

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON
MR TOKOTA SC
MS HEMRAJ SC

HELD ON

DAY 162

5 DECEMBER 2013

PAGES 18578 TO 18727



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Page 18578

1 [PROCEEDINGS ON 5 DECEMBER 2013]
 2 [09:16] CHAIRPERSON: The Commission resumes.
 3 Brigadier, you're still under oath.
 4 ADRIAAN MARTHINUS CALITZ: Dankie, mnr
 5 die Voorsitter.
 6 CHAIRPERSON: Mr Ntsebeza.
 7 CROSS-EXAMINATION BY MR NTSEBEZA SC (CONTD.):
 8 Thank you, Mr Chairman. Mr Chairman, there's a clip that I
 9 would like to be played, exhibit JJJ194.17.
 10 CHAIRPERSON: Does the operator know
 11 about it, and is the operator ready to play it?
 12 MR NTSEBEZA SC: There was a prior
 13 communication, that is what was –
 14 CHAIRPERSON: Are you playing the whole
 15 clip, or must we put on record which section of the clip is
 16 being shown?
 17 MR NTSEBEZA SC: I'm not sure that,
 18 whether we may have to give a warning here, Mr Chairman,
 19 but I was – it's only, in fact –
 20 CHAIRPERSON: If you're going to show a
 21 portion of the clip which doesn't require a warning, then
 22 that isn't a problem.
 23 MR NTSEBEZA SC: Yes, yes.
 24 CHAIRPERSON: But what we then have to
 25 have is stated what section of the clip we're looking at

Page 18579

1 for the purpose of the record. That's all.
 2 MR NTSEBEZA SC: It is the section where
 3 the –
 4 CHAIRPERSON: I just want into the clip
 5 15 seconds to 25 seconds or something like that.
 6 MR NTSEBEZA SC: I don't have that
 7 detail, unfortunately, Mr Chairman.
 8 CHAIRPERSON: When you start playing it,
 9 when it starts being played I will then announce, or you
 10 can announce, you can have the duty of doing it, it will be
 11 on the corner of the screen somewhere I think. What's the
 12 exhibit number again?
 13 MR NTSEBEZA SC: JJJ194.17.
 14 CHAIRPERSON: JJJ194.17. Alright, it's
 15 starting now, it looks like. Okay. Must I give a warning?
 16 Must I give a warning, Mr Ntsebeza?
 17 MR NTSEBEZA SC: I don't think so.
 18 CHAIRPERSON: Alright. Well, I take it
 19 the clip can now be shown. When you've seen enough, when
 20 you want it to stop indicate and the –
 21 MR NTSEBEZA SC: Yes.
 22 CHAIRPERSON: In fact you said it will
 23 start from the beginning and then when you stop we will
 24 record, announce what the reading is at that point.
 25 MR NTSEBEZA SC: Yes, Mr Chairman. Thank

Page 18580

1 you very much.
 2 CHAIRPERSON: Sorry, before we see the
 3 clip, did you want to say something before we start? Did I
 4 remind you, you're still under oath? If I didn't, you're
 5 still under oath. Yes, did you want to say something?
 6 BRIGADIER CALITZ: You did remind me.
 7 Mnr die Voorsitter, dis korrek, ek wou egter net gevra het
 8 wat is die verwysingsnommer, want hulle het vir my in my
 9 bundel gegee maar ek vind dit nie in my bundel nie. So ek
 10 het nog nie voorheen daarna gekyk nie. Maar dit is, ek het
 11 nie 'n probleem daarmee nie. Ek sal volg –
 12 VOORSITTER: U sal dit op die skerm sien.
 13 BRIGADIER CALITZ: Ek sal dit volg,
 14 dankie, mnr die Voorsitter.
 15 MR NTSEBEZA SC: Right, can we have the –
 16 I'm told nobody has it. It's a clip that I've seen several
 17 times and I can indicate to Brigadier what it is about.
 18 CHAIRPERSON: Well, we saw something on
 19 the screen a minute ago, so is that the clip? We saw the
 20 beginning of it.
 21 MR NTSEBEZA SC: Well, the part that I
 22 really would like shown is where the mineworkers are
 23 marching past the Nyalas and they are being shot at and I
 24 think the particular – and if we can agree about it, I mean
 25 I have no desire to show –

Page 18581

1 CHAIRPERSON: No, I would say it's
 2 probably best for us to see it, if it can be found quickly.
 3 The operator is nodding his head. Can you show it? He's
 4 holding his hand up. Is that a sign of surrender? Perhaps
 5 Mr Wesley can do the necessary. He's normally able to wave
 6 some kind of magic wand in this area.
 7 MR NTSEBEZA SC: Maybe we can – I'm told
 8 it's 20 seconds. Relying on those who know, I said point
 9 17. Mr Chairman, can I –
 10 CHAIRPERSON: It looks as if Mr
 11 Chaskalson has put something onto a memory stick or
 12 something that's being taken to the operator.
 13 MR NTSEBEZA SC: Yes.
 14 [VIDEO SHOWN]
 15 Just there, okay. Can you just go back, can you
 16 play it in slow-mo? Go back a little bit.
 17 [VIDEO SHOWN]
 18 Right, if you could go back again. Go back a few
 19 seconds, please.
 20 CHAIRPERSON: We're at the beginning of
 21 it, aren't we?
 22 MR NTSEBEZA SC: Yes. From the
 23 beginning, but that's the critical in relation to the
 24 questions that I was putting to the Brigadier yesterday.
 25 Can we –

Page 18582

1 CHAIRPERSON: What we see on the clip
 2 appears to be the persons who were at the front of this
 3 advancing group, one of them being Mr Noki with his green
 4 blanket. They in other words appear to be the very front
 5 of the advancing group and there are a number of people
 6 behind them, so they are coming into view in the gap
 7 between these two Nyalas. Is that right, Mr Ntsebeza?
 8 MR NTSEBEZA SC: Yes, Chairman.
 9 CHAIRPERSON: So then you want to run it
 10 slowly from there?
 11 MR NTSEBEZA SC: In fact I want the part
 12 before that because what I'm going to be concentrating on –
 13 oh, by the way, you do not see where I'm pointing with this
 14 red – I'm going to be concentrating on what comes out,
 15 firstly I want some confirmation from the Brigadier that
 16 that is a shotgun, if it is, and I will want confirmation
 17 from him again that something is ejected out of that
 18 shotgun, and that there is smoke that comes as the –
 19 CHAIRPERSON: We did see him fire it, if
 20 that's the right word – I suppose it is – on the little bit
 21 that we saw. So I don't know that you have to go back. If
 22 you go forward a couple of seconds I think you'll see what
 23 you want to see.
 24 [VIDEO SHOWN]
 25 MR NTSEBEZA SC: There's the smoke.

Page 18583

1 CHAIRPERSON: I think that's enough,
 2 isn't it? how far into the clip were we? 15 seconds? Is
 3 that two seconds? Oh yes, yes, two seconds is in the
 4 bottom left-hand corner. That's what is relevant. Is that
 5 enough for your –
 6 MR NTSEBEZA SC: By the way, I just also
 7 wanted to point out, I think Mr Magidiwana, who testified
 8 at length, is in this clip. Would that be him? You
 9 wouldn't know that, Brigadier?
 10 CHAIRPERSON: I don't think the Brigadier
 11 knows that, but I take it –
 12 MR NTSEBEZA SC: Okay.
 13 CHAIRPERSON: - the police
 14 representatives may be able to – but anyway, let's proceed.
 15 Have we now seen enough for you to make the point you want
 16 to make?
 17 MR NTSEBEZA SC: Yes. Yes, Mr Chairman.
 18 CHAIRPERSON: Alright.
 19 MR NTSEBEZA SC: Brigadier, as I
 20 indicated, I don't know if –
 21 CHAIRPERSON: Sorry, Mr Ntsebeza, forgive
 22 my interrupting you. We've got another problem with the
 23 airconditioner that's leaking, so I don't think we need
 24 stop, but perhaps the people in charge of these premises
 25 can be told and possibly turn that airconditioner off,

Page 18584

1 because it looks and sounds as if it's leaking to me. But
 2 let's carry on in the meanwhile. I interrupted you; you
 3 were saying something.
 4 MR NTSEBEZA SC: Yes, thank you, Mr
 5 Chairman. Now Brigadier, in the clip, is that a member of
 6 the POP from your observation, who is firing that firearm
 7 near the Nyala?
 8 BRIGADIER CALITZ: Dis 'n lid van
 9 Openbare Orde Polisiëring wat 'n haelgeweer afvuur.
 10 MR NTSEBEZA SC: So you have also
 11 answered the other question. So he's holding a shotgun.
 12 BRIGADIER CALITZ: Ja, u verwys net na 'n
 13 vuurwapen. Ek het net gesê dit is 'n haelgeweer,
 14 bevestigend op die vorige vraag.
 15 MR NTSEBEZA SC: Ja, and did you see
 16 something being ejected from there?
 17 BRIGADIER CALITZ: Ek het nie rêrig die
 18 doppie gesien nie, maar ek kan getuig as jy hom span sal
 19 daar wel een uitspring.
 20 CHAIRPERSON: It looked like smoke coming
 21 out.
 22 MR NTSEBEZA SC: No, more than just –
 23 BRIGADIER CALITZ: Ek dink hy praat van
 24 die "ejection," die doppie –
 25 CHAIRPERSON: Yes. No, no, no, I

Page 18585

1 understand that, but one of the other questions was smoke.
 2 Did you see something looking like smoke?
 3 BRIGADIER CALITZ: Dit is korrek, mnr die
 4 Voorsitter.
 5 MR NTSEBEZA SC: Do you want us to –
 6 CHAIRPERSON: Before that you didn't see
 7 the shell, I suppose, the empty shell? Shall we look at it
 8 again?
 9 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 10 dink as hy span sal daar wel 'n doppie uitspring, alhoewel
 11 ek weet nie of ek dit kan sien hier nie, maar dit is wat
 12 gebeur. Miskien moet ek hierdie kant –
 13 MR NTSEBEZA SC: No, I just want you to
 14 confirm this. If you don't see it, you don't see it.
 15 BRIGADIER CALITZ: Daar gaan hy.
 16 CHAIRPERSON: It looks as if there was a
 17 projectile, doesn't it?
 18 BRIGADIER CALITZ: Mnr die Voorsitter,
 19 ja, kan ek net sê die skerm, die groot skerm is onduidelik.
 20 Toe ek nou op die TV skerm agter my sien, dis baie
 21 duideliker; ek kan dit wel waarneem.
 22 CHAIRPERSON: You saw the projectile?
 23 BRIGADIER CALITZ: Die doppie wat
 24 uitgespring het, dit is korrek.
 25 MR NTSEBEZA SC: So you remember

Page 18586

1 yesterday because of my lack of knowing these things I
 2 sought to find out whether after firing a shot from a
 3 shotgun something gets ejected, and that would be the
 4 cartridge. Is that what it will be called?
 5 BRIGADIER CALITZ: Die doppie, ja.
 6 MR NTSEBEZA SC: That's Afrikaans for
 7 cartridge?
 8 COMMISSIONER HEMRAJ: Cartridge case
 9 actually.
 10 CHAIRPERSON: "Doppie" is a cartridge
 11 case, as I understand it.
 12 BRIGADIER CALITZ: Ja. Ek dink hulle
 13 verwys anderste na 'n haelgeweer doppie as 'n "cartridge,"
 14 dink ek is meer 'n "shell," so I think it's more a shell.
 15 MR NTSEBEZA SC: It's a shell.
 16 BRIGADIER CALITZ: Shotgun shell, as ons
 17 daarna kan, die Afrikaans daarvoor is doppie.
 18 MR NTSEBEZA SC: Okay. No, thank you,
 19 Brigadier. Would that mean in order for another shot to be
 20 fired from that shotgun after that projectile has been
 21 ejected, that there is a mechanism that would reload the
 22 area where – I don't know Afrikaans –
 23 BRIGADIER CALITZ: Nee, ek verstaan wat u
 24 wil vra, Advokaat. Dit is inderdaad so. Die doppie word
 25 uitgeprojekteer en dan is daar 'n volgende een wat van die

Page 18587

1 magasyn af onder in die loop ingelaai word.
 2 MR NTSEBEZA SC: And are you familiar
 3 with what we see there? What we see there seems to be the
 4 area around the kraal that we have been talking about.
 5 BRIGADIER CALITZ: Die area hier presies
 6 sien ek die wit Casspir, so dit sal 'n groep dan wees wat
 7 aan die, soos die wit Casspir se neus vorentoe wys, aan die
 8 linkerkant tussen die Casspir en dan die kraal.
 9 MR NTSEBEZA SC: Yes.
 10 BRIGADIER CALITZ: Die voorste groep wat
 11 daar beweeg.
 12 MR NTSEBEZA SC: Yes. Now if we went to
 13 exhibit KKK11, which is what you have in your bundle,
 14 KKK11, pages 30 and 31, now we have worked out that, on
 15 page 31 for instance, that those are the relative positions
 16 of those who were shot, the blues were those who were shot
 17 with shotgun fire, pellets in particular. Do you see what
 18 I'm indicating?
 19 BRIGADIER CALITZ: Ek sien op die kaart
 20 die blou aanduidings.
 21 MR NTSEBEZA SC: Yes, and our submission
 22 will be that the spotted blues are indications - which is
 23 why we made this presentation - of people who were shot
 24 with shotgun pellets. Would you disagree with that?
 25 BRIGADIER CALITZ: Nee, mnr die

Page 18588

1 Voorsitter, ek dink dit is wat u gister, u proposisie was.
 2 MR NTSEBEZA SC: Yes.
 3 BRIGADIER CALITZ: Ek het dit so
 4 verstaan.
 5 MR NTSEBEZA SC: Yes, now we were hoping
 6 we would have now post mortem results which would back up
 7 what we have been putting to you, or what we put to you
 8 yesterday, namely that the preponderance of injuries, some
 9 of which were fatal, were on the left part of the bodies of
 10 the victims, and we tried to show that yesterday, if you
 11 remember.
 12 BRIGADIER CALITZ: Ek onthou ons was deur
 13 'n verskeie aantal persone, mnr die Voorsitter.
 14 MR NTSEBEZA SC: We may have to come back
 15 to that aspect later on, but you will recall that we
 16 promised that there was a preponderance of injuries to some
 17 of these people, also who died, where the shots appeared to
 18 have been on the left part of their bodies. But we'll come
 19 to that when we have looked at the post mortem results and
 20 when we have had them admitted as exhibits. Now just to
 21 round off this aspect about shotgun victims, to your
 22 knowledge none of the police officers in scene 1 or in
 23 scene 2 was shot neither by high velocity ammunition, nor
 24 by shotgun pellet fire.
 25 BRIGADIER CALITZ: Mnr die Voorsitter,

Page 18589

1 verstaan ek u reg, u vra of die polisie geskiet is? Is dit
 2 wat ek – verstaan ek u reg?
 3 MR NTSEBEZA SC: Well, now I'm putting it
 4 to you and you can confirm or deny it –
 5 CHAIRPERSON: Repeat the question, Mr
 6 Ntsebeza.
 7 MR NTSEBEZA SC: The question was, it is
 8 common cause now that none of the police officers was ever
 9 shot on that day, neither by high velocity ammo, nor by
 10 shotgun pellet fire. There is no policeman who was
 11 reported injured or fatally wounded by shotgun pellet fire.
 12 BRIGADIER CALITZ: Mnr die Voorsitter,
 13 dit is korrek. As ek die vraag reg verstaan, dat ek net
 14 kan sê niemand was beseer nie, daar was wel op ons, daar
 15 was wel op hulle gevuur, maar dat hulle nie getref is nie.
 16 Dit is so, as dit u vraag is.
 17 [09:36] MR NTSEBEZA SC: Yes. I mean, let's tick
 18 it off, everything that will make the - no police person
 19 was ever in that by shotgun pellets or killed by shotgun
 20 pellets on the 16th of August at scene 1 and at scene 2.
 21 That's a fact.
 22 BRIGADIER CALITZ: U is korrek, Mnr die
 23 Voorsitter.
 24 CHAIRPERSON: Instances where – I'm not
 25 sure of the exact number, but we'll leave that for the

