3070:19presumably 3068:143145:13 3147:43151:14,22 3152:243103:5,16 3107:173075:8 3080:12presumes 3103:13149:2,11 3150:5published 3100:16,163139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19				-	3142:16 3143:4,25
planners 3058:143059:24 3063:8,11,153095:5 3146:103142:24 3143:22,233148:22 3149:18,23planning 3101:253064:2,11,11 3070:19presumably 3068:143145:13 3147:43151:14,22 3152:243103:5,16 3107:173075:8 3080:12presumes 3103:13149:2,11 3150:5published 3100:16,163139:73082:5,24,25 3085:16prevail 3090:113153:93100:16 3143:9,19					
planning 3101:25 3103:5,16 3107:17 3139:73064:2,11,11 3070:19 3075:8 3080:12 3082:5,24,25 3085:16presumably 3068:14 presumes 3103:1 prevail 3090:113145:13 3147:4 3149:2,11 3150:5 3149:2,11 3150:5 3153:93151:14,22 3152:24 published 3100:16,16 3100:16 3143:9,19					
3103:5,16 3107:17 3139:73075:8 3080:12 3082:5,24,25 3085:16presumes 3103:1 prevail 3090:113149:2,11 3150:5 3153:9published 3100:16,16 3100:16 3143:9,19					-
3139:7         3082:5,24,25 3085:16         prevail 3090:11         3153:9         3100:16 3143:9,19					
Prevent 5077.5 5005.0 5145.24   publisher 5142.24			-		
	<b>P</b> <sup>1000</sup> 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	5005.10 5000.2,5	<b>F</b> -0,000 5075.5 5005.0		

Tel: 011 021 6457 Fax: 011 440 9119 RealTime Transcriptions

				Page 1
publishers 3143:12	reach 3086:5 3122:10	regarding 3081:22	3152:5	<b>roll</b> 3114:1
purpose 3046:8 3054:1	3158:18 3159:9	3098:6,11	residing 3083:11	rolled 3070:17 3071:17
3075:7,9 3082:4	reached 3085:10,25	regardless 3090:23	resolve 3075:25	3073:1 3108:8 3120:5
3109:10,12 3122:19	3114:8 3116:7	regulation 3086:11	3107:12,14 3140:6,17	3120:5
3122:23 3125:10	3134:14 3160:10	3087:5,14 3098:19	resolved 3094:24	rollout 3089:19
3131:19	reaching 3088:22	3155:23 3156:5,9,14	3140:11	rooms 3082:19 3083:1
put 3050:3,18 3051:17	read 3053:10 3079:13	reinforce 3139:11,25	resort 3046:5	3088:16
3052:5,8,19 3053:18	3098:14 3102:25	3140:2	respect 3115:19,23	rough 3110:5
3058:22 3059:4	3134:25 3162:25	reinforcements	3163:9	rounds 3066:4,11
3060:2 3061:17,21,22	reading 3116:13	3151:21	respond 3066:9	routes 3079:5 3086:18
3062:23 3064:21,25	3162:5	rejection 3154:25	3093:23	rubber 3046:4 3066:4
3065:2,7 3071:23	ready 3064:7 3165:9,10	relate 3112:17	response 3046:4 3066:7	3066:11 3105:4
3073:12 3074:2,21	real 3127:10 3164:23	related 3155:7	3066:14,15	3129:17 3136:19
3075:2 3088:25	really 3065:6 3072:6	relates 3060:1 3078:18	responsible 3099:2	3138:25 3139:3,7
3090:21 3091:20	3076:17 3083:2	relation 3135:17	rest 3057:12	<b>rule</b> 3069:5,6,15
3093:16 3095:14	3091:19 3094:16	relations 3148:21	result 3082:1 3086:22	3159:11 3160:5
3096:6,12,13 3097:8	3097:16 3109:5	relationships 3148:21	3121:3,6 3122:3	rules 3069:12
3098:10 3105:22	3114:7 3115:19	relatively 3072:15,24	3127:2 3131:6 3138:8	<b>run</b> 3115:11
3109:15 3111:16,18	3118:25 3119:4	3073:10 3077:21	resulted 3055:6 3081:8	<b>runs</b> 3071:10
3111:21 3113:10,20	3120:3 3123:3 3128:1	release 3139:24	3164:23	Rutledge 3143:10,20
3113:25 3117:15,21	3128:6 3130:3	relied 3058:14	resume 3076:25	
3120:4,8,24 3121:16	3131:12 3132:7	rely 3045:20 3046:7	resumes 3044:2 3077:3	S
3126:21 3128:24	3136:12 3137:23	3047:21	3077:4 3122:14,15	safe 3074:5 3075:10
3131:4 3137:9,17	3158:5,9,10 3161:20	remain 3108:9,14	<b>retain</b> 3103:10	3123:4 3124:7,10,18
3143:7 3145:23	reason 3053:13,15	3126:3	retaken 3154:7	3163:12
3158:2,23 3160:4	3058:24 3059:3,5,11	remained 3073:12,14	return 3156:21	safeness 3074:8
putting 3072:16	3059:13 3080:7	3073:25 3076:15	3162:12 3163:2,11,13	safety 3123:8
3073:23 3074:20	3084:23 3087:20	3126:6	3164:8,11	sake 3075:9 3116:9
3083:12 3086:14	3096:4,22 3134:8	remember 3044:7	revised 3063:19	3135:14
3127:1	reasonable 3076:10	3057:17,20 3058:21	revision 3062:4	sanction 3146:5
<b>P2</b> 3113:15	reasons 3080:1 3097:14	3064:25 3077:9,12,13	revisit 3045:6 3080:11	sangoma 3135:18
<b>P4</b> 3113:15	3149:23	3085:2 3095:17	revisited 3067:6 3085:2	<b>SAPS</b> 3045:4 3046:1,18
	recall 3052:3	3098:3 3123:9	reward 3164:8	3046:24 3048:14
Q	receive 3064:14,16	remind 3053:8,17	rifles 3164:13	3049:2 3054:20
question 3044:7,8	3093:24	3076:23 3077:5,6	right 3067:8 3072:4	3068:23 3120:16