<p style="text-align: right;">Page 18590</p> <p>1 moment – instances where someone or some people among the 2 strikers fired at the police, that firearm that was a used 3 and not shotgun. Is that correct? As far our information 4 goes. Is that right? 5 BRIGADIER CALITZ: Mnr die Voorsitter, ja 6 dit die video wat hulle nou net gewys het op daardie sekond 7 waar u gestop het, kon u duidelik sien die persoon wat op 8 die polisie skiet. Dit was handwapen. Ek het geen 9 haelgeweer gesien nie. 10 CHAIRPERSON: No suggestion – it doesn't 11 mean it wasn't so - but there's no suggestion that the 12 police were fired at with shotgun by anybody. That's 13 correct, isn't it? 14 BRIGADIER CALITZ: Daar is nie 'n 15 bewering van die polisie se kant af dat daar op ons geskiet 16 is met haelgewere nie. 17 CHAIRPERSON: Yes, that's the point. 18 Yes, that's right. Do you agree with that? 19 BRIGADIER CALITZ: Dit is waarmee ek 20 saamstem. 21 MR NTSEBEZA SC: And from the clip that 22 we saw, certainly members of the POP who were in Nyala – 23 what's this? – Papa19, which I now understand to be the 24 same at Papa10, those police officers had shotguns. We saw 25 it now in the clip. Do you agree with that?</p>	<p style="text-align: right;">Page 18592</p> <p>1 were aware that there were these Lonmin members with 2 shotguns in what was a crime scene. 3 BRIGADIER CALITZ: Mnr die Voorsitter, ek 4 het daarvoor getuig. Ek het hulle waargeneem, persone in 5 siviele drag, toe ek daar aankom. As jy verwys as 6 operasionele bevelvoerder op die grond, nee, hulle was 7 onder die groep van forward holding area 1 en dit is 8 Generaal Naidoo, waar hulle vanaf beweeg het. Ek het hulle 9 vir die eerste keer waargeneem toe ek op die toneel kom by 10 toneel 2 – ja, toneel 2, koppie 3. 11 MR NTSEBEZA SC: Yes. And when you 12 became aware of them - and I don't know whether you've 13 testified about this already and you'll pardon me if you 14 have, as operational commander, did you think that they 15 were lawfully there? 16 BRIGADIER CALITZ: Mnr die Voorsitter, my 17 getuienis was dat ek wel persone in siviele drag daar 18 gesien het. Ek het slegs op die foto, het hulle vir my 19 waargeneem, en dit is waar ons gesien het en geïdentifiseer 20 het dit is Lonmin – ek dink Lonmin het daarna gesê dit is 21 hulle sekuriteitspersoneel. So dit was nie my getuienis 22 dat ek hulle as Lonmin sekuriteitspersoneel met haelgewere 23 waargeneem toe ek daar aankom nie, nee. Ek het gesê in my 24 getuienis, ek het verskeie persone in siviele drag gesien 25 en toe die foto gewys is, toe het dit uitgekom dat dit wel</p>
<p style="text-align: right;">Page 18591</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, u 2 vraag is baie deurmekaar. U het verwys na Papa19, Papa10, 3 en dan sê dit is wat ons in die clip gesien het. Wat ons 4 in die clip gesien het was 'n persoon tussen Papa 2 en die 5 Casspir. 6 MR NTSEBEZA SC: Okay. 7 BRIGADIER CALITZ: So miskien net vir my 8 die vraag herhaal asseblief. 9 MR NTSEBEZA SC: Okay, let me just un- 10 deurmekaar it. 11 CHAIRPERSON: You can speak some 12 Afrikaans, Mr Ntsebeza, oh, it's coming out now. 13 MR NTSEBEZA SC: No, just like the 14 witness can speak some English, very good English, but 15 anyway we all accept it, I understand, that members of the 16 POP had shotguns? 17 BRIGADIER CALITZ: Ek stem saam met u, 18 Mnr die Voorsitter. 19 MR NTSEBEZA SC: Yes. And we also know 20 there were Lonmin members, certainly in scene 2, were shown 21 the other day that I was here to be having shotguns. 22 BRIGADIER CALITZ: Dit is wat op toneel 2 23 op die foto gesien het, Mnr die Voorsitter, korrek. 24 MR NTSEBEZA SC: Yes. And I would assume 25 that as officer commanding or operational commander you</p>	<p style="text-align: right;">Page 18593</p> <p>1 daardie persone was. 2 MR NTSEBEZA SC: Is it your evidence that 3 you thought that these were ordinary civilians carrying 4 shotguns? 5 BRIGADIER CALITZ: Nee, Mnr die 6 Voorsitter, ek het nie gesê dat ek het die persone in 7 siviele drag gesien met daardie vuurwapens nie. Wat ek wel 8 gesê het is toe ons die foto sien, toe het ek gesê dit moet 9 'n beslis – ek dink my woorde was spesifiek van dieselfde 10 firma wees, want omdat die rooi en die blou en die 11 spesifieke drag wat hulle aan gehad het. En ek dink dit 12 het nie van ons kant afgekom nie, van Lonmin af, wat dan 13 bevestig het dit is hulle sekuriteitspersoneel. So dit is 14 waar ek die eerste keer van hulle, met hulle vuurwapens, 15 bewus geword het. 16 MR NTSEBEZA SC: On the day, did you see 17 Lonmin security officers carrying shotguns? 18 BRIGADIER CALITZ: Nie op die 16de, die 19 dag van die voorval nie, nee, mnr die Voorsitter. 20 MR NTSEBEZA SC: So on that day you 21 didn't see them. What you are testifying about, civilian 22 clothing and all of that, is as a consequence of having 23 seen the video – the photos? 24 BRIGADIER CALITZ: Nee, mnr die 25 Voorsitter, ek het weereens in my getuienis, as ek dit net</p>

Page 18594

1 kan probeer beter stel, gesê dat daar was verskeie persone
 2 met siviele drag ook op die toneel. Onthou, ons het
 3 speurders, daar's mense van die kriminele rekord sentrum,
 4 daar's verskeie polisiebeamptes wat in siviele drag werk,
 5 misdaad intelligensie. So ek het verwys na verskeie
 6 persone wat in siviele drag is wat ek waargeneem het daar.
 7 MR NTSEBEZA SC: Do you know how these
 8 people got to scene 2?
 9 BRIGADIER CALITZ: Nee, mnr die
 10 Voorsitter.
 11 MR NTSEBEZA SC: The people we now know
 12 to have been security – Lonmin security people?
 13 BRIGADIER CALITZ: Herhaal net die tweede
 14 deel. Ek het nie nou mooi gehoor nie.
 15 CHAIRPERSON: Do you know how these
 16 people got to scene 2 – the people, the Lonmin people whom
 17 you saw there? You don't know how they got there? That's
 18 the question.
 19 BRIGADIER CALITZ: Glad nie, mnr die
 20 Voorsitter.
 21 MR NTSEBEZA SC: As operational
 22 commander, didn't you want to know how these people, who
 23 are armed with shotguns, who may even be having shotgun
 24 pellets in their shotguns, didn't you want to know who are
 25 these and why are they here? This is a crime scene.

Page 18595

1 BRIGADIER CALITZ: Mnr die Voorsitter, as
 2 ek op daardie dag hulle wel gesien het en dit onder my
 3 aandag gekom het, sou ek dit beslis gevra het.
 4 MR NTSEBEZA SC: Are you saying you could
 5 not – there's a likelihood that you didn't see them on that
 6 day?
 7 BRIGADIER CALITZ: Ek het reeds getuig,
 8 op daardie dag was ek nie bewus van hulle nie. As dit
 9 onder my aandag gebring was, sou ek definitief gevra het
 10 wie die persone is met die wapens, en so meer.
 11 MR NTSEBEZA SC: Now, when you say you
 12 were not aware of their presence, I want to know that – I
 13 want to be sure that you are not saying the same thing and
 14 saying you didn't see anyone there with shotguns, other
 15 than the police. Is that your evidence?
 16 BRIGADIER CALITZ: Mnr die Voorsitter,
 17 ja, ek glo so. My getuienis was dat ek het verskeie
 18 persone in siviele drag daar waargeneem. Geen van daardie
 19 spesifieke blou uniform persone met haelgewere, glad nie
 20 waargeneem op die dag toe ek daar was nie, nee.
 21 MR NTSEBEZA SC: Okay. Let's start –
 22 CHAIRPERSON: Sorry, can I just clarify
 23 something? These security people, Lonmin security people,
 24 they weren't really in, they weren't in "siviele gedrag,"
 25 as you put it? They were wearing a kind of uniform – not a

Page 18596

1 police uniform, but security officer uniform, is that
 2 correct?
 3 BRIGADIER CALITZ: Mnr die Voorsitter,
 4 ja, ons verwys maar in polisie terme na siviele drag, as jy
 5 'n denim aan het of hy het takkies aan, of jy het – dit is
 6 maar siviele drag.
 7 CHAIRPERSON: Yes, no, I understand. If
 8 you're not wearing police uniform, then you're in –
 9 BRIGADIER CALITZ: As dit hulle uitreik
 10 uniform is, as miskien Lonmin dit kan bevestig.
 11 CHAIRPERSON: Yes, but what I want to
 12 know is, if you'd seen people wearing those uniform, would
 13 you have described them as being in siviele gedrag, as we
 14 say in English, in mufti - civilian clothes? Do you
 15 understand the point? I understand a detective is in
 16 civilian clothes. He doesn't wear a uniform, is that
 17 right? So when you talk about siviele gedrag, you mean
 18 people in siviele gedrag, civilian clothing, you're
 19 including detectives, right. And you're really drawing a
 20 distinction between people in police uniform and people
 21 who're not in uniform?
 22 BRIGADIER CALITZ: Dit is korrek –
 23 CHAIRPERSON: Now, my question is, if
 24 you'd seen someone in a security officer's uniform, would
 25 you have regarded that person as being in civilian

Page 18597

1 clothing, or would you have said, "No, I saw someone in
 2 uniform, but not police uniform?" Because you've been
 3 constantly saying I saw people in siviele gedrag, in
 4 civilian clothing. I want to know whether that would
 5 include, or could include these Lonmin security guards?
 6 BRIGADIER CALITZ: Ek dink op hierdie
 7 stadium sal dit hulle insluit, Mnr die Voorsitter. Ek het
 8 dan – as ek dan die onderskeid kan maak tussen polisie
 9 uniforms en dan nie-polisie uniforms, as dit dalk 'n beter
 10 verduideliking kan wees, want ek dink die – wat ek
 11 waargeneem het, is dat miskien het hulle, soos ek sê, denim
 12 en takkies, of daai tipe van – so ja, ek stem in daardie
 13 geval saam met u, Mnr die Voorsitter.
 14 MR NTSEBEZA SC: So what is it,
 15 Brigadier? Did you see people there in civilian clothing
 16 who were not the people whom we saw in that clip, who had
 17 some uniform with red stripes? Did you see people in
 18 civilian clothing on that day in scene 2? Let's take it
 19 step by step.
 20 BRIGADIER CALITZ: Ek het persone in
 21 siviele drag op die toneel waargeneem, korrek, Mnr die
 22 Voorsitter.
 23 MR NTSEBEZA SC: You saw people in
 24 civilian clothing armed with shotguns?
 25 BRIGADIER CALITZ: Dit is 'n negatief,

Page 18598

1 Mnr die Voorsitter.

2 MR NTSEBEZA SC: Now, what do you mean -

3 CHAIRPERSON: It means no. He didn't see

4 people in civilian dress carrying shotguns.

5 MR NTSEBEZA SC: Now, my question seeks

6 to know whether, other than the police on the day, whether

7 you saw in scene 2, in particular, people other than the

8 police carrying shotguns?

9 BRIGADIER CALITZ: Op die dag, dieselfde

10 vraag, nee, mnr die Voorsitter.

11 MR NTSEBEZA SC: Did you see any people

12 there whom you recognised as Lonmin security police, or

13 security personnel, who were armed with shotguns?

14 BRIGADIER CALITZ: Laat ek weer sê, nee,

15 mnr die Voorsitter.

16 MR NTSEBEZA SC: So is it safe to say,

17 according to you, on that day, the only people you saw who

18 were armed with shotguns, were police officers?

19 BRIGADIER CALITZ: Ja, van hulle, mnr die

20 Voorsitter.

21 MR NTSEBEZA SC: Now, these people in

22 civilian clothing – I'm asking you in your capacity as the

23 operational commander, did you say you thought they could

24 have been detectives? Did I hear that?

25 BRIGADIER CALITZ: They could have been?

Page 18599

1 MR NTSEBEZA SC: Detectives.

2 BRIGADIER CALITZ: Ek het gesê verskeie

3 siviele drag. Ons het speurders daar gehad, mense van

4 kriminele rekord sentrum, wat dan die toneel doen. Ek dink

5 van die hondemeesters van die honde, K9, van hulle werk in

6 siviele drag. So kan ek vir u 'n verskeie paar opnoem, Mnr

7 die Voorsitter.

8 MR NTSEBEZA SC: Speuders or spies – what

9 are speuders -

10 CHAIRPERSON: Speuders are detectives.

11 MR NTSEBEZA SC: Ja, that's why I asked –

12 BRIGADIER CALITZ: Detectives, local

13 criminal record centre, K9 dog unit, as ek dit miskien in

14 my – probeer in Engels.

15 MR NTSEBEZA SC: That's why I asked,

16 Brigadier, that's why I asked whether you thought those

17 people in civilian clothing are detectives?

18 CHAIRPERSON: We've spent enough time on

19 that. I think you've established the point you wanted to

20 establish about three times over. Perhaps we could move on

21 to the next one.

22 MR NTSEBEZA SC: Yes, Mr Chairman, we

23 certainly are there now.

24 COMMISSIONER HEMRAJ: Brigadier, can I

25 just ask you? During the operation, did Lonmin vehicles

Page 18600

1 have free access to the entire area?

2 BRIGADIER CALITZ: Kommissaris, ek glo

3 so, behalwe die gedeelte wat ons dan gesê het ons gaan

4 afsper. Met ander woorde, ek sou nie laat hulle deur

5 beweeg deur die voorste – daar waar die draad kar posisie

6 van Kolonel Makhubela was of dan die opening nie, want dit

7 was die terrein gewees wat ons dan 'n aktiewe neutral zone

8 genoem het, vir die veilige gebied. Ek glo wel hulle kon

9 tot agter gekom het. Miskien daar waar die media – selfs

10 die media, daai was 'n vrye toegang pad. In Nkaneng se

11 roetes was daar 'n vrye pad en dan natuurlik na koppie 3

12 toe sal ek nou nie kan sê, daai agterste pad, daar was nie

13 versperrings op daardie pad nie, nee.

14 CHAIRPERSON: There was some evidence

15 that the carrier was restricted at the relevant time, and I

16 understood that evidence to relate not so much to the so-

17 called neutral area, but the area between the wire

18 barricade and the koppie. As you say, there was no

19 physical obstruction, yet I mean technically, anyone who

20 was foolish enough to want to go there, could approach

21 there from behind the koppie, but as far as you're aware,

22 apart from this neutral – the front part of the neutral

23 area, so that I take it the media people were at the back,

24 the front part of the neutral area, that was restricted.

25 That's right?

Page 18601

1 BRIGADIER CALITZ: Dit was beheersd

2 gewees, Mnr die Voorsitter. Ons weet dat die AMCU leier

3 daarnatoe was, ons het die media toegelaat daarnatoe, so

4 miskien 'n restricted – as ek verwys na die

5 sekuriteitspersoneel of personeel van buite af, wat ons dan

6 – hulle sou dan eers by my, as bevelvoerder op die voorste

7 linie, as ek dit so kan noem, aangemeld het. En ek glo

8 dieselfde by forward holding area 1. Dit is 'n redelike

9 prominente kruising, as ek die gebied onder korreksie noem,

10 as mens daar aankom en dan links draai na die koppies, daar

11 sou ook dan 'n tipe van 'n aanmeldingspunt gewees het, of

12 'n –

13 CHAIRPERSON: You see the question that

14 you were asked relates really to Lonmin's vehicles, whether

15 they had free access to the whole of the area, with the

16 exception of that section that you described as the police

17 neutral area. And the answer to that appears to be yes, is

18 that correct?

19 BRIGADIER CALITZ: Miskien as ek u reg

20 verstaan, partially, yes, Kommissaris. Die restricted

21 gebied is die gebied is die gebied is die gebied voor waar

22 ons besig was met die onderhandelinge. Daar sou ek sê nee,

23 daar was daar nie.