3048:14 3049:16,23	received 3052:15	3157:25	3074:18 3078:15,16	3122:24 3124:21
3052:6,6,19,22	3058:14 3062:9	reminding 3065:1	3090:15,25 3112:5	3157:17 3158:5,10
3055:16,18 3058:1,4	3064:12 3072:2	remove 3083:25	3114:22 3116:5,21,25	3159:24
3061:9 3071:14	3077:18 3096:16	3084:18 3093:2,17	3117:20 3123:6,17	<b>sat</b> 3054:3
3074:21 3080:14	3108:11,23 3121:13	repeat 3131:3	3124:6,14,16 3135:20	SATAWU 3160:18
3085:12 3086:20	3122:22 3125:11	repeated 3055:17	3139:19 3149:7	saturate 3046:8
3090:9 3091:19	3132:5 3136:14	repeating 3081:23	3150:16 3155:6	saw 3112:8 3132:14
3093:15 3095:12,18	3137:1,5 3162:9	repertoires 3149:21	3164:14	3133:2
3096:5 3097:6,10	receiving 3059:10	report 3064:22 3078:13	right-hand 3112:13,14	saying 3044:22 3046:5
3111:11,12 3118:25	recognised 3143:4	3078:21 3098:14,17	<b>Riots</b> 3144:13,16	3047:3 3064:8
3152:8 3156:25	recommendation	3099:12 3134:14,17	risk 3057:19,19,22,23	3066:18 3088:14
3164:19	3054:25	reported 3049:15	3057:23 3058:3,5	3095:3 3115:12,18
questions 3048:4,9,11	reconsideration 3063:1	3050:2,8 3131:18	3059:3,6 3060:15,19	3122:2 3127:23
3053:24 3108:4	record 3136:17 3158:2	3133:12 3134:2,4,18	3060:19,24,25 3061:1	3128:4 3130:14
3120:3 3123:3	red 3113:14	reports 3049:22 3100:2	3061:7,7,13,16	3148:12 3160:5
3142:20	reduction 3155:1	3134:14 3137:5	3062:1 3063:1	3165:6
quick 3081:14	refer 3109:20 3146:17	representatives	3064:24,24 3065:10	says 3062:10 3067:17
quite 3061:11 3071:7	3148:15 3154:24	3151:14 3155:2	3074:11 3075:3	3078:25 3084:15
3073:4 3113:24	reference 3098:2	repression 3146:5	3080:15 3089:9	3105:16 3120:20
3149:14	3143:14	request 3065:13 3162:9	3093:18 3127:10	3121:23 3125:12
quote 3079:7 3103:1	referred 3099:4,17	require 3062:25	3145:19 3152:21	3133:11 3145:17
3135:3	3104:25 3133:5	required 3062:4	3153:4	3147:21 3148:6
	3134:11 3142:19	research 3047:12,12	risks 3060:16 3062:5	3149:22 3150:5
	referring 3065:15	3056:12 3101:7,10	ritual 3132:12 3133:17	scale 3055:25
<u> </u>	2125.22.2120.7.9.0	3143:24,25 3145:18	3134:9,10,21 3135:6	scenario 3077:16
rafted 3098:18	3125:23 3130:7,8,9		4 1 2121 17 20 22	2102.1 (
	3136:3	reserve 3106:8 3107:1	rituals 3131:17,20,23	scenarios 3103:1,6
rafted 3098:18			3131:23 3132:3,20,24	scene 3057:12 3139:2
<b>rafted</b> 3098:18 <b>raised</b> 3057:16 3064:21	3136:3	reserve 3106:8 3107:1		
rafted 3098:18 raised 3057:16 3064:21 ran 3072:5 3123:2 ratified 3050:22 razor 3108:8 3109:6	3136:3 refers 3148:5 reflection 3055:12,20 refusal 3135:5	reserve 3106:8 3107:1 3115:24 3138:23,23 3139:15,20,22 3140:16	3131:23 3132:3,20,24 3133:13 3137:6 <b>rods</b> 3133:16	<b>scene</b> 3057:12 3139:2 3139:16 <b>Sciences</b> 3101:7
rafted 3098:18 raised 3057:16 3064:21 ran 3072:5 3123:2 ratified 3050:22	3136:3 refers 3148:5 reflection 3055:12,20	reserve 3106:8 3107:1 3115:24 3138:23,23 3139:15,20,22	3131:23 3132:3,20,24 3133:13 3137:6	<b>scene</b> 3057:12 3139:2 3139:16