24 CHAIRPERSON: So won't we talk about the

25 front part of the restricted area, that was – the front

Page 18602

1 part of the neutral area, I mean, that would be restricted,
2 but for the rest could they have access?
3 BRIGADIER CALITZ: Korrek, mnr die
4 Voorsitter.
5 MR NTSEBEZA SC: Can I just clarify
6 something on page 31 of this exhibit, KKK11? Now, we have
7 positioned Papa19, which I understand is Papa 10 as well,
8 there. Do you see that, Brigadier?
9 BRIGADIER CALITZ: Papa19, die agterste
10 een, waar die rooi kolletjie nou op is, dit is Papa10,
11 korrek.
12 MR NTSEBEZA SC: Yes. Now that – there
13 were POP members there, isn't it? In Papa19?
14 BRIGADIER CALITZ: Ek vertrou so, mnr die
15 Voorsitter.
16 MR NTSEBEZA SC: You believe so. And do
17 you know if they were armed with shotguns? With pellets?
18 BRIGADIER CALITZ: Mnr die Voorsitter,
19 dit kan ek vir u vas stel. Op daardie stadium was ek voor
20 by Papa1, so ek sal nie vir u kan sê wie presies dan in
21 daai beweging daar agter was nie, maar dit is maklik om
22 vas te stel wie in daardie voertuig was.
23 MR NTSEBEZA SC: Yes. Now, if you could
24 establish that, because we'll be making a submission that
25 the POP members in Papa 10 and Papa 5, next to it, were

Page 18603

1 armed with shotguns?
2 BRIGADIER CALITZ: Die openbare orde lede
3 was uitgereik met haelgewere, soos hulle op daardie
4 voertuie was, wel, Meneer.
5 CHAIRPERSON: Not pellets apparently, is
6 that correct?
7 BRIGADIER CALITZ: Nee, mnr die
8 Voorsitter, nie pellets nie –
9 CHAIRPERSON: Well, that's your evidence
10 of yesterday,
11 BRIGADIER CALITZ: Ekskuus tog, Mnr –
12 BRIGADIER CALITZ: That's your evidence
13 of yesterday, they didn't have pellets, they had stun
14 grenades and they had teargas canisters, and rubber balls,
15 that was your evidence.
16 BRIGADIER CALITZ: Dit was my getuienis
17 sover dit my inligting aangaan, Mnr die Voorsitter.
18 [09:56] MR NTSEBEZA SC: Now, the pellets are not
19 standard issue in the SAPS. In fact I believe they are no
20 longer used by the SAPS.
21 BRIGADIER CALITZ: Dit is onttrek 'n
22 aantal jare terug, -
23 MR NTSEBEZA SC: I see –
24 BRIGADIER CALITZ: - mnr die Voorsitter.
25 MR NTSEBEZA SC: Ja, that's the basis

Page 18604

1 that you say there were no pellets because as far as you
2 know –
3 CHAIRPERSON: I think the basis on which
4 he says that no member of the Police Service –
5 MR NTSEBEZA SC: Yes –
6 CHAIRPERSON: - as far as he was aware
7 and based on his knowledge could have fired those pellets
8 that are the subject of your cross-examination at the
9 moment.
10 MR NTSEBEZA SC: Yes.
11 CHAIRPERSON: So that's how he eliminates
12 members of the Police Service and I remember yesterday he
13 and I had discussed it and it is really the only two other
14 possible sources of pellets, that's either Lonmin people,
15 if they were there and have them or alternatively the
16 strikers. It looks as if it is one of the other or
17 possibly both, I suppose but –
18 MR NTSEBEZA SC: Or –
19 CHAIRPERSON: - his evidence is that
20 members of the Police Service, one can exclude and if the
21 reason he has given is correct, well, then he is right and
22 if it isn't it isn't, but we're not debating that at the
23 moment, I don't think.
24 MR NTSEBEZA SC: Yes, we are also not
25 wanting to encourage speculation, Mr Chairman, because I

Page 18605

1 could easily put to the brigadier whether it is possible if
2 we're are talking in the realms of possibilities, that
3 rogue police officers could have had pellets and hidden
4 them and taken them into the scene.
5 CHAIRPERSON: - can see that that was a
6 possibility –
7 MR NTSEBEZA SC: Ja, -
8 CHAIRPERSON: - but he thought it was
9 extremely unlikely because he said the pellets hadn't been
10 around for many, many years, I think that's his evidence.
11 MR NTSEBEZA SC: Yes.
12 BRIGADIER CALITZ: Dit is korrek, mnr die
13 Voorsitter, ek het nie gesê dit is onmoontlik nie, ek het
14 gesê, soos u dit stel, rogue, ek neem aan dit verwys na nie
15 so 'n goeie polisieman, as daar dan onder enige en 'n
16 verskeie rede iemand is wat in die besit van daardie goed
17 was is dit beslis nie onder die bevelvoerders en my as
18 operasionele bevelvoerder se aandag gebring nie en ek het
19 nie, ek was nie bewus daarvan nie, glad nie.
20 MR NTSEBEZA SC: They have just been
21 withdrawn from the SAPS as far as you know but as I
22 understand it anyone with a gun licence can go and get a
23 pellet or pellets from a gun shop, it is not as though they
24 are –
25 BRIGADIER CALITZ: Mnr die Voorsitter, ek

<p style="text-align: right;">Page 18606</p> <p>1 besit nie self 'n haelgeweer nie, maar ek glo die persone 2 wat 'n haelgeweer besit, ek dink jy kry 'n nommer 5 en 'n 3 nommer, daar is nog sport soorte waar hulle dit gebruik. 4 Ek is seker dit is algemeen beskikbaar. 5 CHAIRPERSON: You are agreeing with Mr 6 Ntsebeza that someone who has such a weapon, a shotgun 7 would be able from sport shops and gun shops and so on, to 8 purchase pellets, if he was so minded. 9 BRIGADIER CALITZ: Any person in the 10 country would be able to – 11 CHAIRPERSON: Yes – 12 BRIGADIER CALITZ: - purchase that, mnr 13 die Voorsitter. 14 CHAIRPERSON: That's Mr Ntsebeza's point, 15 you agree with it. 16 MR NTSEBEZA SC: It is not unlawful to 17 agree with me. 18 BRIGADIER CALITZ: Ek het so pas saam met 19 u gestem, ek het gesê enige persoon kan dit koop, mnr die 20 Voorsitter, so – 21 MR NTSEBEZA SC: Thank you, Brigadier. 22 Now I just want to round off this line and say, is it so 23 that to date there is no mineworker who has ever been 24 arrested with a shotgun that is associated with the events 25 of the 16th of August 2012?</p>	<p style="text-align: right;">Page 18608</p> <p>1 been arrested for being in possession of any of those 2 shotguns which are allegedly taken from Lonmin – 3 CHAIRPERSON: Actually he puts the 4 proposition even more strongly, he says, as far as he is 5 aware the shotguns haven't been recovered and the difficult 6 to see how anyone could be arrested for being in possession 7 of it if the shotgun itself hadn't been recovered. So he 8 puts it more strongly actually than you're putting it now, 9 so I think you can tick that box off and move to the next 10 one. 11 MR NTSEBEZA SC: Yes. The next box would 12 be, Mr Chairman, there have been a number of statements 13 that have been made by the police. Are you aware of any 14 statement by any SAPS officer that records seeing a striker 15 firing a shotgun at scene 1? 16 BRIGADIER CALITZ: Mnr die Voorsitter, 17 nee, ek kan sê dat ek eintlik veel van die verklarings by 18 myself gelees het nie, so ek het uit geen van die 19 verklarings, ek het maar die Kommissie gevolg en dit wat 20 hier gesê is, maar daar was, ek dink nie enige getuie 21 daartoe nie, op hierdie stadium nie. 22 MR NTSEBEZA SC: Now there has been, we 23 have seen in that clip for instance that, - or you have 24 testified that there is footage which shows a mineworker 25 firing at the police but you have already said that that</p>
<p style="text-align: right;">Page 18607</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, ek 2 sal onder korreksie moet praat en dan teruggaan na my 3 speurhoof wat die ondersoek lei, maar sover as dit aan my 4 gerapporteer was die twee haelgewere van die 5 sekuriteitspersoneel wat dan geroof was asook die 6 haelgeweer van die polisieman wat geroof was op die 7 Maandag, daardie drie haelgewere, sover dit my kennis 8 aangaan is nog nie terug gevind nie. 9 MR NTSEBEZA SC: So since, I mean since 10 that day on which you say shotguns were taken from police 11 officers, is that the 13th of August or the 12th, the 12th? 12 BRIGADIER CALITZ: Die polisiemanne was 13 die 13de – 14 CHAIRPERSON: The security people, the 15 Lonmin security people – 16 MR NTSEBEZA SC: Oh, yes. 17 CHAIRPERSON: The Lonmin security 18 people's – 19 BRIGADIER CALITZ: The 12th – 20 CHAIRPERSON: - shotguns were taken on 21 the 12th and the policeman to whom he refers, his shotgun 22 was taken on the 13th. 23 MR NTSEBEZA SC: Yes, but what I just 24 want to clearly establish is that for about a year now 25 since that date you are not aware that any mineworker has</p>	<p style="text-align: right;">Page 18609</p> <p>1 was just from a pistol, not from a shotgun. The question I 2 want to ask, if there was a striker who had shot at the 3 members of either POP's or TRT with a shotgun, surely one 4 or more of the members of the POP or the TRT would have 5 seen that and would have reported about it. 6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 weereens u maak 'n lang stelling. Die vraag wat ek 8 verstaan is, indien iemand gesien het 'n persoon is 9 geskiet, dit hang af van die omstandighede waarin hy was, 10 sou hy dit gerapporteer het – 11 CHAIRPERSON: No, no, no, that's not the 12 question, he didn't talk about, - 13 BRIGADIER CALITZ: Ekskuus, mnr die 14 Voorsitter. 15 CHAIRPERSON: What he said was, if one of 16 the strikers had used a shotgun and fired in the direction 17 of the police – 18 BRIGADIER CALITZ: Ja – 19 CHAIRPERSON: - then he would expect and 20 he is putting it to you to see if you agree, he would have 21 expected that to have been seen and remember it is not this 22 one shot that was fired, a number was shot, so his point is 23 that if the number of times a shotgun had been used it is 24 overwhelmingly probable, he didn't put it as strongly as 25 that but I'm doing it for him, overwhelmingly probable that</p>

Page 18610

1 one or other of, some member of the POP or the TRT would
 2 have seen it and reported it. He asks if you agree with
 3 that and if you agree with that he will then put it to you
 4 that no one did report it and he will then ask you to agree
 5 that it is therefore highly improbable that any striker had
 6 a shotgun at that point. Those are the three questions, I
 7 give it to you all together, I take it, how do you answer
 8 them?
 9 BRIGADIER CALITZ: Dankie, mnr die
 10 Voorsitter, ja, nee, ek weet van geen polisiebeampte wat
 11 gesien het dat iemand 'n vuurwapen, laat ek dit anders
 12 stel, 'n haelgeweer gebruik om op hulle te vuur nie. Sou
 13 dit wel gebeur het en dit was in die sig van daardie
 14 polisiebeampte glo ek daar sal dan in die verklaring wees
 15 en ek dink u verdere stelling was, daar was verskeie skote
 16 sodat my antwoord op daardie een sal wees dat dit hang af
 17 van watter rigting af die skoot gevuur is en die
 18 omstandighede waar die vuurwapen in gebruik was.
 19 CHAIRPERSON: It is a different sound,
 20 isn't it?
 21 BRIGADIER CALITZ: Ekskuus, mnr die
 22 Voorsitter?
 23 CHAIRPERSON: A different sound, if a
 24 shotgun is fired it is a different sound. I suppose there
 25 may have been so much noise going on that it was difficult

Page 18611

1 to pick it up.
 2 BRIGADIER CALITZ: Ek –
 3 CHAIRPERSON: If it has been fired
 4 several times, again we're looking at probabilities now and
 5 the probabilities are that it would have been heard, we
 6 think you know, is that right?
 7 BRIGADIER CALITZ: Ek het dit gister
 8 reeds gesê dat –
 9 CHAIRPERSON: Ja –
 10 BRIGADIER CALITZ: - ek dink die rubber
 11 is sagter, daarom sê ek, mnr die Voorsitter, dit hang af in
 12 watter omstandighede, as dit miskien gelyktydig was met die
 13 vuur van die TRT twyfel ek of dit die haelgeweer, so dit
 14 hang van die omstandighede af.
 15 CHAIRPERSON: I never remember whether it
 16 is 5 seconds or 8 seconds, but if it was during that
 17 fusillade that is the subject really of this inquiry
 18 obviously it wouldn't have been heard, that's right, isn't
 19 it?
 20 BRIGADIER CALITZ: Dit is wat ek sê.
 21 CHAIRPERSON: So if it was before or
 22 after it might well have been.
 23 BRIGADIER CALITZ: Dit is wat ek sê, mnr
 24 die Voorsitter, dit hang af op watter stadium en van watter
 25 rigting af, baie belangrik, so daar is omstandighede wat

Page 18612

1 net in ag geneem moet word maar as dit my antwoord kan
 2 wees, mnr die Voorsitter.
 3 MR NTSEBEZA SC: Once again if you look
 4 at the photo on screen and I'm just relying on your
 5 experience here for the question that comes, it would seem
 6 to me that the number of the victims and the spread of the
 7 victims is an indication that, a very strong indication I
 8 have to say, that more than one shotgun shot was fired.
 9 Would you agree with that?
 10 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 11 is nie 'n expert nie maar as ek 'n opinie kan, vir wat dit
 12 werd is, shotgun pellets spreid, so ek dink dit is maklik om
 13 te bepaal deur 'n expert 'n afstand, wat is die spreid
 14 lading van 'n shotgun pellet. As u sê die voorste drie,
 15 die persoon, as u met 'n pellet gewond word, weereens die
 16 experts moet dan kan sê kan u beweeg, kan u nog hardloop,
 17 twee, drie treë, is dit onmiddellik, so ek kan nie vir u
 18 met duidelikheid sê daar moes meer as twee vuurwapens
 19 gebruik of meer as drie vuurwapens gebruik word nie. Dit
 20 hang af van watter rigting –
 21 CHAIRPERSON: Nie vuurwapens nie, you're
 22 –
 23 BRIGADIER CALITZ: Ag, haelgewere –
 24 CHAIRPERSON: - not talking, you're
 25 talking about haelgeweer.

Page 18613

1 BRIGADIER CALITZ: Haelgeweer,
 2 haelgeweer.
 3 CHAIRPERSON: And I think he said more
 4 than one actually, but you –
 5 MR NTSEBEZA SC: No, one shot.
 6 CHAIRPERSON: One shot?
 7 MR NTSEBEZA SC: One shotgun –
 8 CHAIRPERSON: One shotist, you know one
 9 shotgun shot –
 10 MR NTSEBEZA SC: One shotgun shot.
 11 BRIGADIER CALITZ: Dit kan moontlik wees,
 12 ek sien mnr Mpfu, ek hoop nie daardie skoot is in my
 13 rigting nie, maar ek sien daardie, - nee, wat ek gesê het,
 14 mnr die Voorsitter, as daar twee haelgewere geneem was, dit
 15 is net soos u sê 'n proposisie of my opinie en elkeen het
 16 een skoot geskiet, was dit moontlik om dieselfde toneel, ek
 17 is nie 'n expert nie maar dit is moontlik. Soos die pellet
 18 spreid, as 'n persoon wat u die foto gister gewys het aan
 19 die linkerkant, die ander pellet sal verby hom gaan en daar
 20 sal dan van die ander persone ook getref kan word, so ek
 21 dink ons moet miskien net bepaal, as ons dit kan doen.
 22 MR NTSEBEZA SC: Would your proposition –
 23 CHAIRPERSON: Mr Ntsebeza, I'm sorry to
 24 interrupt you, but what the witness has said seems to me to
 25 make some sense, if I may say so and that is, isn't this

Page 18614

1 really a matter for an expert to come and tell us how these
 2 shotguns work, what happens when you fire pellets, what
 3 directions they go and so on? It may well be that this
 4 evidence would be of an uncontroversial nature, a statement
 5 can be obtained from an expert which would be accepted by
 6 everybody and it could just go in, in affidavit form. This
 7 witness is at a bit of disadvantage, he is not an expert on
 8 shotguns, he says he doesn't have his own one, so –
 9 MR NTSEBEZA SC: No, I –
 10 CHAIRPERSON: His evidence is not
 11 entirely without value but I don't intend to be unkind of
 12 disrespectful to him, but I don't think his evidence on
 13 this point is valuable anyway.
 14 MR NTSEBEZA SC: Mr Chairman, that's why
 15 I prefaced this question by saying from his own experience
 16 he has indicated now that his experience is not much to
 17 talk about relevant to this aspect.
 18 CHAIRPERSON: I would suggest that you
 19 and the representatives of the police get together and see
 20 if we can't get an affidavit from a shotgun expert dealing
 21 with the matter that you're traversing in cross-examination
 22 which can go in without oral evidence being given and which
 23 clarifies these points which you want clarified.
 24 MR NTSEBEZA SC: No, -
 25 CHAIRPERSON: In other words it forms the

Page 18615

1 basis, I take it for the submissions which you're hoping to
 2 make at the end of the hearing on this topic.
 3 MR NTSEBEZA SC: Well, Mr Chairman, I
 4 mean from a lay person's point of view and I'm a lay person
 5 when these things come. When I look at 5 people and the
 6 spread of those people it really challenges my own thinking
 7 that –
 8 CHAIRPERSON: No, if an expert could tell
 9 us that and –
 10 MR NTSEBEZA SC: No, no, -
 11 CHAIRPERSON: - you know –
 12 MR NTSEBEZA SC: I just wanted to put it
 13 on record, that's what I thought I as going to debate with
 14 the brigadier but he has already –
 15 CHAIRPERSON: So shall we move on to the
 16 next box, but I'm not suggesting we must abandon this box,
 17 I made a suggestion to you –
 18 MR NTSEBEZA SC: No –
 19 CHAIRPERSON: - of how you could put
 20 something in it.
 21 MR NTSEBEZA SC: Yes.
 22 CHAIRPERSON: So we'll move on to the
 23 next point.
 24 MR NTSEBEZA SC: Thank you, Mr Chairman,
 25 we'll move to the next point. Now we have already dealt