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RealTime Transcriptions

# Marikana Commission of Inquiry

#### Rustenburg

				Dago 1
<u>г</u>				Page 1
Scott 3050:22	Sheffield 3143:23	3160:22	3152:9,13 3155:18	3127:10 3128:17
Scott's 3058:24 3060:2	3144:23	sit 3050:24	3157:22	stop 3083:7 3086:16
3061:2,14,18	<b>shooting</b> 3127:5 3139:7	site 3106:5 3117:9	so-and-so 3090:19	3088:22 3118:12,22
Scott's 3084:12	3139:8,10	situation 3045:7,18,21	<b>span</b> 3044:25 3045:3	3118:23 3119:20
<b>SDF</b> 3106:4 3107:6	<b>shootings</b> 3071:16	3046:15 3047:9,25	speak 3052:16 3157:8	3120:19,20
<b>SDFs</b> 3104:20	3072:8,23	3063:10 3064:4,19	3157:14 3158:12,24	stopped 3118:16
search 3075:12 3079:4	<b>short</b> 3081:24	3069:1,20 3075:21	3159:4,4,19 3161:4	stopping 3125:12
3083:7,24 3084:18	shortage 3085:3	3076:4 3077:19	3164:22	straight 3105:19
3085:9,25 3086:5,17	<b>shortcoming</b> 3044:18	3081:2,13 3082:6,18	speaking 3149:14 3162:13	3114:21
3087:24 3088:11,18 3138:12	3057:4,7 <b>shorter</b> 3076:24	3082:21,24 3083:13	speaks 3158:13 3159:5	strategic 3153:7,23 strategies 3086:15
searched 3082:13	shortly 3116:16	3083:15,22 3087:2,7 3087:9,9 3090:17	3159:5	3146:13
3083:8 3105:7	shotgun 3155:14	3091:5 3092:1,2,6,9	spears 3133:16 3135:10	strategy 3079:2,6
searching 3083:5	shotguns 3138:25	3092:18 3094:19,20	special 3127:15 3149:1	3080:2,16 3085:2,2
<b>Seattle</b> 3144:19	3155:13	3095:6,25 3097:7	3149:8,9,12	3090:23 3101:21
second 3066:7,14	shouldn't 3084:23	3115:1 3120:14	<b>specific</b> 3108:5 3156:3	3103:3 3141:4
3078:22 3134:9,12	should've 3056:16	3125:21 3128:2,7,23	spectators 3046:9	street 3074:16,18
3143:20,21,22	3076:16	3129:11 3130:4	3080:20	streets 3074:6,12,25
Secondly 3056:11	should've 3082:9	3131:11 3138:18,20	split 3120:20	3075:3
3072:14	show 3046:25 3060:23	3140:10 3150:13,18	spoke 3069:10,11	strikers 3058:9
section 3045:9	3061:4 3104:11	3152:4,7,11 3157:25	3123:9	3060:20 3061:17
sections 3149:17,23	3116:2 3155:9,12	3161:21	spontaneous 3087:6,13	3065:4,16 3074:3
seeing 3104:11 3107:11	<b>shown</b> 3093:16 3105:21	situational 3069:6,7	3089:5	3089:15 3097:3
3115:8 3120:22	3112:23 3113:6	3151:18,19 3152:18	spotting 3056:3	3108:9 3111:15,25
3132:23 3138:18	3116:8	3152:24 3153:1,7	spread 3154:18	3112:2,6 3122:20
seen 3109:17 3119:9	shows 3058:16 3078:17	3154:4	sprinkle 3133:17	3125:7 3129:1 3130:8
3134:11,12 3163:1	3107:11 3116:6,6	situations 3101:22	<b>SS3</b> 3060:3,4	3131:24 3135:22
3164:6	side 3047:1 3051:4	skull 3071:2	stabilise 3084:1,19	3137:12 3157:1
sees 3065:23	3054:4,5 3056:20	sleeping 3083:20	Staff 3102:2	3162:6,12 3163:2
Semenya 3070:24,25	3073:21 3078:16	slept 3082:11	stage 3045:22 3052:24	strikes 3164:21
3071:8 3111:4,6	3093:25 3094:1,3,4	slide 3065:22 3066:5	3069:23 3070:11	striking 3157:3
3117:3,5,14 3119:10	3108:24 3117:18,18	3067:4 3084:11	3084:15 3088:19	strong 3101:20 3132:21
3135:1 3158:2 3165:3	3118:1 3131:8,8	3104:11,11 3110:19	3089:19 3090:5	3141:19
3165:8,12	3132:2 3133:23	3110:24 3111:3	3091:21 3104:6	struggling 3134:17
senior 3051:11 3101:3	3136:11 3139:19	3116:3 3117:6,7,8	3121:13 3124:23	STSNIUTRT 3113:15