Page 18616

1 with the question of, you are not aware of any statements
 2 made by any police officers in which they would be saying
 3 that they saw anyone firing a shotgun at scene 1. Now
 4 we've dealt with –
 5 BRIGADIER CALITZ: Mnr die Voorsitter,
 6 ja, dit was my getuienis gewees dat ek geen verklaring
 7 gesien het wat sê daar was op hulle gevuur nie. Dit was
 8 wel my evidence dat daar is verklarings wat gesê het hulle
 9 het lang wapens gesien, die media, die polisie, daar was
 10 verskeie sulke verklarings wat wel, maar soos u dit stel of
 11 hulle gevuur was op die polisie, u is korrek, dit het ek
 12 nie gesien nie.
 13 MR NTSEBEZA SC: Were there any Lonmin
 14 personnel that you're aware of which were in the Nyalas?
 15 BRIGADIER CALITZ: Dit hang af waarna u
 16 verwys, mnr die Voorsitter, ek het getuig my eerste dag toe
 17 ek begin met die –
 18 CHAIRPERSON: I think he means on the
 19 16th.
 20 BRIGADIER CALITZ: On the 16th?
 21 CHAIRPERSON: This is all the topic of
 22 these people who were shot on the 16th.
 23 BRIGADIER CALITZ: O, okay, dit was –
 24 CHAIRPERSON: So if he is wrong he'll
 25 correct me, but I take it what he wants to know is, as far

Page 18617

1 as you're aware on the 16th, at the time of the shooting,
 2 particularly the time depicted on this slide that's on the
 3 screen which shows various Nyalas in position and Casspirs
 4 and so on, were you aware whether any Lonmin staff member
 5 was in any of those polisie vehicles, that's the question?
 6 BRIGADIER CALITZ: Dit is korrek, mnr die
 7 Voorsitter.
 8 CHAIRPERSON: Were they or weren't they
 9 or don't you know?
 10 BRIGADIER CALITZ: Daar was, daar was
 11 Lonmin personeel. As u na my verklaring kyk, die
 12 interpreter wat saam met my in die voertuig was, dit het so
 13 vinnig gebeur dat ons het hom beskerm in die voertuig.
 14 CHAIRPERSON: I take it no one was in
 15 your vehicle, no Lonmin person, staff member was in your
 16 Nyala with the shotgun firing out of the porthole at the
 17 relevant time, is that correct?
 18 BRIGADIER CALITZ: Dit is –
 19 CHAIRPERSON: Alright, so we can
 20 eliminate the Lonmin interpreter who was with you.
 21 BRIGADIER CALITZ: Beslis, mnr die
 22 Voorsitter.
 23 CHAIRPERSON: The question relates to the
 24 other, I think relates, I don't want to usurp Mr Ntsebeza's
 25 prerogatives but I take it the question relates to the

Page 18618

1 other Nyalas, particularly those close to the scene where
 2 these people are depicted on the slide. Are you aware
 3 whether any Lonmin staff member was in anyone of those
 4 police vehicles?
 5 BRIGADIER CALITZ: As 'n operasionele
 6 bevelvoerder glad nie en dit is ook nie deur enige van my
 7 bevelvoerders of seksie leiers aan my gerapporteer dat daar
 8 enige Lonmin personeel met haelgewere, soos dit gestel is
 9 in hulle voertuie was nie, so nee, mnr die Voorsitter, ek
 10 is nie –
 11 CHAIRPERSON: But what you're saying is,
 12 you don't know yourself. What you were saying is if they
 13 were in the other vehicles those members who were in charge
 14 of the vehicles would know, they didn't report it to you
 15 but you from your own knowledge obviously can't say they
 16 weren't there, that's fair, isn't it?
 17 BRIGADIER CALITZ: Dit is heeltemal
 18 korrek, mnr die Voorsitter.
 19 MR NTSEBEZA SC: Thank you, Brigadier.
 20 Brigadier, I want to move on to something else and it
 21 relates to, again to your position as operational commander
 22 and I just want to take you through the medics who arrived,
 23 the medical personnel who arrived at the scene. Now at
 24 scene 1 we have evidence from Mr Loest in his statement,
 25 Loest, L-O-E-S-T. Mr Chairman, the exhibit number I've

Page 18619

1 been given is HHH44.
 2 [10:15] I'm sure you, I'm made to believe that you did
 3 get in your bundle this statement by Captain Loest.
 4 CHAIRPERSON: I take it you're referring
 5 to paragraph 8 -
 6 MR NTSEBEZA SC: Paragraph 8 therein.
 7 CHAIRPERSON: - of the affidavit.
 8 MR NTSEBEZA SC: Yes.
 9 BRIGADIER CALITZ: Ek het in my bundel
 10 gekry. Ek kan net verwys, in die bundel het u egter verwys
 11 na "Loest statement HHH4" wat dan "incorrect" was, maar ek
 12 het wel HHH44. Ek het aangeneem u gaan oor Loest vra, so
 13 HHH4 soos in die bundel was verkeerd gewees.
 14 CHAIRPERSON: 44 is 4 and 4, and 4 and 4
 15 are 8.
 16 MR NTSEBEZA SC: Double 4.
 17 BRIGADIER CALITZ: Nee, hy het net verwys
 18 na sy bundel. Ek het hom net geantwoord, ek het 44. Ek
 19 het Kaptein Loest se verklaring voor my.
 20 MR NTSEBEZA SC: You are more alert than
 21 I am, Brigadier. Now we merely to make the point there
 22 that he says he called the JOC, requesting that medical
 23 people should be brought in to assist the injured
 24 protesters. Now the next exhibit we want to look at is
 25 JJJ188.

Page 18620

1 CHAIRPERSON: I'm sorry, forgive me, what
 2 was the point you were seeking to make with paragraph 8 of
 3 exhibit HHH44?
 4 MR NTSEBEZA SC: Merely that after the
 5 shooting at scene 1 Loest called the JOC and he was
 6 requesting – "I then instructed the members present with me
 7 to remove and search for all the weapons," the third line,
 8 "I called the JOC requesting" –
 9 CHAIRPERSON: I know that. Somewhere,
 10 hopefully Mr Chaskalson can help us, somewhere in one of
 11 these exhibits that lists the telephone calls –
 12 MR NTSEBEZA SC: There is, in this bundle
 13 we have that –
 14 CHAIRPERSON: Okay, alright. So you're
 15 getting there. Alright, okay, sorry, forgive me.
 16 MR NTSEBEZA SC: Yes. In JJJ188 we
 17 record those telephone calls. Now Brigadier Pretorius, I
 18 believe she was the operational room commander. Loest
 19 phoned Brigadier Pretorius, the operational commander, at
 20 16:05. You see that?
 21 BRIGADIER CALITZ: Ja, ek wil net
 22 bevestig, die een wat ons nou het, is dit JJJ188?
 23 MR NTSEBEZA SC: Yes.
 24 BRIGADIER CALITZ: Oukei, want in my
 25 bundel het u weer gevra vir 1888, so ek het gesoek na 1888

Page 18621

1 en ek kon hom nie kry nie, maar ek sien dis nou 188. So
 2 Kaptein Loest het geskakel 16:05, dit is korrek, mnr die
 3 Voorsitter.
 4 MR NTSEBEZA SC: Now if we went to
 5 JJJ187A, which is Brigadier Pretorius's statement,
 6 JJJ187A –
 7 BRIGADIER CALITZ: Ek het hom, mnr die
 8 Voorsitter.
 9 MR NTSEBEZA SC: Paragraph 33, she says
 10 there, "After I received the report of casualties, I phoned
 11 Mr Molatedi, the acting provincial head of IPID, to inform
 12 him about the incident. I'm not sure about the time of
 13 this call. His phone was on voicemail, but he later phoned
 14 me back and promised to send Mr Motaung of the IPID office
 15 at Rustenburg to attend to the scene." You see that
 16 paragraph 33?
 17 BRIGADIER CALITZ: Ek sien dit, mnr die
 18 Voorsitter.
 19 MR NTSEBEZA SC: Now in exhibit, the
 20 previous exhibit, JJJ188, we see that Brigadier Pretorius
 21 sends an SMS at 16:03. You see that?
 22 BRIGADIER CALITZ: As ek boontoe gaan ja,
 23 die SMS, Brigadier Pretorius aan die persoon van IPID,
 24 16:03 –
 25 MR NTSEBEZA SC: Yes.

<p style="text-align: right;">Page 18622</p> <p>1 BRIGADIER CALITZ: Ek sien dit, mnr die 2 Voorsitter. 3 MR NTSEBEZA SC: Yes. 4 BRIGADIER CALITZ: Korrek. 5 MR NTSEBEZA SC: We also have – if we 6 could go to JJJ108, JJJ108 is a statement by Major-General 7 Naidoo and in paragraph 60 and 61 there is the following 8 which I want to highlight. “My group and I were still at 9 IRA1 and at approximately 15:45 I heard Lieutenant-Colonel 10 Vermaak, who was in the police helicopter, indicate that 11 people were down at koppie 1 and we should get medical 12 assistance for them. He added later that the veld was set 13 alight by the strikers and fire trucks should be deployed. 14 I immediately activated my reserve group to move towards 15 koppie 1 as I had both medical and fire personnel in my 16 group.” You see that? 17 BRIGADIER CALITZ: Ek sien dit, mnr die 18 Voorsitter. 19 MR NTSEBEZA SC: Now in paragraph 65 we 20 notice that the General instructed the medical and fire 21 personnel to hold back behind the electricity substation. 22 Do you see that part? “I ordered the fire and medical 23 personnel and detectives to hold back behind the 24 electricity substation and that the K9 and the Public Order 25 Police personnel, in order that they should move forward in</p>	<p style="text-align: right;">Page 18624</p> <p>1 MR NTSEBEZA SC: Yes, now – 2 BRIGADIER CALITZ: Kan ek net – u praat 3 van toneel 1, oukei, ja. Nee, dis reg, mnr die Voorsitter. 4 MR NTSEBEZA SC: Yes, I’m going to – let 5 me just put the propositions to you, Brigadier, and then we 6 can get into the question of getting to objective evidence. 7 I’m instructed that the objective evidence will show that 8 the first medics arrived at scene 2 at 16:31, that there’s 9 reliance on a Jo’burg water cannon picture which shows that 10 paramedics arrived at scene 2 at 16:31:42. Now there is 11 also with respect to scene 1 what in your bundle is called 12 the FLIR camera – F-L-I-R – which is exhibit CC38, the 13 picture of which you have in your bundle, agreed? If we 14 can have this video played – 15 CHAIRPERSON: Mr Ntsebeza, it’s nearly 16 teatime. How long is this going to be? Should we not take 17 the tea adjournment now and look at it after tea? 18 MR NTSEBEZA SC: Yes, we can take the tea 19 now, Mr Chairman. 20 CHAIRPERSON: We’ll take the tea 21 adjournment now, quarter of an hour. 22 MR NTSEBEZA SC: The exercise will not be 23 long. 24 [COMMISSION ADJOURNS COMMISSION RESUMES] 25 [10:57] CHAIRPERSON: The Commission continues.</p>
<p style="text-align: right;">Page 18623</p> <p>1 a line to ensure the area was secure for the deployment of 2 emergency services personnel.” You see that? 3 BRIGADIER CALITZ: Ek sien dit, mnr die 4 Voorsitter. 5 MR NTSEBEZA SC: Now all of these 6 extracts, and I’m sure you will agree with me here, 7 indicate that at least Captain Loest, Brigadier Pretorius, 8 Lieutenant-Colonel Vermaak, and General Naidoo were at 9 least approximately at 16:05 on that day, they were all 10 aware that medics were required at scene 1. Is that a fair 11 conclusion of an examination of this statement? 12 BRIGADIER CALITZ: Korrek, mnr die 13 Voorsitter. 14 MR NTSEBEZA SC: So we are at 16:05, very 15 high-ranking personnel are aware that there is a need for 16 medics. Now let’s just look at what the evidence says 17 about when the first medics arrived on these two scenes 18 between 16:05 when major people became aware that they were 19 needed. Now I’m made to understand that the first medics 20 who arrived at scene 1, arrived at 16:53. Do you know 21 anything about that? 22 BRIGADIER CALITZ: Nee, mnr die 23 Voorsitter. As u dalk vir my die dokument kan wys waar dit 24 staan kan ek daardeur gaan. Ek kan nie daardie tyd vir u 25 bevestig of dat ek dit gesien het nie, nee.</p>	<p style="text-align: right;">Page 18625</p> <p>1 Brigadier, you’re still under oath. 2 ADRIAAN MARTHINUS CALITZ: Dankie, mnr 3 die Voorsitter. 4 CHAIRPERSON: Mr Ntsebeza, we’re now 5 going to see a video, are we? We now move to the next box? 6 CROSS-EXAMINATION BY MR NTSEBEZA SC (CONTD.): 7 Yes. Yes, Mr Chairman, we’re about to play a clip, exhibit 8 CC3A, the – 9 CHAIRPERSON: Any warning required? 10 MR NTSEBEZA SC: No, no, Mr Chairman. I 11 don’t think so. If we could go to 16:53, and we stop at 12 16:55:02. 13 CHAIRPERSON: Are we going to see 16:53? 14 We’re looking at 16:11 at the moment, or is it 16:11:53 15 we’ve got to see, or what exactly must we look at? 16 MR NTSEBEZA SC: 16:53. 17 CHAIRPERSON: Well, it’s 16:20 at the 18 moment. We’ve got a long time to go. 19 MR NTSEBEZA SC: We should have – okay, 20 I’m sorry, Mr Chairman. Maybe let’s start at 16:53 and 21 stop at 16 – I mean the whole point is just to show that 22 there are two Netcare 911 ambulances which have just 23 arrived at scene 1. 24 CHAIRPERSON: You’re still busy with the 25 delayed arrival of the medical personnel and the delayed</p>

Page 18626

1 commencement of medical treatment –

2 MR NTSEBEZA SC: Yes.

3 CHAIRPERSON: - for the injured persons.

4 Is it at scene 1 or scene 2? Which scene are you busy

5 with?

6 MR NTSEBEZA SC: We'll concentrate on

7 scene 1.

8 CHAIRPERSON: Okay, alright, so we now

9 know what the topic is that you're busy with.

10 MR NTSEBEZA SC: Yes, Mr Chairman.

11 COMMISSIONER HEMRAJ: Mr Chaskalson, what

12 does F-L-I-R stand for? I know I was told, but I've since

13 forgotten.

14 MR CHASKALSON SC: It's an acronym FLIR,

15 the I-R is infrared. I'm not sure what the F-L is. It's a

16 type of a CCTV camera.

17 CHAIRPERSON: Perhaps Mr Van As who's

18 looking after the interests of Lonmin here at the moment

19 can tell us the answer.

20 MR VAN AS: I'll try and ascertain, Mr

21 Chairman.

22 CHAIRPERSON: Mr Wesley apparently knows,

23 I think. Do you, Mr Wesley?

24 MR WESLEY: Sorry, I beg your pardon,

25 Chair, I didn't hear the question.

Page 18627

1 CHAIRPERSON: It is believed that you may

2 know what the letters F-L-I-R stand for. We understand I-R

3 is infrared, but the question is what does the F-L stand

4 for?

5 MR WESLEY: It is forward looking.

6 CHAIRPERSON: Sorry?

7 MR WESLEY: Forward looking. Forward

8 looking infrared.

9 CHAIRPERSON: Thank you, Mr Wesley. We

10 are all much better informed than we were. This is the

11 forward looking infrared camera. We are looking forward in

12 the direction of some ambulances which we can see at

13 16:53:16.

14 MR NTSEBEZA SC: Can I get the education

15 too? Forward looking –

16 SPEAKER: Infrared.

17 MR NTSEBEZA SC: Okay.

18 CHAIRPERSON: Now we're all on the same

19 page. What we can see, is this scene 1, I take it? Yes,

20 Mr Wesley nods his head. So this is scene 1 and we can see

21 some ambulances have arrived and that's the basis of the

22 questioning which you're now going to have to deal with

23 from Mr Ntsebeza. Mr Ntsebeza, carry on.

24 MR NTSEBEZA SC: Now I don't know whether

25 we are able to show the time.

Page 18628

1 CHAIRPERSON: The time is in the bottom

2 right-hand corner. That says 16:53, I can't see what the

3 other part is, but that's –

4 MR NTSEBEZA SC: Okay, alright.

5 CHAIRPERSON: - 10. It's either, or 16,

6 yes, 16:53:16. So according to the FLIR clock – is that

7 right? – the FLIR clock at 16:53:16 the ambulances we see

8 on the screen arrived, or had shortly before arrived. Mr

9 Chaskalson, is FLIR time the same as eTV time?

10 MR NTSEBEZA SC: No – or Mr Chaskalson,

11 can you please – you are more, Mr Chairman, can I ask him

12 to explain, because I'm told that this FLIR camera –

13 CHAIRPERSON: Task him to explain. Mr

14 Chaskalson, can you explain to us what we can see here, and

15 can you – but the first question is, is FLIR time the same

16 as eTV time?