3103:5 3128:17	3155:13 3158:10	3123:12 3131:16,18	3125:23 3127:2,7	studied 3140:24
sense 3044:25 3045:8	3160:3,7,14,19	3133:4,22,25 3134:12	3142:9	<b>studies</b> 3145:5
3073:18,24 3074:3	3161:7	<b>slides</b> 3066:17	stages 3084:9	<b>study</b> 3145:4
3075:12 3077:20	sign 3058:17 3112:15	slightly 3062:21	stand 3059:22 3075:24	stun 3065:17 3066:3,11
sensibilities 3148:20	3123:17 3164:16	small 3072:15 3073:11	3076:9 3137:12,19	3105:4 3126:5 3129:5
sensible 3075:1 3088:5	significant 3154:5	3073:14 3075:13	3138:3	3129:8,14 3136:1
3114:20	simplifies 3117:14	3076:15 3077:11	standing 3049:6	<b>sub</b> 3068:7,12,13
sent 3052:11	simply 3058:21	3112:15 3122:18	3052:14 3061:5	3150:2
separately 3123:3	3129:24 3136:24	smaller 3082:1 3120:21	3067:8	subculture 3154:6
serious 3052:6 3140:24	3137:12	sociology 3101:13	start 3045:13 3099:15	subject 3063:19
seriously 3143:1	single 3069:25	3144:1 solo 2054:1	started 3071:22	3089:13 3097:24
serve 3154:18 Service 3054:9 3073:10	<b>sinister</b> 3152:25 3153:3 <b>Sir</b> 3048:2,10,24	sole 3054:1 solution 3161:14	3081:14 3108:21	3122:19 3140:23 submission 3049:8
3073:13 3155:18	<b>SIF</b> 3048:2,10,24 3055:14 3060:5,9,21	solve 3158:14,17	starting 3089:16 3133:22	subscribe 3149:12
3157:23	3065:20 3067:19	3159:8 3160:9	stated 3164:5	subscribing 3149:12
S157.25 Services 3100:23	3068:15,20 3070:3,7	somebody 3074:17	statement 3112:18	substantial 3126:9
services 3100:25 set 3067:4	3070:15,20 3073:22	3091:13 3092:23	3135:2 3140:9	sub-heading 3078:12
settle 3150:5,25 3151:3	3075:10 3079:18	3158:5,13 3159:23	3149:22	3078:22 3102:21
settlement 3109:25	3084:2 3094:8 3095:8	3161:25 3164:17	statements 3109:18,18	3146:17 3148:16
3110:16,16,21	3098:4,8,13,15,23	sorry 3059:3 3065:21	3111:15	succeed 3120:25
3111:16 3112:1,3,18	3099:19 3100:24	3071:13 3078:5,7	states 3069:15 3101:4	3121:2
3114:5,14,23 3118:1	3101:8 3102:14,19	3080:20 3085:8	stating 3052:12	succeeded 3121:20
3118:3 3119:21	3103:14,19 3105:2	3097:22 3105:14	stating 3052:12 station 3079:9	successful 3056:10
3122:4	3107:7,9 3108:18	3123:2 3124:2 3163:4	stay 3074:25	3156:19 3160:21
seven 3049:10	-	sort 3045:12 3048:1	step 3068:2,6 3105:15	3164:24
	3109:12.21.3110:1.22			
<b>shape</b> 3045:14	3109:12,21 3110:1,22 3112:17 3118:20	3063:10 3091:4	3105:15	successfully 3159:17
<b>shape</b> 3045:14 <b>share</b> 3136:12	3109:12,21 3110:1,22 3112:17 3118:20 3120:9 3129:21			<pre>successfully 3159:17 sudden 3154:11</pre>
<b>share</b> 3136:12	3112:17 3118:20	3063:10 3091:4	steps 3096:2	
-	3112:17 3118:20 3120:9 3129:21	3063:10 3091:4 3132:25		sudden 3154:11
<b>share</b> 3136:12 <b>sharp</b> 3083:13 3106:13	3112:17 3118:20 3120:9 3129:21 3133:23 3134:24	3063:10 3091:4 3132:25 <b>South</b> 3047:16,21	<b>steps</b> 3096:2 <b>stereotype</b> 3149:23	<pre>sudden 3154:11 sufficient 3068:25</pre>
<b>share</b> 3136:12 <b>sharp</b> 3083:13 3106:13 3106:23 3127:11,25	3112:17 3118:20 3120:9 3129:21 3133:23 3134:24 3135:12 3136:15	3063:10 3091:4 3132:25 <b>South</b> 3047:16,21 3054:8 3073:10,13	<b>steps</b> 3096:2 <b>stereotype</b> 3149:23 <b>stereotyping</b> 3149:17	<b>sudden</b> 3154:11 <b>sufficient</b> 3068:25 <b>sufficiently</b> 3079:17

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

				Page 12
3060:22 3071:5	3143:16 3156:20	3049:24 3051:2	3105:25 3108:6,6,18	3148:3,4
3109:22 3154:12	3161:21 3162:15,19	3052:14,16 3054:11	3109:4,11 3110:24	<b>topic</b> 3095:10,11,12
suggested 3048:7	3163:19 3165:10	3054:16 3055:8,10,14	3113:5,13 3115:12	3155:17 3163:18
3050:15 3052:1	taken 3065:8 3079:21	3056:14,18 3060:9,17	3117:11 3120:15	<b>Toronto</b> 3101:13
3096:10 3131:19	3089:20,23,25 3090:9	3064:8 3067:19	3121:5 3122:21	touching 3052:8
3139:14	3090:15 3091:22	3069:14 3070:4,6,14	3123:6 3126:10	<b>Town</b> 3100:13
suggestion 3061:19	3092:2,20,22 3095:20	3071:4,14,22 3072:11	3131:8 3132:10,15	traditional 3164:3
3064:22	3116:16 3131:5	3073:6,17 3076:6	3134:5 3137:23	train 3155:18
<b>sum</b> 3087:16 3159:18	3140:2 3143:1	3086:24 3087:4,22	3149:10 3150:19	trained 3128:11 3156:7
support 3050:11	3164:13	3092:11 3094:10	3153:19 3156:16,19	training 3045:17
3054:15,20 3055:4	takes 3063:23 3067:18	3095:8 3096:18,21	3158:7 3160:25	3047:5 3054:2,3
supposed 3053:5	talk 3046:2 3054:2	3098:13,23 3102:5	3161:18	3078:1 3128:18,18,19
3087:10 3090:19	3057:12 3083:1	3103:24 3104:6	thinking 3058:19	3147:14
3159:13	3086:2 3091:12,13	3105:8,24 3106:7	3099:2 3115:10	transgressiveness
<b>Supreme</b> 3101:5	3094:20,22 3115:22	3107:8 3108:17,20	<b>third</b> 3060:7	3149:18
<b>sure</b> 3045:15 3046:9,22	3130:7 3155:21	3112:9 3113:24	thirdly 3056:15	transpired 3108:20
3047:4 3051:12	3159:7 3161:20	3114:15 3116:12	thorough 3103:5	transpiring 3092:12
3054:21 3061:11	3162:22 3163:16	3117:9 3118:8,13	thoroughly 3108:1	transport 3079:8
3065:19 3070:22	talking 3065:12	3120:22 3121:4,4	thought 3058:8	travel 3077:1
3071:7,25 3073:22	3066:21,22 3067:1	3124:12,23 3127:6,23	3082:10 3097:23	tremendously 3054:9
3074:7,9 3080:10,12	3077:10 3082:8	3128:11 3133:18	3103:7 3131:6	trials 3100:18
3081:19,20 3083:12	3104:6 3130:12	3134:11 3138:10	3132:18,19 3155:16	tried 3044:17 3086:21
3085:1,5 3086:8	3152:11 3162:22	3140:22 3141:1	threat 3066:9 3067:12	triggered 3081:8
3094:23 3102:4	talks 3064:14	3143:18 3144:24	3067:17	<b>troops</b> 3114:9
3108:7 3109:10	<b>Tamara</b> 3141:14	3159:16 3163:9,19	threatening 3109:6	trouble 3114:21,22
3111:11 3117:14	Tank 3102:16,17	3164:15	<b>three</b> 3049:13,14	3137:24 3138:1,2,3
3118:20,24 3119:22	3141:20	<b>theme</b> 3155:25	3051:21,25 3089:15	<b>TRP</b> 3117:8
3119:24,25 3130:10	task 3049:5,19 3050:7	theoretical 3141:9	3139:23,25 3163:20	<b>TRT</b> 3047:1 3104:20
3131:7,11 3132:1,23	3054:10,14 3127:15	3144:6 3145:4	3163:20,20,23	3106:3 3107:5
3133:2 3136:6,11	3160:20	<b>theories</b> 3144:10	Thursday 3071:12	3114:19 3115:24
3137:14 3150:16,23	tasks 3052:17 3139:11	theory 3061:12 3102:7	3096:7,14	3116:23 3117:12,19
3152:7 3155:7	tea 3076:21,22 3077:10	3141:25	tidy 3122:17	3119:11,24 3125:20
3157:24 3159:12,14	team 3066:7,15	there's 3058:16 3060:2	till 3096:8,8 3122:13	3127:9,14 3128:18
3159:15 3160:4,21	3116:22 3119:12	3063:9 3071:5	time 3045:10,13 3047:5	true 3076:17 3140:18
3162:21	3138:23	3087:20 3095:24	3054:24 3061:22	3140:22
surely 3063:18	teargas 3046:4,7,8,11	3096:25 3104:10	3064:24 3069:24	<b>Truly</b> 3162:13
surprise 3080:16	3046:14,22 3047:1	3107:10 3158:15	3070:10,11 3072:20	<b>trust</b> 3054:14,19
<b>surprised</b> 3103:9 3110:3,4,11	3065:16 3066:3,11 3105:4 3126:5 3129:5	<b>they're</b> 3165:9 <b>they've</b> 3083:8 3115:14	3074:24 3076:21 3082:5,17 3085:22	3055:1,4 3161:18,23 3161:23,24 3162:1
surprising 3109:5	3129:7,14 3136:1,8	thing 3046:6 3063:6	3087:8 3088:5 3090:9	truth 3048:24,25
surrender 3059:1	3136:13 3139:3,8	3075:17 3084:4	3091:4,6,7,17,23	3054:24
3162:6 3164:6	tell 3058:24 3072:4	3085:8,18 3088:14	3092:10 3093:8,25	try 3054:5 3060:23
surrendering 3163:2	3102:16 3142:5,22,23	3090:17 3094:6,10,19	3092:10 3093:8,23	3061:4 3074:24
surrounded 3109:8,20	3142:24	3094:19 3095:6,7	3098:25 3102:13	3076:5 3089:6 3116:2
symbolically 3154:5	tells 3073:18 3075:7,12	3114:6 3115:8	3116:16 3117:16	3120:7 3151:7
system 3055:24	3077:20 3079:12	3120:13 3131:4	3118:12 3119:10,15	3159:18
3098:11	3083:14 3100:1	3137:18 3156:17	3119:16,19,24	trying 3085:25 3126:12
S-H-E-A-R-I-N-G	3101:9 3132:6	3158:18 3160:8	3124:15,21 3130:5	3151:18
3101:12	3133:25 3134:20	3161:4,13 3164:15	3136:13 3152:11	<b>Tswana</b> 3158:13,14,21
	ten 3165:14	things 3051:23 3052:1	3156:4,10 3159:9	3159:5
Т	term 3148:21	3059:9,23 3067:3	3161:1 3163:19	TT1 3099:9
table 3144:3 3145:9	terminologies 3051:4	3075:14 3086:8	3165:5	<b>TT2</b> 3143:17 3144:2
tactical 3045:9,10,20	terminology 3051:2	3094:23 3103:18,22	<b>times</b> 3164:12	3145:8
3051:10 3066:7,15	terms 3044:24 3051:2	3105:11,17 3106:3,22	today 3060:24 3061:10	<b>Tuesday</b> 3071:3,6,11
tactics 3101:22 3103:2	terrain 3082:19	3107:6,24 3110:5	3076:24	3165:7,14
3141:4 3146:12	<b>Tertius</b> 3100:22	3125:19 3131:1	Tokota 3163:4,9	turned 3129:8
3154:17	thank 3048:3 3051:20	3158:21 3164:18	told 3055:11,19	turning 3159:11
take 3044:19 3048:9	3068:8 3089:12	thing's 3160:19	3059:13 3069:5	<b>two</b> 3045:5 3048:4,11
3050:2 3057:15	3095:9 3097:21,25	think 3044:12 3047:11	3070:5 3102:15	3065:2 3079:25
3064:5 3071:25	3099:10,14 3104:13	3047:19 3052:24	3107:22 3129:25	3090:7 3099:17
3074:24 3076:22	3108:2 3148:9,13	3054:25 3061:5	3136:24	3104:18 3105:25
3077:2 3082:18	3150:21 3153:6	3065:4 3066:21	tolerance 3147:14	3123:2 3126:20
3092:4 3105:15	3155:6,15 3163:8	3069:4 3071:6,10,14	tomorrow 3090:24	3129:9 3130:19
3108:4,16 3110:18	3165:1,8	3074:20 3075:19	top 3078:17,24 3112:13	3139:24 3145:8
3122:12 3127:15	thanks 3099:5	3084:22 3086:4,24	3112:14 3117:8	3162:20
3135:15 3139:23	<b>that's</b> 3048:23,24	3099:6 3100:22	3123:17 3133:25	<b>type</b> 3047:2,6 3059:23