17 MR NTSEBEZA SC: It's five minutes later.

18 MR CHASKALSON SC: No, Chairperson, it's

19 not. If you bear with me for a moment I can give you the

20 conversion time.

21 CHAIRPERSON: The point of importance is

22 what is the eTV time of this clip we're looking at?

23 MR CHASKALSON SC: And what is – can I

24 just be given the FLIR time again?

25 CHAIRPERSON: It looks like 16:53:16.

Page 18629

1 MR CHASKALSON SC: 16:53:16 would be

2 16:47:54, but I think that the video should play because

3 what one sees if one follows the video, this FLIR video, is

4 that those Netcare 911 ambulances don't make their way

5 across the police line until about five minutes later.

6 CHAIRPERSON: Alright. Yes, well Mr

7 Ntsebeza asked you please to give us a commentary on what

8 we see, and all I wanted from you before you commenced with

9 your commentary was accurate time, but if you're prepared

10 to give the commentary and if no-one objects to that, then

11 it would help us, I think. This is obviously done on a

12 provisional basis because we have asked for – it will be

13 remembered – for agreed narratives of the various videos

14 and this is one of them. So this is a trailer, as it were,

15 to that agreed narrative we're going to get in due course,

16 but if you please could proceed with it.

17 MR CHASKALSON SC: Well, can we then – I

18 haven't prepared to do this, so if I can just look at my

19 notes and see what of consequence –

20 CHAIRPERSON: I see Mr Ntsebeza didn't

21 ask you beforehand.

22 MR CHASKALSON SC: No. Well, not more

23 than about five minutes ago.

24 MR NTSEBEZA SC: Chairman, I do have

25 something to work on, you know. I would rely on Mr

Page 18630

1 Chaskalson confirming it, if –
 2 CHAIRPERSON: So Mr Ntsebeza, perhaps the
 3 easiest way then is for you to tell us what you have been
 4 instructed we can see, and then if there is any point you
 5 want Mr Chaskalson to clarify you can do so. Let's move on
 6 while we have the clip on the screen.
 7 MR NTSEBEZA SC: Now my researchers tell
 8 me that at 16:55:02 the FLIR camera shows two Netcare 911
 9 ambulances having just arrived at scene 1. Can it be
 10 played so that we – is this being played?
 11 MR CHASKALSON SC: Can I suggest that we
 12 pause, having said I didn't want to intervene. One sees
 13 the flashing lights of the ambulances approaching from a
 14 distance, according to my note at 16:53:42. So at 16:53:42
 15 look for red flashing lights.
 16 CHAIRPERSON: [Microphone off, inaudible]
 17 35 at the moment.
 18 MR CHASKALSON SC: It's stuck –
 19 CHAIRPERSON: Can we try?
 20 MR CHASKALSON SC: Can we play?
 21 Because -
 22 MR NTSEBEZA SC: Where is the sound?
 23 There's no sound. It shows how intelligent I am about
 24 these things.
 25 CHAIRPERSON: FLIR camera was too far

Page 18631

1 away to hear.
 2 MR CHASKALSON SC: If we can just pause,
 3 that's the second of the ambulances and they're on the road
 4 in the direction, or I don't know if it's a road, or
 5 they're driving in the direction of scene 1.
 6 CHAIRPERSON: That's 16:53:50.
 7 MR CHASKALSON SC: And it is now, it's
 8 stationary at this point.
 9 MR NTSEBEZA SC: I'm told that this
 10 camera is 5 minutes 22 seconds faster than the actual time,
 11 than the time that we see there. So real time would be
 12 16:49:40.
 13 MR CHASKALSON SC: For what it's worth,
 14 my next note is 16:55 where the cameras reach the police
 15 line at scene 2 and stop.
 16 CHAIRPERSON: At scene 2?
 17 MR CHASKALSON SC: At scene 1. Scene 1.
 18 Ambulances, not cameras. And if we can stop there.
 19 CHAIRPERSON: 16:55, it looks like 00,
 20 16:55:00 FLIR time.
 21 MR CHASKALSON SC: A few seconds
 22 previously I think we saw a paramedic get out of the first
 23 vehicle and walk back towards the second vehicle. Then at
 24 16:55:49 the ambulances are going to drive off to try to
 25 get across the police line. Or around rather than across,

Page 18632

1 and we'll then see them having made their way around the
 2 police line next at 16:58:36. If I can just mark at that
 3 point, if we can stop the video, take it back a couple of
 4 seconds, that there is the first CCTV record of any
 5 ambulance on the other side of the police line.
 6 CHAIRPERSON: That's 16:58, is that 39 or
 7 30?
 8 MR CHASKALSON SC: In fact we see it a
 9 couple of seconds earlier, but I think a couple of seconds
 10 is neither here nor there.
 11 CHAIRPERSON: So it's 16:58:30, is it?
 12 Is that correct? That's the FLIR time.
 13 MR CHASKALSON SC: My note was 36, but –
 14 CHAIRPERSON: Oh, that could be a 6, yes,
 15 36.
 16 MR CHASKALSON SC: Chairperson, I'm not
 17 sure we're going to see much more of value going forward
 18 from this point.
 19 CHAIRPERSON: Is this all you want us to
 20 see, Mr Ntsebeza?
 21 MR NTSEBEZA SC: Yes, Mr Chairman. But I
 22 also want us to play a clip from exhibit AAA, ZTS071VOB,
 23 which I believe is an Al Jazeera bulletin of the 16th of
 24 August.
 25 CHAIRPERSON: Is that ready to be shown

Page 18633

1 to us?
 2 MR NTSEBEZA SC: It should be. Well, if
 3 it is what I know it to be, it will have sound.
 4 MR CHASKALSON SC: I think we may need a
 5 warning for this video. I'm not sure, but I think we may.
 6 CHAIRPERSON: I'm informed that we're
 7 going to see pictures, or images on the video screen, TV
 8 screen, which may cause pain and grief to relatives and
 9 loved ones of some of those who died on the 16th of August
 10 at Marikana.
 11 MR NTSEBEZA SC: Can't we start –
 12 CHAIRPERSON: I ask that this not be
 13 shown until those who wish to leave the chamber, if there
 14 are any, leave, because it's important that they be warned
 15 that there is this danger that they will be exposed to
 16 images which will cause them distress if they stay in the
 17 chamber. But I will ask – I take it that's been
 18 interpreted simultaneously to my speaking. No-one appears
 19 to be standing up, wishing to go, so I take it you can
 20 proceed, Mr Ntsebeza.
 21 MR NTSEBEZA SC: And Mr Chairman, if I
 22 could also request that we start about 10 seconds before
 23 01:18, because the clip is only significant for what is at
 24 01:18 to 01:21, if we could start 10 seconds into that,
 25 before that.

Page 18634

1 [11:16] Can we rewind 10 seconds?
 2 [VIDEO SHOWN]
 3 Okay, if you could just go back on that again?
 4 Now, Brigadier, the point of this entire exercise
 5 unfortunately has simply been to seek to establish and find
 6 out whether you do agree that by all these accounts,
 7 including the voice over from the Al Jazeera journalist, it
 8 appears that it took a full hour from 15:53 to 16:53 to get
 9 the medics to the scene, certainly scene 1 and particularly
 10 when the SAPS knew at 16:05 that the medics were required
 11 there. It seems to me, firstly, can we agree that all of
 12 this footage shows that a period of about an hour elapsed
 13 from 16:53 to 16:53 for the medics to get to scene 1. Do
 14 you agree?
 15 BRIGADIER CALITZ: Dit het ek gesien op
 16 die video, mnr die Voorsitter.
 17 MR NTSEBEZA SC: Do you disagree with
 18 what we have seen on the video?
 19 BRIGADIER CALITZ: Nee, mnr die
 20 Voorsitter, ek het gesê korrek, dit is wat ek gesien het op
 21 die video.
 22 MR NTSEBEZA SC: Okay, now of course the
 23 SAPS on the evidence I established, you were aware from at
 24 least 5 minutes past 4 that medics were required, you saw
 25 the exercise that we did before this. Do you also confirm

Page 18635

1 that?
 2 BRIGADIER CALITZ: Ek kan nie nou die
 3 presiese tyd confirm nie, ek is nie terug op daardie
 4 verklaring nie maar ek vat u woord daarvoor, die medics is
 5 ingeroep –
 6 MR NTSEBEZA SC: Yes –
 7 BRIGADIER CALITZ: - soos wat u voorheen
 8 vir my gewys het, ek kan net nie die tyd nou bevestig nie.
 9 MR NTSEBEZA SC: Yes, do you remember
 10 that when we did the exercise before tea we've established
 11 that from the statements from what was, from the JOC, Loest
 12 and what have you, that at least by 16:05 the police were
 13 aware that there is urgent medical attention needed at
 14 scene 1. Now how much of this delay would you as an
 15 operational commander on the day be prepared to accept
 16 responsibility for? I'll put the same question
 17 differently, as operational commander on the day are you
 18 prepared to take responsibility at all for the delay that
 19 took place, one hour's delay in getting medics to the
 20 scene?
 21 BRIGADIER CALITZ: Mnr die Voorsitter,
 22 nee, ek is glad nie ingelig daarvan dat die medics nie op
 23 die toneel was nie, sou ek wel ingelig gewees het of daar
 24 is 'n probleem dan sou ek dit definitief aangespreek het.
 25 MR NTSEBEZA SC: So you, do I understand

Page 18636

1 you to be saying you are taking no responsibility for this
 2 even though you were overall operational commander?
 3 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 4 was nie die overall operational commander nie, ek was net
 5 die operational commander en dan die medics was nie onder
 6 my groep se bevel nie. Soos ons reeds getuig het, hulle
 7 kom van forward holding area 1 af, ek kan nie vir u sê wat
 8 die kommunikasie was daar nie, so ek het wel gesê sou dit
 9 onder my aandag gekom het dan sou ek dit aangespreek het en
 10 wel vir u dan kon sê wat my aksies was.
 11 MR NTSEBEZA SC: Who was in command then?
 12 BRIGADIER CALITZ: Forward holding area 1
 13 waar die medics was, dit is Generaal Majoor Naidoo.
 14 MR NTSEBEZA SC: And we'll come back to a
 15 fair clear understanding and interrogation of exactly what
 16 you're operational duties were as an operational commander.
 17 Now are you saying that as operational commander you had no
 18 say over medical treatment of victims of SAPS actions?
 19 BRIGADIER CALITZ: Nee, dit is nie wat ek
 20 gesê het nie, mnr die Voorsitter.
 21 MR NTSEBEZA SC: Are you prepared to take
 22 any responsibility for the delay in getting medics there
 23 and its consequences?
 24 BRIGADIER CALITZ: Mnr die Voorsitter,
 25 weereens wat ek gesê het, nee, as dit onder my aandag

Page 18637

1 gebring was.
 2 MR NTSEBEZA SC: Perhaps we, - there is a
 3 statement of one of your colleagues, Mr Hendrik, no, he is
 4 a paramedic, he made a statement to the IPID. We would
 5 like to make it an exhibit, Mr Chairman, I believe the
 6 statement was handed up yesterday, I remember, or the day
 7 before, I remember the brigadier wanted to –
 8 CHAIRPERSON: Is it the statement which
 9 is –
 10 MR NTSEBEZA SC: Hendrik –
 11 CHAIRPERSON: - OOO173, I take it that's
 12 the police hard drive number, the statement of Hendrik, I'm
 13 not sure how you pronounce it, Legau?
 14 MR NTSEBEZA SC: Yes, Mr Chairman, -
 15 CHAIRPERSON: Is that the statement
 16 you're referring to? That will be Exhibit KKK12. So it is
 17 just Mr Legau, is it?
 18 MR NTSEBEZA SC: Yes, Mr Chairman.
 19 CHAIRPERSON: No, he is not a member of
 20 the police force and it is KKK12, that's his statement.
 21 MR NTSEBEZA SC: Now is it possible to
 22 put it up? I think it was put up yesterday some time, but
 23 you have a copy thereof, don't you?
 24 BRIGADIER CALITZ: Dit is korrek, mnr die
 25 Voorsitter, ek het.

<p style="text-align: right;">Page 18638</p> <p>1 MR NTSEBEZA SC: For ease of every one of 2 us following, Mr Chairman, it would be preferable if it 3 could be put up, if it is possible to do so? It is the 4 handwritten statement, two pages. I don't know why I think 5 that it was, we saw it up yesterday or the day before. 6 CHAIRPERSON: It would be enlarged. 7 MR NTSEBEZA SC: There it is, yes. Now 8 there is a passage there, it is the last paragraph but it 9 goes on to the next page and then it goes into the second 10 paragraph. Now I read it to be saying, "We then checked 11 them, some were badly injured, others were dead. We then 12 tried to group them according to their injuries and," I 13 suppose, "their seriousness, but then we were told not to 14 take or remove them from the scene as they were crime 15 suspects. We were at the scene for some time, plus minus 16 30 minutes and some of the people died while we were at the 17 scene. After some time we were contacted by our team 18 leader to leave the scene as it was not safe and we then 19 left to Marikana Hospital," do you see that? 20 BRIGADIER CALITZ: Ek sien dit, mnr die 21 Voorsitter. 22 CHAIRPERSON: Then left to Marikana 23 Hospital? 24 MR NTSEBEZA SC: Yes, Mr Chairman, to 25 Marikana Hospital. Now do you know who it was who gave</p>	<p style="text-align: right;">Page 18640</p> <p>1 MR NTSEBEZA SC: And have you followed it 2 up to establish how such a thing could have happened? 3 BRIGADIER CALITZ: Nee, mnr die 4 Voorsitter, ek het dit gister gekry, ek is nog steeds onder 5 eed, so ek bespreek dit nie buitekant die Kommissie nie. 6 MR NTSEBEZA SC: If Mr Legau is correct 7 in saying what he says he was told it would not be correct 8 for the image of the SAPS that people who are injured and 9 are dying should be left as they are because they are crime 10 suspects, I'm sure you agree with me there? 11 BRIGADIER CALITZ: Mnr die Voorsitter, ek 12 glo so, soos ek dit lees, dit sê net, "We were told not to 13 take and remove the injured people from the scene." So ek 14 kan nie vir u sê wie het vir hom gesê nie, as u vra – 15 CHAIRPERSON: The words then appear, the 16 reason is given as they were crime suspects, but you heard 17 of this for the first time when you saw the statement 18 yesterday? 19 BRIGADIER CALITZ: Dit is wat ek sê, mnr 20 die Voorsitter. 21 CHAIRPERSON: And you don't know who gave 22 that instruction to Mr Legau and the other paramedics who 23 were with him? 24 BRIGADIER CALITZ: Ek glo die persoon is 25 die enigste wat dit vir ons kan kom sê, mnr die Voorsitter,</p>
<p style="text-align: right;">Page 18639</p> <p>1 instructions that the injured should not be removed from 2 the scene because they were crime suspects? 3 BRIGADIER CALITZ: Nee, mnr die 4 Voorsitter, ek glo die persoon wat die verklaring gemaak 5 het sal vir ons kan sê wie het vir hom so gesê. 6 MR NTSEBEZA SC: Is it standard protocol 7 for people to be allowed to die because they are crime 8 suspects? 9 BRIGADIER CALITZ: Ek het nie die laaste 10 deel van die, u sit 'n bietjie ver, net vir my weer 11 herhaal, ek kan nie hoor wat u sê nie? 12 MR NTSEBEZA SC: No, is it standard 13 protocol by the SAPS to allow people to die when they are 14 injured on the basis that they are crime suspects? 15 BRIGADIER CALITZ: Nee, beslis nie, mnr 16 die Voorsitter. 17 MR NTSEBEZA SC: Now did you only get to 18 know for the first time when you got a copy of Mr Legau's 19 statement that someone had told Mr Legau and whoever else 20 was assisting him, that they should not remove injured and 21 dying people from the scene because they were crime 22 suspects? 23 BRIGADIER CALITZ: Dit is korrek, mnr die 24 Voorsitter, teen die tyd wat ek hierdie verklaring gekry 25 het, dit is die eerste keer wat dit nou tot my aandag kom.</p>	<p style="text-align: right;">Page 18641</p> <p>1 ek dra nie kennis daarvan nie. 2 MR NTSEBEZA SC: I'm sure we all accept 3 that those instructions may have resulted in the deaths of 4 people who could have been saved, their lives, had they 5 been removed. I take that view, I am sure you take that 6 view as well, don't you? 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 weereens ek was nie daar nie, ek kan net my opinie gee. 9 Wat ek lees hier is, "not to take and remove the people 10 from the scene," ek weet nie of hulle ook die behandeling 11 geweier is nie, ek weet op die toneel is verskeie persone 12 behandel deur die paramedici en onder behandeling is daar 13 dan ook van hulle oorlede. Ek dink dit is ook in die 14 dokters of die spesialis verslag so aangedui. 15 CHAIRPERSON: Mr Ntsebeza, I don't know 16 that this is, the line you're busy with at the moment is 17 one that can appropriately be pursued with this witness. I 18 understand where you're going, I would thought it is a 19 matter for expert evidence, based in particular on an 20 assessment of those who were lying injured on the scene at 21 the time and who died on the scene or died perhaps on the 22 way to hospital and who might not have died if they've 23 received earlier treatment, but this witness can only 24 speculate on the matter. Obviously it is an important 25 matter which I take it will be investigated, but I see this</p>

Page 18642

1 is an IPID statement, I don't know whether the IPID
 2 investigators did further investigations in regard to this
 3 issue, but that's something I take it we will hear about, I
 4 would hope sooner rather than later.