Tel: 011 021 6457 Fax: 011 440 9119

RealTime Transcriptions

# Marikana Commission of Inquiry

#### Rustenburg

				Page 13
3063:10 3068:21	utilise 3046:21 3047:6	3118:5 3120:2,3,4	weighing 3048:21	3061:18 3066:12
3075:21 3080:21	3081:2	3123:11 3125:17	went 3052:7 3099:3	3076:4,19 3082:16
	utilised 3047:15 3136:8	3128:22,24 3130:13	3106:3 3107:6	3098:17 3106:22
	utmost 3103:3	3136:16 3137:9,17	weren't 3061:24	3156:14
types 3085:13	utiliost 5105.5	3142:20 3143:7	3066:13	worked 3049:19
<b>T-O-N</b> 3101:20	V	3145:7 3146:17	weren't 3120:2	3050:14
	valid 3058:8 3059:13	3148:15 3151:2,25	west 3110:17 3111:1	working 3093:24
U	3134:6	3153:20 3154:24	3114:17 3119:11	3136:14 3160:17
	<b>Van</b> 3101:16	wanted 3048:5 3053:17	3122:4	workshop 3050:15
			westerly 3120:7	worldwide 3144:19
	<b>variety</b> 3152:19	3080:15 3086:15	ĩ	
	various 3060:16 3103:6	3097:22 3105:19	3126:10	worthwhile 3143:21
undergoing 3134:21	3110:20,23	3114:5,13 3138:2,2	Western 3101:14	wouldn't 3084:10
	vast 3045:8	3139:3	3117:18,18	3110:2,3,10 3114:21
	vastness 3056:8	wanting 3114:20	we'll 3047:14 3072:7	3136:23 3138:3
	vehicles 3113:15	3150:25	3076:22 3077:2	3157:8
3053:22,23 3066:10	3114:1 3155:9	wants 3117:3	3136:17	would've 3062:4
	verbal 3064:10	warning 3080:23	we're 3050:11 3064:15	would've 3081:18
	version 3052:8 3053:18	3081:5,7,12,15,16,22	3090:19,22 3146:2	write 3050:24 3062:20
	victim 3071:2	3081:25 3127:8	we've 3045:3 3078:1	writer 3152:9
	victory 3133:14	wasn't 3059:3,6 3071:6	3087:17,18,19,23	writing 3064:9,14
·	view 3051:22 3079:21	3087:21 3089:4	3088:10,20 3137:4	written 3062:18,22
3125:23 3126:15	3126:21,23 3135:11	3096:20 3097:1	3158:10	3095:23 3100:2
3134:17 3136:8	3156:25	3120:12 3124:23	we're 3117:11 3153:14	3101:20 3140:24
·	views 3126:20	water 3046:3 3066:2,10	we've 3082:8 3118:21	3160:2
	violence 3068:13,18	3104:19 3105:4	<b>what's</b> 3119:4	wrong 3052:7,21,25
3158:8,11 3159:2,7	3070:1,12 3098:6	3116:23 3126:5	willing 3146:5	3054:19 3055:6
3160:8,12 3163:14	3100:17,19 3101:11	way 3050:24 3062:20	<b>win</b> 3153:8,13	3090:20,21 3093:19
understanding 3048:15	3141:14 3145:19	3063:18 3064:10,15	wire 3070:16,21	3105:23 3106:1,3,10
3052:10 3065:22	3151:1,15	3065:7 3074:21	3071:17,20 3073:1	3107:6 3112:2
3071:1 3105:12	violent 3128:25 3129:8	3076:4 3080:22	3081:7,8,11,12,17	3117:15 3123:5
3106:8,25 3114:25	3135:22 3145:14	3082:11 3085:17	3089:19 3104:9,15	3147:21
understood 3061:11	3146:1,6,14,20	3087:10,14 3088:24	3108:8,15,22,24	W-A-D-D-I-N-G
3095:13 3096:11	3147:5,10,16,22	3095:5 3105:19	3109:6,6,10,15,23	3101:19
3155:8	3148:7,23 3149:3,9	3111:18,23 3114:13	3110:5 3112:22	
undertaking 3059:1	3149:13,13,20,24	3132:8 3137:16	3113:9,20,25 3114:8	X
3061:15,20 3062:3	3150:6,11 3151:22	3155:21 3157:13	3115:3,4,8 3116:7,17	Xhosa 3159:4
underwent 3135:7	3152:21 3153:4,10	3158:23 3159:11,12	3117:16 3118:15	
unexpected 3103:9	3154:1,8,13,21	3159:14 3160:4,24	3119:6,14,17 3120:5	Y
unfamiliar 3148:19	3155:4	3163:14	3120:8 3122:19,24	yellow 3112:22,23
	violently 3070:9	ways 3056:12 3081:20	3123:22,23 3124:20	3116:6 3123:21
	<b>VIP</b> 3122:25	3103:22	3125:4,5,6 3126:3,11	yesterday 3051:1
	visuals 3046:23	weakening 3075:25	3126:12,16,21	3056:2 3057:16
	voluntarily 3080:24	weaknesses 3055:12,19	3137:11	3058:1 3060:19
United 3101:3 3102:2	3082:4	3055:23	wire's 3125:10	3061:10 3063:21
units 3049:15 3050:8	5002.1	weapon 3046:2,13	wise 3082:17	3069:4 3105:20,24
3113:20 3116:23	W	3047:13,19,21	wishes 3111:4	3112:8 3123:9 3155:8
	Waddington 3101:19	3058:15 3062:10	witness 3056:19	3157:21
3152:3	3102:11,16 3141:10	3074:8 3121:10,22,23	3066:20 3100:18	York 3099:22
university 3100:13	3141:20,20,20 3142:1	3121:24,25	3111:17,21 3142:22	you'd 3088:17 3097:24
3101:13,14 3142:23	3142:12 3143:4,23	weaponry 3106:14,17	3143:3,5,6	you'll 3060:14,15
3143:24	3147:4 3149:3 3150:5	3128:8 3151:21	Witnesses 3055:9	3099:17,18 3102:4
	Waddington's 3145:13	weapons 3058:10	witness's 3094:12,14	3109:4 3111:2 3144:2
unpredictable 3149:21	3145:25	3059:1,2,4 3061:15	wonder 3114:24	3145:8 3156:16
	wait 3048:7 3137:20	3061:20,23 3062:4,6	Wonderkop 3084:17	you're 3044:3 3058:12
	waiting 3137:13 3138:3	3074:11,23 3075:2,6	won't 3053:23 3062:10	3065:4 3066:18
	walk 3074:12 3121:10	3082:10,12,14	3062:20 3063:11	3074:12 3142:14
	walked 3075:3	3083:25 3084:19	3075:11 3097:10	you've 3048:12
-	walking 3119:20	3088:16,22 3097:2	3108:5 3131:3	3055:11,12,18,23
	want 3047:10 3054:18	3105:7 3121:14,15	3138:16 3161:12	3057:2 3070:5
<b>use</b> 3046:3,3,4,4		3122:6 3127:12,19,25	3162:1	
	3055:3 3057:15	3122:6 3127:12,19,25 3128:5 3162:7 3163:2	word 3061:25 3095:13	3085:14 3096:10
3061:24 3083:18	3060:2,22 3061:21	3128:5 3162:7 3163:2 3164:3,6,21	words 3046:20 3069:19	3116:8 3119:9,10
3095:13 3104:24	3065:7 3071:23			3121:4 3139:21
3106:12,17 3137:7	3076:23 3093:14,15	wearing 3129:19	3073:12 3096:7,11	3162:25 3164:7
3157:18,22 3161:16	3093:16 3095:2	wedding 3132:16 Wednesday 2053:8	3103:17 3108:13	Z
<b>usual</b> 3076:24	3108:3 3109:24 3111:17 3117:21	Wednesday 3053:8 week 3151:19	3117:18 work 3054:17 3056:23	<b>Z Z Z Z Z Z Z Z Z Z</b>
usually 3072:15,24				70DP 11/19