5 MR NTSEBEZA SC: Yes, Mr Chairman, I was
 6 actually going to explore with the brigadier –

7 COMMISSIONER HEMRAJ: Mr Chaskalson,
 8 there is no date on this statement, can you perhaps assist
 9 us?

10 MR CHASKALSON SC: I'm afraid I can't,
 11 Commissioner.

12 COMMISSIONER HEMRAJ: And I have one
 13 other query, the ambulances that we saw arrive on the video
 14 CC38, are they the same that arrived from forward holding
 15 area 1 or are there other ambulances?

16 MR CHASKALSON SC: I must confess that we
 17 haven't investigated that, it is obviously a very important
 18 point to consider. We will do that.

19 COMMISSIONER HEMRAJ: Thank you.

20 CHAIRPERSON: One can read Major General
 21 Naidoo's statement which is before us as an exhibit. It
 22 appears that he took, and it will obviously a matter be
 23 dealt with when he gives evidence. He took the paramedics
 24 who were with him at forward area A towards scene 1. He
 25 went around koppie 2 or koppie 3 actually, he went around

Page 18643

1 koppie 3 and because he heard firing and so on he stopped,
 2 he appears to have not permitted those paramedics to
 3 proceed to, for reasons that I'm sure he'll explain, to
 4 scene 1 until much later and this statement that we've just
 5 looked at obviously deals with the people who weren't at
 6 Marikana at all, but the earlier paragraphs that haven't
 7 been read indicate that they were called up, or somebody
 8 did explain it is actually where they were, and they were
 9 then told to proceed to Marikana and they did so. And the
 10 witness doesn't say at what time he arrived at Marikana,
 11 but it does appear as if assistance was sought from
 12 elsewhere and paramedics, and I take it ambulances and so
 13 forth came from elsewhere and whether the ambulances we see
 14 on the video were those that had been stationary for some
 15 time in the vicinity of scene 2, we don't know either but
 16 all these are matters which I take it will be dealt with in
 17 evidence later.

18 COMMISSIONER HEMRAJ: Under two of the
 19 videos that Mr Ntsebeza has shown us there are two
 20 different sets of ambulances arriving on the scene, Mr
 21 Chaskalson, or do we not –

22 MR CHASKALSON SC: Well, the second
 23 video, we haven't been able to put a time to at this stage,
 24 in the JJJ194 series we might well be able to find the
 25 original clip from which it is taken which will then give

Page 18644

1 us a time. We can't say that they are the same or
 2 different ambulance people. What we, there is aerial
 3 footage from Colonel Vermaak's camera that corroborates the
 4 close circuit television footage from the FLIR camera, so
 5 one can see approximately 20 seconds in ETV time after that
 6 FLIR footage that we saw of the ambulances on the other
 7 side of the police line. We have an aerial photograph of
 8 Colonel Vermaak of the same ambulances and paramedics and
 9 there is also ETV footage which we use to calibrate ETV
 10 time of that precise moment. Those definitely appear to be
 11 the first paramedics that were on the scene of scene 1.

12 COMMISSIONER HEMRAJ: Colonel Vermaak's
 13 photograph shows the direction from which these ambulances
 14 arrived.

15 [11:36] MR CHASKALSON SC: No, but that can be -
 16 with proper analysis that ought to be capable of discovery
 17 from the eTV footage an from the CCTV footage.

18 CHAIRPERSON: Look, I take it, it
 19 probably won't be necessary for us to have oral evidence on
 20 the point. I would assume affidavits from those on those
 21 ambulances could be obtained and I would hope that they or
 22 some of them would be able to indicate what time they
 23 arrived at the scene.

24 MR CHASKALSON SC: Because so many
 25 paramedics arrived ultimately –

Page 18645

1 CHAIRPERSON: The first ones that arrived
 2 in those ambulances that we see on the video, I understand
 3 – what's really important is who got there first and at
 4 what time, and what the reason was for the delay. That's
 5 really the issue Mr Ntsebeza is busy with, but I fear that
 6 the Brigadier is probably not going to be able to help us
 7 on that, but he put the issues on the table, as it were, to
 8 the operational commander, and the matter must be proceeded
 9 with from there. Am I correct in thinking you can't help
 10 us on this issue?

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

13 CHAIRPERSON: But I take it you'll agree
 14 that it's a serious matter that's got to be thoroughly
 15 investigated?

16 BRIGADIER CALITZ: Dit is baie ernstig,
 17 mnr die Voorsitter.

18 CHAIRPERSON: And if it hasn't been
 19 investigated earlier it should have been, but never mind,
 20 if it hasn't been done, we'll do it.

21 BRIGADIER CALITZ: Ek sien dit is 'n IPID
 22 dokument, so ek glo die ondersoekbeamptes van IPID is, moet
 23 dan besig wees met die ondersoek, maar ek kan nie daarmee
 24 help nie, mnr die Voorsitter.

25 MR NTSEBEZA SC: But what appears to be

Page 18646

1 beyond conjecture from this statement, exhibit KKK12, is
 2 that Mr Hendrik Legau on the first page of the statement
 3 appears to have been from Netcare Rustenburg. Do you see
 4 that? Employed as a what? Basic something. Do you see
 5 that?
 6 BRIGADIER CALITZ: Basic life support,
 7 Netcare Rustenburg.
 8 MR NTSEBEZA SC: Yes.
 9 BRIGADIER CALITZ: Ek sien dit, mnr die
 10 Voorsitter.
 11 MR NTSEBEZA SC: At Netcare Rustenburg.
 12 CHAIRPERSON: Now Mr Legau says, again
 13 one doesn't know how accurate these times are, but he
 14 starts by saying "On 2012-08-16 at about 15:23 I was with
 15 Ms Makau. We were from" - is it Wilgers? I'm not familiar
 16 with the - "Wilgers Hospital in Pretoria. We then received
 17 a call" - and I'm not sure whether then means at 15:23; I
 18 suppose it does - "that we must go to Marikana Lonmin Mine
 19 base." And then he says in the next paragraph, "On our
 20 arrival at the base we then joined other paramedics from
 21 other branches, that is Klerksdorp, Pretoria, etcetera, and
 22 we were escorted to the scene where we found mineworkers."
 23 Now if it's correct that they received the message at
 24 15:23, then it would indicate that as a precautionary
 25 measure paramedics were summoned to the scene before the

Page 18647

1 operation was launched. Alternatively that time may be
 2 wrong, but, or alternatively the statement is ambiguous and
 3 the call that he refers to may have in fact been received
 4 after the shooting took place. So these are all matters
 5 that presumably will be fully elucidated in such
 6 investigation as has either been done already or is going
 7 to be done before we resume, I take it.
 8 MR NTSEBEZA SC: I would assume so, Mr
 9 Chairman, yes. It's a point well made. Now I accept
 10 therefore what the Chairman, Brigadier, what the Chairman
 11 has said, that without an investigation from, further
 12 investigation from IPID as to who exactly said this, was he
 13 a member of the police force, or service, etcetera. You
 14 are not able to assist us further on this?
 15 BRIGADIER CALITZ: Nie sover dit die vrae
 16 aangegaan het wat hy nou gevra het nie, nee, mnr die
 17 Voorsitter.
 18 MR NTSEBEZA SC: Now I was asking you
 19 because you are aware that I represent 33 of the 34
 20 families of the people who were killed on this day. You
 21 are aware of that?
 22 BRIGADIER CALITZ: Ek weet u
 23 verteenwoordig, ek weet nie hoeveel nie, maar ek dra
 24 kennis.
 25 MR NTSEBEZA SC: Yes, now they have been

Page 18648

1 here and they still have some representatives here. Part
 2 of their story, they want to understand how and why their
 3 people were killed. Do you understand that?
 4 BRIGADIER CALITZ: Ja, mnr die
 5 Voorsitter, ek verstaan. Ek dink almal wat hier is wil dit
 6 weet.
 7 MR NTSEBEZA SC: Now they have since
 8 established that you were the operational commander of the
 9 operation in which their loved ones were killed, because
 10 that has now been common cause. You have said yourself.
 11 BRIGADIER CALITZ: Ek was die
 12 operasionele bevelvoerder op die dag, korrek, mnr die
 13 Voorsitter.
 14 MR NTSEBEZA SC: Yes, now they are
 15 laypersons, unsophisticated people by a large measure.
 16 They don't know what overall operational commander means,
 17 they don't know what operational commander means, and all
 18 of that. So you will bear with me if I put questions that
 19 seek to establish what exactly your function was. For
 20 instance, according to them you are the person who was in
 21 command, or was supposed to be in command on the day. Are
 22 they wrong there?
 23 BRIGADIER CALITZ: Mnr die Voorsitter, as
 24 u 'n verduideliking vra, daar is 'n groot verskil tussen 'n
 25 oorhoofse bevelvoerder, operasionele bevelvoerder,

Page 18649

1 groepbevelvoeders en seksiebevelvoeders. So as u sê in
 2 bevel op die dag, nee, ek was net 'n operasionele
 3 bevelvoerder op die dag.
 4 CHAIRPERSON: I think you can tell us
 5 shortly what your role as operational commander was, was
 6 where your firstly authority, and secondly your
 7 responsibility began and ended, because you can see the
 8 questions that concern Mr Ntsebeza's clients and they want
 9 to know what you were responsible for, what you had the
 10 authority to do and not to do. Perhaps you can help us on
 11 that shortly before he proceeds with his further questions.
 12 BRIGADIER CALITZ: Korrek. Dankie, mnr
 13 die Voorsitter. U sal sien uit ons beleidsdokumente uit
 14 dat 'n operasionele bevelvoerder is om die verskillende
 15 bevelvoeders, die groepbevelvoeders, seksiebevelvoeders,
 16 "the operational coordination," met ander woorde dit is die
 17 koördinering van dan wat aan my gerapporteer word deur die
 18 verskillende bevelvoeders. My eerste taak was dan ook om
 19 die bevelvoeders soos ek dit dan van die oorhoofse
 20 bevelvoerder - the overall commander - kry moes ek dan die
 21 bevelvoeders voorlig wat hulle take is. Ek moes dan ook
 22 aan hulle opdrag gee dat hierdie bevelvoeders dan na hulle
 23 lede toe moet gaan, dit is dan die groep- en die
 24 seksiebevelvoeders, en dan ook seker maak dat hulle dan
 25 die boodskap aan hulle oordra. Indien daar genoeg tyd was,

<p style="text-align: right;">Page 18650</p> <p>1 sê my beleidsdokument dat die persone op die grond, die 2 seksiebevelvoerders moes dan teruggekom het soos hulle dit 3 verstaan met, soos dan op – met 'n beplanning, maar ons 4 weet in hierdie geval waarom daardie nie moontlik was nie. 5 En dan vierdens dan moet ons seker gemaak het die 6 groepbevelvoerders het elkeen hulle take verstaan en deur 7 dit te doen moes daar vir hulle dan 'n geleentheid gegee 8 gewees het en gevra verstaan jy wat is die doel, en dit is 9 basies die vyf, ses beginsels soos uiteengesit in ons 10 beleidsdokument wat 'n operasionele bevelvoerder dan is. 11 Ek weet nie of u wil hê ek moet oor die oorhoofse 12 bevelvoerder dan ook –</p> <p>13 CHAIRPERSON: If Mr Ntsebeza wants more 14 he'll ask for it, but I'm happy. Is that a description of 15 your authority and responsibility as operational commander?</p> <p>16 BRIGADIER CALITZ: Ek het dit basies so 17 aangehaal van die beleidsdokument.</p> <p>18 CHAIRPERSON: Now you've explained to us 19 that at forward holding area 1 was Major-General Naidoo. 20 He had various members of the service with him, including 21 paramedics, as I understand it. That's correct?</p> <p>22 BRIGADIER CALITZ: Korrek, mnr die 23 Voorsitter.</p> <p>24 CHAIRPERSON: And his responsibility 25 clearly was to see to it that if there were any injuries,</p>	<p style="text-align: right;">Page 18652</p> <p>1 middel van enige kontakmiddel en vir hom gevra het, 2 'Generaal, ek verneem daar is nog nie mediese personeel,' 3 so ook dan die speurders, of enige personeel op daardie, is 4 daar 'n rede daarvoor, en dan die versoek gerig het. Nee, 5 ek sal hom nie 'n opdrag gee nie omdat hy my senior is, 6 maar die versoek sal dan aan hom gerig word om so gou 7 doenlik dan die personeel daar uit te kry. Dit is korrek, 8 mnr die Voorsitter.</p> <p>9 CHAIRPERSON: What I'm trying to 10 ascertain is that if there is criticism – I don't say there 11 is, but if there is criticism to be addressed to the South 12 African Police Service for the delay in bringing paramedics 13 onto the scene and giving injured people or dying people 14 treatment, is it a matter which could be laid at your door, 15 or is it a matter for Major-General Naidoo to answer 16 because he was in charge of the forward holding area 1 17 where the paramedics were?</p> <p>18 BRIGADIER CALITZ: Mnr die Voorsitter, 19 ja, ek wil nou nie klink asof ek nou wat hulle sê "to pass 20 the ball" nie, maar dit was die funksie en die taking van 21 "forward holding area 1 commander" om dan die mediese 22 personeel te reël en te beheer. So hy sal dan die 23 skakeling gewees het tussen die verskeie mediese 24 organisasies en dan ook die taking waarnatoe hulle moet 25 gaan.</p>
<p style="text-align: right;">Page 18651</p> <p>1 that the paramedics proceeded to the scene as quickly as 2 possible so that they could give treatment to those who 3 were injured, and arrangements could be made to remove them 4 to hospitals and so on. Would that be correct?</p> <p>5 BRIGADIER CALITZ: Dit is korrek so, mnr 6 die Voorsitter.</p> <p>7 CHAIRPERSON: Now did you have any 8 responsibility for seeing that he carried out that task and 9 carried it out punctually and promptly?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter, 11 tydens die voorligting, soos ek vir u gesê het my taking 12 was om seker te maak as operasionele bevelvoerder die 13 bevelvoerders is elkeen ingelig, en dan die opdrag om na 14 hulle lede toe te gaan en ook dan seker te maak dat hulle 15 moet verstaan wat hulle rol was. Dit was wel gedoen gewees 16 en hulle het aangedui elkeen verstaan presies wat sy rol en 17 "responsibility" op die dag was.</p> <p>18 CHAIRPERSON: Yes, I'm interested in the 19 situation as between you and Major-General Naidoo. Now we 20 know that Major-General Naidoo was your senior and did you 21 have any authority to tell him what to do?</p> <p>22 BRIGADIER CALITZ: Mnr die Voorsitter, as 23 dit byvoorbeeld aan my gerapporteer was dat sê byvoorbeeld 24 daar was geen mediese personeel op "scene" 1, dan sou ek 25 definitief met hom kontak gemaak het op die radio, of deur</p>	<p style="text-align: right;">Page 18653</p> <p>1 CHAIRPERSON: And of course I take it 2 there were certain residual obligations on those at the JOC 3 and we know that Brigadier Pretorius, according to her 4 statement, when she realised that there were people 5 injured, shortly after 4 o'clock, I think, she picked it up 6 according to her statement from what she heard on the 7 radio. She did then a number of things, including 8 reporting the matter to IPID. That's correct?</p> <p>9 BRIGADIER CALITZ: Ek het dit so verstaan 10 uit haar verklaring.</p> <p>11 CHAIRPERSON: And I think she was also in 12 contact with Captain Loest.</p> <p>13 BRIGADIER CALITZ: Ek het gesien dat hy 14 op daardie stadium aan haar gerapporteer het, en dat daar 15 weer 'n skakeling tussen haar en hom was. Ek verneem dit 16 is om vas te stel wat presies daar gebeur het.</p> <p>17 CHAIRPERSON: Yes.</p> <p>18 COMMISSIONER HEMRAJ: And would it be 19 within General Naidoo's discretion as to when to proceed to 20 the scene and which route to take, or could you have 21 suggested what he should do?</p> <p>22 BRIGADIER CALITZ: Nee, Kommissaris, nee, 23 dit sal Generaal Naidoo weens die voorligting en hy het 24 geweet waar "forward holding area" 1 is, so hy sou dan die 25 roete bepaal het wat hulle dan in beweeg. Dit was die</p>

Page 18654

1 groepbevelvoerders se taak.
 2 CHAIRPERSON: Sorry, please carry on.
 3 I –
 4 MR NTSEBEZA SC: I was going to make a –
 5 CHAIRPERSON: I asked a few questions
 6 which I hoped would clear the ground so that you could then
 7 proceed with your cross-examination.
 8 MR NTSEBEZA SC: Mr Chairman, I was going
 9 to make an age-related request.
 10 CHAIRPERSON: [Microphone off, inaudible]
 11 we were so absorbed with this very important aspect
 12 actually –
 13 MR NTSEBEZA SC: It is.
 14 CHAIRPERSON: - that we overlooked the
 15 fact that the time for a comfort break had arrived, so I
 16 hasten to remedy that omission. We will now take a comfort
 17 break for 10 minutes.
 18 MR NTSEBEZA SC: Thank you, Mr Chairman.
 19 [COMMISSION ADJOURNS COMMISSION RESUMES]
 20 [12:09] CHAIRPERSON: The Commission resumes,
 21 Brigadier, you're still under oath. Mr Ntsebeza?
 22 BRIGADIER CALITZ: Dankie, mnr die
 23 Voorsitter.
 24 MR NTSEBEZA SC: Thank you, Mr Chairman.
 25 Brigadier, I was just exploring or explaining to the

Page 18655

1 difficulty those that I represent have in understanding
 2 your position as operational commander and what your
 3 responsibilities are. For instance they have been seeking
 4 to understand how you did not witness the shootings at
 5 scene 1, because that's how they understood your evidence
 6 to be. Can I confirm that you didn't witness the shootings
 7 at scene 1?
 8 BRIGADIER CALITZ: Dit is korrek, mnr die
 9 Voorsitter.
 10 MR NTSEBEZA SC: If we could put up,
 11 again just for a moment, KKK11, page 31? Alright, now as I
 12 understand your evidence and we are not going to go where
 13 you say this, but my understanding is that you were
 14 watching the protestors as they came around the kraal. Now
 15 in relation to this sketch where were you, were you there?
 16 Were you there?
 17 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 18 dink ek was Papa1.
 19 MR NTSEBEZA SC: Yes.
 20 BRIGADIER CALITZ: Dit is breedvoerig
 21 hanteer in my vorige questioning ook.
 22 MR NTSEBEZA SC: Okay.
 23 CHAIRPERSON: Mr Ntsebeza, there is a P1,
 24 I don't know if that's –
 25 MR NTSEBEZA SC: P1, yes.

Page 18656

1 CHAIRPERSON: So there is a P1 on the
 2 slide at the top there, is that correct more or less? I
 3 think there is an argument about that.
 4 MR NTSEBEZA SC: In relation to the
 5 kraal.
 6 CHAIRPERSON: Somewhere in that vicinity,
 7 is that right?
 8 MR NTSEBEZA SC: You were in that
 9 vicinity?
 10 BRIGADIER CALITZ: In that vicinity
 11 against the fence to the nose –
 12 MR NTSEBEZA SC: yes –
 13 BRIGADIER CALITZ: - of the vehicle.
 14 MR NTSEBEZA SC: Now that's what the
 15 families have been understanding your evidence to be saying
 16 and when you say you were watching the protestors as they
 17 came around the kraal would it have been here that you saw
 18 them coming around the kraal or elsewhere?
 19 BRIGADIER CALITZ: Mnr die Voorsitter,
 20 nee, ek het alreeds hieroor getuig.
 21 MR NTSEBEZA SC: Yes.
 22 BRIGADIER CALITZ: My posisie by Papa, -
 23 mnr die Voorsitter, waar ek bo was by Papa1, -
 24 MR NTSEBEZA SC: Yes?
 25 BRIGADIER CALITZ: As u na die foto kyk

Page 18657

1 wat geneem is, die protestors het, ek het gesê in 'n 45
 2 grade angle gekom hiernatoe, as ek sê hiernatoe is dit na
 3 die noord westelike hoek van die kraal, so ek het hulle
 4 waargeneem toe hulle verby Papa11 kom en verby die, kan ek
 5 sê omtrent op hierdie stadium waar ek dan opdrag gegee het
 6 –
 7 CHAIRPERSON: "Hierdie stadium" is
 8 immediately below the Special Task Force –
 9 BRIGADIER CALITZ: Dit wat ek kon sien
 10 voor my, mnr die Voorsitter, as ons dit miskien so kan
 11 stel, waar my voertuig was in my sig lyn, kom ons vat dit
 12 dan nou maar in lyn met die draad, onder korreksie. So dit
 13 is waar hulle vandaan gekom het in die groep van die
 14 westelike rigting.
 15 CHAIRPERSON: I'm sorry to interrupt you,
 16 I just want to get clarity on it. It is in the gap between
 17 the corner of what we call the large enclosure and the
 18 corner of the Special Task Force Casspir closest to it, is
 19 that correct?
 20 BRIGADIER CALITZ: Mnr die Voorsitter,
 21 ja, ek is versigtig om weer 'n passage, om te agree oor 'n
 22 punt, ja, dit is hoekom ek sê hulle het uit 'n westelike
 23 rigting uitgekome in dan 'n oostelike rigting.
 24 CHAIRPERSON: Not passage, I mean gap, in
 25 the gap, as you were looking forward you saw the fence on

<p style="text-align: right;">Page 18658</p> <p>1 one hand, on the right I take it, the corner of the fence 2 of this large enclosure and there was a gap through which 3 you could see and then there was the Special Task Force 4 Casspir and that's where you could see them. Is that what 5 you said? 6 BRIGADIER CALITZ: Dit was waar hulle 7 deurgekom het, dit is korrek, mnr die Voorsitter, van 'n 8 westelike rigting en dan in die spasio tussen die, kan ons 9 dan sê die Casspir aan die voorkant en die kraal. Dit is 10 die rigting, van 'n westelike rigting af waar die 11 protestors dan vandaan gekom het. 12 MR NTSEBEZA SC: I understand you say, 13 correct me if I'm wrong, I'm sorry about that, I understand 14 that you were not aware of the members of the TRT line 15 there when you saw these protestors going around the kraal? 16 BRIGADIER CALITZ: Nee, mnr die 17 Voorsitter, dit was my getuienis dat toe ek op beweeg het, 18 ek kan nie onthou wie het my gevra nie, was ek bewus dat 19 hulle in daardie lyn op gevorm het en ek het gesê, nee, ek 20 was wel bewus dat hulle op vorm maar nie in daardie posisie 21 soos ons dit nou verneem nie. 22 MR NTSEBEZA SC: Yes, and let me tell you 23 what the difficulty is for the families. They say you then 24 testify that having seen these groups of armed workers 25 going this way, you decided to drive off in the direction</p>	<p style="text-align: right;">Page 18660</p> <p>1 om dan deur middel van die voertuie tussen die skare in te 2 beweeg en so hulle te probeer opbreek in kleiner groepe 3 sodat hulle kan omdraai en in 'n westelike rigting weg 4 beweeg van die polisie lyn af. So dit was die getuienis en 5 dit is die rede waarom ons in daardie rigting is, om dan 6 voort te gaan en dan die persone uiteen te dryf. 7 MR NTSEBEZA SC: No, I mean, I know that 8 you made certain choices. When you saw these miners go 9 around the kraal you didn't wait to see what would happen 10 to them, given what you saw, and the direction in which 11 they had been going. They had been here, they found that 12 there was this Nyala here closing their way to go through, 13 because they were coming to the road here, they had gone 14 around the kraal. You didn't then wait to see what would 15 happen to them, did you? 16 BRIGADIER CALITZ: As u sê nee, ek het 17 nie gewag om te sien wat gebeur met hulle nie, nee. 18 MR NTSEBEZA SC: That's the difficulty 19 that my clients have and that is why they want me to put to 20 you that you didn't want to know what would happen to them 21 and that is why in the end, whatever you have just been 22 saying, you decided to drive off in a direction away from 23 where they were eventually shot. 24 BRIGADIER CALITZ: Mnr die Voorsitter, u 25 gebruik weer die woorde en ek het vir u dit verduidelik, u</p>
<p style="text-align: right;">Page 18659</p> <p>1 of the mountain, is that your evidence? 2 BRIGADIER CALITZ: Nee, beslis nie, mnr 3 die Voorsitter, ek het nog nooit in my evidence gesê ek het 4 besluit om te draai of om weg te ry nie. Dit was my 5 getuienis dat toe ek sien dat die uiteendryf aksie, die 6 "dispersion action" werk nie op hierdie stadium nie, onthou 7 dit was my getuienis by insident 2 waar u hierdie Casspir 8 sien, hierdie Casspir verwys ek na Nyala 4 teen die draad, 9 daar was reeds 'n uiteendryf aksie gewees hier en ek het 10 getuig dat ek 'n boonste groep gesien ombeweeg het. Ten 11 tye van my arrivering daar het ek gesien hierdie persone 12 het nie uiteen gedryf en weg gegaan soos aanvanklik die 13 gedagte was nie, maar die groep het weer gevorm en was op 14 pad in die lyn van die Openbare Orde Polisiëringsvoertuie, 15 as ek dit so kan stel, ingesluit die Casspirs. 16 So toe ek sien dat hulle nie reageer op die 17 uiteendrywing nie vir verskeie redes, wat ons gesê het die 18 double clothing, die kombes wat hulle gehad het, daar was 19 geen effek van, want ons laaste resort was rubber, op hulle 20 nie, het ek dan opdrag gegee en ek dink ek het verwys na 21 CALS se uiteensetting wat dan gesê het, ten tye van die 22 vuurlyn, as ek dit so kan noem, ek dink hulle het gesê 23 "volley of fire," het ek dan met Papa1 en daar was nog 'n 24 voertuig wat saam met my deur daardie lyn gebreek het en 25 die opdrag was vir die Openbare Orde Polisiëringsvoertuie</p>	<p style="text-align: right;">Page 18661</p> <p>1 sê weer, I decided to drive off, dit was nie en ek wil dit 2 graag op die rekord plaas, dit is nie wat ek gesê het nie. 3 Wat ek vir u gesê het is dat ek het besluit en 'n opdrag 4 gegee dat die voertuie, die Papa Nyalas moet tussen die 5 persone inbeweeg aangesien die uiteendryf aksie, uiteendryf 6 aksie, dit is waar die persone dan optree met "less lethal 7 force" teen die protestors. Omdat dit nie gewerk het nie 8 het ek dan opdrag gegee dat die voertuie moet dan ry en wat 9 ek op daardie stadium waargeneem het is dat dit werk en dat 10 die persone om geswaai het en in 'n meer westelike rigting 11 begin hardloop het. 12 MR NTSEBEZA SC: Now the point is, 13 whatever it was the fact of the matter is from where you 14 were you didn't go in the direction of where you had seen 15 these people, you drove off from there eventually towards 16 the ander koppie. 17 BRIGADIER CALITZ: Nee, mnr die 18 Voorsitter, dit lyk my, ek weet nie, u verstaan nog steeds 19 nie wat ek vir u verduidelik nie. Ek het nie gewag, die 20 mense het nie om die kraal beweeg dat ek hulle van agter af 21 sien en daar gaan hulle in die rigting van die TRT lyn nie, 22 nee. Soos ek vir u verduidelik het toe hulle verby Papa11 23 is by die hoek het ek besef dat die uiteendryf aksie gaan 24 nie werk nie en dat die Openbare Orde Polisiëringslyn wat 25 ons dan opgestel het, sal nie die persone keer nie en</p>

Page 18662

1 daardie opdrag het ek dan gegee dat die Openbare Orde
 2 Polisiëringsvoertuie vorentoe beweeg en dan deur middel
 3 daarvan en dan nog steeds aanhou met die uiteendryf aksie
 4 om so die persone weg te dryf. Ek dink die groter groep,
 5 as ek kan sê, ek wil nie 'n persentasie maak nie, 90% het
 6 dan wel gereageer. Ek het later bewus geword van die klein
 7 groeie wat wel vorentoe en deurbeweeg het, maar die
 8 voertuie wat vorentoe beweeg het, dit was nie net na die
 9 ander koppie toe nie, dit was in die rigting van die skare
 10 en die protestors wat nog steeds aangekom het om hulle dan
 11 uiteen te dryf.

12 MR NTSEBEZA SC: Now I believe you were
 13 with Colonel MacIntosh in the Nyala and the interpreter.
 14 BRIGADIER CALITZ: MacIntosh?
 15 MR NTSEBEZA SC: MacIntosh.
 16 BRIGADIER CALITZ: Dit is korrek, mnr die
 17 Voorsitter.

18 CHAIRPERSON: He said you were with
 19 Colonel MacIntosh and the interpreter in the Nyala.
 20 BRIGADIER CALITZ: O, die tweede deel het
 21 ek nie gehoor nie, dit is korrek.
 22 CHAIRPERSON: That's the second, but you
 23 didn't hear it?
 24 BRIGADIER CALITZ: Dit is korrek, mnr die
 25 Voorsitter.

Page 18663

1 MR NTSEBEZA SC: Now do you know if
 2 Colonel MacIntosh saw anything or heard anything?
 3 BRIGADIER CALITZ: Mm –
 4 MR NTSEBEZA SC: Of what happened here?
 5 BRIGADIER CALITZ: Nee, ek sal nie kan sê
 6 nie, Kolonel MacIntosh sal kan kom getuig of hy enige iets
 7 op daardie stadium waargeneem het vanwaar ons voertuig was.
 8 MR NTSEBEZA SC: There was no
 9 conversation between you and the colonel and the
 10 interpreter about what had happened here?
 11 BRIGADIER CALITZ: Nee, nee, ek dink die
 12 interpreter het sy kop redelik laag gehou, ek dink hy het
 13 definitief nie met ons gekommunikeer nie en Kolonel
 14 MacIntosh was aan die linkerkant voor. Ek het op daardie
 15 stadium opdragte geskree wat reeds aan my, ek dink dit was
 16 in my evidence in chief, dit was ook onder
 17 kruisondervraging deur die evidence leaders, het ek die
 18 verskeie redes gegee waarom ons dan nie gehoor het van die
 19 voorval nie.

20 MR NTSEBEZA SC: Yes, yes. Now let me
 21 understand this, do I understand, I just want to understand
 22 the extent of your powers as operational commander, let us
 23 assume for one moment that from that position you followed
 24 what, the direction of those miners was taking them to and
 25 you had actually witnessed what happened there as you now

Page 18664

1 know. Would the extent of your command have been that you
 2 would have said in the light of these deaths the operation
 3 must stop now, as an operational commander? Did you have
 4 the power?
 5 BRIGADIER CALITZ: Verstaan ek u korrek,
 6 is dit voor die tyd of soos ons die toneel hier sien na die
 7 tyd, as die persone –
 8 MR NTSEBEZA SC: No, on that very day if
 9 you had seen that 16 people or thereabouts had been killed
 10 at scene 1, would you as operational commander on that
 11 basis have been able to say, we have seen enough carnage
 12 now, let's stop this operation?
 13 BRIGADIER CALITZ: Mnr die Voorsitter,
 14 dankie, die vraag was ook voorheen aan my gestel. My
 15 getuienis was en ek praat onder korreksie nou, maar die
 16 getuienis was dat indien ek wel ingelig was op enige
 17 stadium dat die skietery agter my plaasgevind het, wat my
 18 optrede dan sou gewees het, ek dink dit is wat u vra. Ek
 19 sou wel gaan verneem het wat presies daar gebeur het, met
 20 ander woorde as operasionele bevelvoerder en dit is waar jy
 21 met jou groep bevelvoerders kontak maak, die groep
 22 bevelvoerder aan die agterkant, die groep bevelvoerder van
 23 die Nyala voertuie, Nyala 1 tot 6 was Kolonel Makhubela.
 24 Ek het getuig dat hy 20 tot 30 jaar ondervinding het in
 25 Openbare Orde Polisiëring, ek sou dan met hom asook, ek

Page 18665

1 neem aan Luitenant-Kolonel Mere, as ek korrek is in my
 2 notas, was dan ook die groep bevelvoerder vir een van die
 3 wat op daardie toneel was.
 4 Ek sou by hulle vasgestel het wat die
 5 omstandighede was en soos die toneel tans is en die ander
 6 persone het wegbeweeg en nou praat ek van die 2 tot 3,000
 7 wegbeweeg en net die 16 waarna u verwys is op die toneel,
 8 sou ek dan opsies gehad het. Ek kon Kolonel Makhubela in
 9 beheer geplaas het daar of ek kon dan aan forward holding
 10 area 1 wat Generaal-Majoor Naidoo is, wat al die speurders,
 11 die PKRS, die mediese mense, daardie persone kon ek ook dan
 12 opdrag of 'n versoek aan hulle gerig het en gesê het, kan
 13 julle dan vir my na hierdie toneel 1 toe kom. Wat myself
 14 betref as 'n operational commander, ek sou dan met my
 15 ondervinding as Openbare Orde Polisiëring, sou ek dan
 16 voortgegaan het met die operasie, ek sou dit glad nie
 17 heeltemal gestop het nie.