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RealTime Transcriptions

## Marikana Commission of Inquiry

	-			Page 14
<b>Zulu</b> 3159:5	3078:18 3143:22	<b>84</b> 3133:22		
	3145:22	<b>85</b> 3131:16,18 3133:4		
0	<b>262</b> 3061:5 3067:9	3133:20,25 3134:12		
<b>06h00</b> 3079:2 <b>09:30</b> 3044:2	<b>2967</b> 3158:1	<b>86</b> 3131:16 3134:12 <b>87</b> 3131:16		
<b>09:50</b> 3052:23	3	<b>0</b> 7 5151:10		
09.30 3032.23	<b>3</b> 3067:18 3069:23	9		
1	3070:11 3077:1	<b>9</b> 3061:15 3067:24		
1 3044:20 3085:16	3080:16 3084:24	3068:7 3154:4		
3095:22 3104:14	3085:16 3089:10,19	<b>90</b> 3131:16		
3124:13 3144:6	3095:22 3097:19	<b>94</b> 3047:18		
3146:23 3150:3	3104:6 3130:8			
<b>1.3</b> 3060:15	3144:12 3146:22			
<b>10</b> 3100:18	3152:18 3154:10			
<b>10:10</b> 3062:8	<b>30</b> 3070:17			
<b>10:30</b> 3071:19	<b>34</b> 3055:6 3070:17,20			
<b>10:50</b> 3073:6 <b>100</b> 3051:16	3070:22 <b>37</b> 3102:21,22			
<b>11:21</b> 3077:4	37 5102.21,22			
<b>11:21</b> 3077.4 <b>11:41</b> 3086:13	4			
<b>12:01</b> 3095:2	4 3068:13 3070:12			
<b>12:21</b> 3104:3	3071:12 3144:15			
<b>12:41</b> 3113:12	3147:7			
13th 3060:11,12,24	<b>4PM</b> 3069:24			
3064:23 3065:3,8	<b>42</b> 3133:22			
3067:2,2 3086:21	<b>45</b> 3071:12			
3129:5,17,23 3130:19	<b>46</b> 3071:12			
3135:25 3136:8,19,25	<b>48</b> 3069:25 3070:12			
3137:3 3163:9	3071:5,10,11	1 1002 64 1	7	
<b>13:29</b> 3122:15	<b>49</b> 3071:13	The second of	20113	
<b>13:30</b> 3076:25 <b>13:58</b> 3136:21	5	CONTRACTOR CONTRACTOR	Anna	
<b>14</b> 3044:1 3059:17,21	5 3068:3,6,12,13	1 mg & ( it is / 1.	4 Ke	
14th 3058:25 3059:6	3144:18 3149:16	home, Dane on fo	have	
3078:18 3079:20	3151:10,12	martly le you	Toth	
3080:8 3084:12	<b>50</b> 3051:16 3071:13		100	
3133:8	3075:13 3077:11,22	IVE FOR JUST	ICE	
<b>14:18</b> 3146:15	3079:8 3080:16			
<b>14:38</b> 3156:6	3087:19			
<b>14:58</b> 3165:3	<b>500</b> 3080:17 3084:24			
<b>16th</b> 3053:10 3058:10	3089:10 3130:8			
3059:1,2,5 3061:15	<b>55</b> 3135:2			
3067:3,5 3069:23,24 3080:1,8 3081:6	6			
3087:21 3089:14	<b>6</b> 3067:25 3079:1,1,19			
3095:16 3096:14	3084:15 3144:21			
3130:23 3136:4,5,18	3152:23 3153:1			
<b>176</b> 3104:12	3154:17			
<b>177</b> 3104:11	<b>69</b> 3099:18			
<b>181</b> 3110:22				
<b>1990</b> 3145:1	7			
<b>1991</b> 3144:13,16	7 3067:11,14,15			
<b>1993</b> 3098:25	3144:25 3147:13			
2	<b>70</b> 3070:18 <b>70</b> 3065:23 25 3066:1			
<b>2</b> 3068:7,12 3085:16	<b>79</b> 3065:23,25 3066:1 3066:17 3067:4			
3095:22 3097:6	5000.17 5007.4			
3144:9 3146:9	8			
3148:25 3151:19	<b>8</b> 3145:3 3153:6			
<b>2:30</b> 3071:6,11	3154:24			
<b>20</b> 3051:15	<b>8.1</b> 3145:9			
<b>200</b> 3051:16 3117:7	8/08/13 3060:8			
<b>2001</b> 3144:13,16	<b>80</b> 3051:18,22,22			
<b>2005</b> 3144:23	3066:5,17 3067:4			
<b>2006</b> 3145:1	<b>81</b> 3110:19,22,24			
<b>2012</b> 3044:1 3060:11	3117:7,8		1	