18 My beleidsdokument sê ook indien ons optree en
 19 daar is 'n aksie geloods teen persone moet daar opgetree
 20 word om hulle te verhoed om te hergroepeer en dan ook met
 21 die doel van om arrestasies te maak. Daar is geen doel net
 22 om mense uiteen te dryf dat hulle hardloop en dan los ons
 23 maar, ons het op hulle nou geskiet en dan los ons hulle net
 24 nie. So my getuienis was, nee, ek sou dan met my
 25 ondervinding as operasionele bevelvoerder voortgegaan het

Page 18666

1 met die operasie en dan die uitvoering, soos ons dan
 2 aangegaan het, die 2 tot 3,000 opgevolg het, uiteengedryf
 3 het, ontwapen het, geïsoleer het en arrestasies gemaak het.
 4 Ek het 'n voorbeeld genoem dat indien ons dit wel nie sou
 5 doen nie die gevolge dalk erger, ons weet van 'n klein
 6 groepie wat weggebreek het, ek dink in Exhibit L het ek
 7 daarna verwys, bladsy, onder korreksie 259, die klein
 8 groepie wat wel weggebreek het, het direk na Wonderkop
 9 perseel toe beweeg en daar het hulle vyf voertuie aan die
 10 brand gestee en 'n aanval weer geloods.
 11 So dit sou baie gevaarlik gewees het om hierdie
 12 groep net te los, dat hulle dan uiteenga. So ek sou wel
 13 aandag gegee het aan toneel 1, dit is 'n statiese toneel,
 14 dit het klaar gebeur, so ons sou iemand definitief in
 15 beheer geplaas het daar en dan sou ek as operasionele
 16 bevelvoerder vorentoe beweeg het met die ondervinding tot
 17 my beskikking.
 18 MR NTSEBEZA SC: No, I know you have
 19 given extensive evidence on this aspect and I'm not going
 20 to take you through it, I just thought it was fair for you
 21 to know that I'm instructed to put it to you that the
 22 families do not accept your evidence on this aspect.
 23 CHAIRPERSON: Don't they accept, do they
 24 –
 25 MR NTSEBEZA SC: They don't accept –

Page 18667

1 CHAIRPERSON: Do they accept that he left
 2 and do they criticise him for that?
 3 MR NTSEBEZA SC: Mm-mm –
 4 CHAIRPERSON: Or do they say that they
 5 don't accept that he left?
 6 MR NTSEBEZA SC: No, they don't accept
 7 that he didn't see the shootings at scene 1.
 8 CHAIRPERSON: If I may ask you a
 9 question, you say you left effectively just before the
 10 shootings and you've explained the circumstances, we won't
 11 go into that again. Who was in charge, you were in charge
 12 presumably at the scene when you were there.
 13 [12:29] You then went off, and you've explained that, but
 14 whom did you leave in charge, or I'll put the question more
 15 accurately, who was in charge at scene 1 when you left?
 16 BRIGADIER CALITZ: Die persone in beheer
 17 van toneel 1, na ek vertrek het, was Kolonel Makhubela, wat
 18 die eenheidsbevelvoerder van Johannesburg openbare orde
 19 polisiëring is, wat ek sê het 25 to 30 jaar ondervinding,
 20 asook Luitenant-Kolonel Mere wat dan die groepbevelvoerder
 21 was van die openbare orde polisiëring van een van ons
 22 linies. So hy het –
 23 CHAIRPERSON: Remind us which vehicle was
 24 Colonel Makhubela in?
 25 BRIGADIER CALITZ: Nee, hy het fisies

Page 18668

1 saam met elke voertuig beweeg, so teen Nyala 4 daar beweeg
 2 het, hy het soos hulle uitgooi, het hy, volgens wat ek van
 3 hom verstaan, saam met die voertuie beweeg op voet. So hy
 4 sou dan relatief fisies op die toneel gewees op die grond.
 5 CHAIRPERSON: He was on foot somewhere on
 6 the scene?
 7 BRIGADIER CALITZ: Dit is korrek, Mnr die
 8 Voorsitter.
 9 CHAIRPERSON: And Colonel Mere?
 10 BRIGADIER CALITZ: Ek kan vir u vas stel
 11 wat sy Nyala nommer en posisie was. Ek weet hy het
 12 agtergebly by toneel 1.
 13 CHAIRPERSON: He was in one of the
 14 Nyalas, and you can find out what it was?
 15 BRIGADIER CALITZ: Ek kan vir u vasstel –
 16 CHAIRPERSON: And you can do it quickly?
 17 If it will take long, we can get it later.
 18 BRIGADIER CALITZ: Kan ek terugkom na u
 19 toe, mnr die Voorsitter? Ek weet dit is –
 20 CHAIRPERSON: After lunch, perhaps.
 21 BRIGADIER CALITZ: Ek dink dis in Exhibit
 22 L.
 23 CHAIRPERSON: Well, after lunch you can
 24 tell us. You don't have to worry about now. Let Mr – I'm
 25 trespassing on Mr Ntsebeza's time. He would like to ask

Page 18669

1 you the next question. Wouldn't you, Mr Ntsebeza?
 2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 dit is op bladsy 137 van exhibit L, Kolonel Mere, en dit is
 4 Papa10. Dit is dan inderdaad in fact die Nyala wat die
 5 agterste posisie ingeneem het. Die wat ons nou sien,
 6 Papa19, wat dan wel Papa10 is. So dit is Kolonel Mere wat
 7 dan die agterste posisie ingeneem het. So hy was fisies by
 8 – kan ek sê, die toneel. Hy sal die beste kan beskryf.
 9 CHAIRPERSON: Ja, thank you. Yes, Mr
 10 Ntsebeza.
 11 MR NTSEBEZA SC: Just one question
 12 regarding this. When you left - I know you don't want the
 13 word, "you drove off," but when you left for the koppie,
 14 did you leave anyone in charge? In other words, did you
 15 say to anyone here who would have been left in charge, that
 16 I am following these people who are going towards the
 17 mountain, because I've heard A, B, C, D? Now, did you tell
 18 anyone there, look, I'm going away from here? I am going
 19 in the – to where we now know was scene 2.
 20 BRIGADIER CALITZ: Mnr die Voorsitter,
 21 dit was tydens die voorligtingsessie alreeds ge-bespreek.
 22 As ons sou uit beweeg en die uiteendrywing plaasvind, dan
 23 sou Kolonel Pitsi en die persone van die openbare orde saam
 24 met ons beweeg, en die ander wat ek genoem het, daar was
 25 tydens die briefing reeds gesê hulle sal dan beheer vat,

Page 18670

1 want ons het geweet tydens die uiteendrywing, dat ons sou
 2 vorentoe beweeg in die rigting van koppie 1, 2, en dan in
 3 'n westelike rigting.
 4 MR NTSEBEZA SC: The question more direct
 5 than that. I just want to know if you told anyone that you
 6 were now leaving?
 7 BRIGADIER CALITZ: Op die radio het ek
 8 wel opdrag gegee dat ek nou vorentoe gaan en die Papa
 9 Nyalas wat my moet volg met die uiteendryfaksie. Korrek,
 10 mnr die Voorsitter.
 11 MR NTSEBEZA SC: Who were you telling?
 12 BRIGADIER CALITZ: Die Papa Nyalas, soos
 13 ek vir u gesê het, wat my verantwoordelikheid was. Tydens
 14 die voorligting, het ek vir die Papa Nyalas gesê om my te
 15 volg en dat ons nou verder gaan met die uiteendryf aksie.
 16 MR NTSEBEZA SC: Who are the people that
 17 you were telling who were in charge? Who were officers?
 18 BRIGADIER CALITZ: Soos ek vir gesê het,
 19 Kolonel Makhubela, tydens die voorligting sessie het geweet
 20 hy is in beheer daar. So indien ek sou vorentoe gaan, was
 21 dit nie weer nodig op daardie stadium vir my – kan ek nie
 22 onder eed sê of ek vir hom gesê het, "Ek herinner jou nou
 23 weer, u is in bevel hier?" Ek kan nie op daardie stadium
 24 wat my woorde was.
 25 MR NTSEBEZA SC: Yes. Well, I mean, I

Page 18671

1 have told you what the families have instructed me to put
 2 to you and you have given your answer.
 3 BRIGADIER CALITZ: Korrek, mnr die
 4 Voorsitter.
 5 MR NTSEBEZA SC: You see the – you also
 6 testified that you didn't see anything or put it you didn't
 7 see people being shot at, at scene 2. That was your
 8 evidence.
 9 BRIGADIER CALITZ: Been shot at, at scene
 10 2?
 11 MR NTSEBEZA SC: Yes.
 12 BRIGADIER CALITZ: Koppie 3. Dit is
 13 korrek, Mnr die Voorsitter.
 14 MR NTSEBEZA SC: Yes. Now, I'll just put
 15 it to you as my instruction. My instruction is that as an
 16 operational commander, for you not to have seen the
 17 shootings in scene 1, not to have heard them occurring, for
 18 you not to have seen the shootings in scene 2, not to have
 19 heard them occurring, according to my clients, this is
 20 consistent with what they perceive as your attempt to seek
 21 to evade taking responsibility, as operational commander,
 22 of what happened on that day.
 23 BRIGADIER CALITZ: Is dit u stelling aan
 24 my of is dit die vraag? Moet ek –
 25 CHAIRPERSON: It's a proposition to you.

Page 18672

1 I think - to say whether you agree or don't agree, and if
 2 you don't, why?
 3 BRIGADIER CALITZ: No, I don't agree. I
 4 think my position and the photographs will indicate where I
 5 am when certain incidents took place and those photographs
 6 can be explained and even showed to the families. So I
 7 think they can get a better picture there.
 8 MR NTSEBEZA SC: No, they have been here,
 9 they have been following your testimony, and yesterday,
 10 their instruction was clearly that I should convey it to
 11 you, that they don't –
 12 CHAIRPERSON: You've conveyed it, Mr
 13 Ntsebeza. Perhaps we can move on now.
 14 MR NTSEBEZA SC: Yes, Mr Chairman. I was
 15 just revisiting the -
 16 CHAIRPERSON: No, no, I understand.
 17 MR NTSEBEZA SC: Now, there is also an
 18 aspect that I just want to explore, not at any length, but
 19 from the point of view of my client's instructions, and
 20 that's relevant to your briefing to the parade on the 18th
 21 of October 2012. Now, you will know that you were
 22 extensively asked about this, I believe by Advocate
 23 Budlender, but I would love if you could put up exhibit
 24 JJJ82, which I believe is here, the transcript of your
 25 briefing to the troop on 18 August 2012. Now, if we turn

Page 18673

1 to page 3807, I'm sure this was –
 2 CHAIRPERSON: Of course, this was very
 3 fully canvassed in cross-examination –
 4 MR NTSEBEZA SC: Yes, yes –
 5 CHAIRPERSON: I hope that you're not
 6 going to repeat what's been put before –
 7 MR NTSEBEZA SC: No, no, not at all, Mr
 8 Chairman. Now, I understood your evidence, especially
 9 yesterday, that you yourself, as a witness, cannot say,
 10 because you didn't see it happen, that the miners were
 11 attacking the police. Is that right?
 12 BRIGADIER CALITZ: Ek stem nie saam met u
 13 nie, mnr die Voorsitter.
 14 CHAIRPERSON: I thought you said
 15 yesterday that you – yesterday you said you couldn't, from
 16 your own knowledge, say they were attacking. You didn't
 17 see the attack. You saw them shortly before they went out
 18 of your line of sight, and I suggested to Mr Ntsebeza that
 19 that might constitute circumstantial evidence from which
 20 certain inferences can be drawn, and you agreed with that
 21 and you said you couldn't go any further than that. That
 22 was your evidence yesterday.
 23 BRIGADIER CALITZ: Dit was my –
 24 CHAIRPERSON: I assume you're still
 25 saying the same today?

<p style="text-align: right;">Page 18674</p> <p>1 BRIGADIER CALITZ: Ja, ja, dit was my 2 evidence, mnr die Voorsitter. 3 MR NTSEBEZA SC: Yes. Maybe it's 4 inelegant of expression – inelegance of expression on my 5 part. Now, are we on the same page? On your own, as a 6 witness, because you didn't see what happened, you are not 7 in a position to say that the police came under attack from 8 the mineworkers? Do you agree? 9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 verwys u nou na JJJ82 op daardie dag dat ek dit gesê het 11 of, mnr die Voorsitter, het nou net gesê dat ek is so 12 meegedeel en dit was my getuienis gewees? So ek wil net 13 weet op watter stadium ons – as jy bedoel wat in my 14 verklaring staan, dan verskil ek van u. 15 CHAIRPERSON: Brigadier, I think if you 16 look at JJJ82, the third page that you're looking at, the 17 paragraph beginning 8.53. That's indicated where it's 18 found on video tape. If you look at the sixth line from 19 the top of that para, just shortly after the reference in 20 9.20, you are reported as having said this, "Therefore," – 21 just before 9.20, "Therefore we got over to the second 22 phase." Then you get the 9.20 reading. "And that is where 23 TRT line and the NIU line was formed," and then comes this 24 phrase, which I think is what Mr Ntsebeza is talking about, 25 "And when you become – when they become under attack, that</p>	<p style="text-align: right;">Page 18676</p> <p>1 because this passage had been dealt with fully already and 2 he assured me he wasn't, but ja. Look, I don't think I'll 3 be asking – reminding him he was in command, you've covered 4 that point already. So I think you must move on. 5 MR NTSEBEZA SC: Mr Chairman, with the 6 greatest respect, I am not seeking here to cover ground 7 that was covered by Mr Budlender, however extensively, but 8 I have a mandate – I have a mandate from families to 9 interrogate Brigadier Calitz, when he says, when 34 people 10 have been killed, two days from the day on which he's 11 making this triumphant speech, "I have to congratulate 12 him." That I have to put to him. 13 CHAIRPERSON: But whether you've been 14 instructed to ask certain questions, doesn't take the 15 matter any further. If you've been instructed to ask 16 questions that have been asked already, I won't allow you 17 to ask them, and you can tell your clients that the reason 18 why I'm not allowing you to ask those questions, because 19 they've already been asked, don't have to be asked again. 20 So the instructions from your client, with respect, don't 21 take the matter any further, but if there is a new angle on 22 this point, if there's a point which you feel hasn't been 23 brought out adequately to do justice to your cause, 24 obviously you can do it, but don't just repeat questions 25 we've had already even though you were instructed to do</p>
<p style="text-align: right;">Page 18675</p> <p>1 is where the command was given by the commanders, as well 2 as some of them act in self-defence," alright. I think 3 that's passage Mr Ntsebeza is referring to. 4 MR NTSEBEZA SC: Now, you do not know 5 that to have been a fact, because you didn't see them being 6 attacked and - yes. 7 BRIGADIER CALITZ: Mnr die Voorsitter, as 8 dit die vraag is, op daardie dag, die 18de, dit is wat ons 9 – wat aan my meegedeel was. U sal onthou ook die groep wat 10 ons toegesprek het en die redes daarvoor. So ja, dit was 11 alles wat aan my meegedeel is, wat ek dan aan die wat nog 12 nie daar was nie oorgedra het op wat het op daardie dag 13 gebeur. 14 MR NTSEBEZA SC: Now, I just want to 15 establish whether you were saying that on the 18th on the 16 strength of what you had been told by your colleagues? 17 BRIGADIER CALITZ: Ja, dit is korrek, wat 18 ek nou net vir u gesê het, mnr die Voorsitter. 19 MR NTSEBEZA SC: And that was in relation 20 to an operation in which you were a commander? 21 MR SEMENYA SC: Chair, we must move on, 22 really. These questions are repetitive and at least it's 23 nothing that you don't know already. 24 CHAIRPERSON: - earlier say to Mr 25 Ntsebeza that I hope he wasn't going to repeat material,</p>	<p style="text-align: right;">Page 18677</p> <p>1 that. 2 MR NTSEBEZA SC: No, Mr Chairman, with a 3 great respect, I accept your ruling. I always do. What 4 I'm saying is that the questions may have been put. I 5 would assume that I am permitted, on this day, because this 6 is another day, to find out from the brigadier whether he 7 still stands by that. It may well be that today he has a 8 thought about what he said, and that's all I want to put to 9 him. 10 CHAIRPERSON: Do you stand by what you 11 said before, or today, have you come to other insights and 12 you have something different to say? 13 BRIGADIER CALITZ: Mnr die Voorsitter, 14 dit wat ek op die 18de van die agtste maand laas jaar gesê 15 het, ek staan nog net so daarby, woord vir woord. 16 MR NTSEBEZA SC: Now, I don't know if 17 this question was put to you and I'll get guidance from the 18 Chair if it was. We are talking here about the largest 19 number of people were killed in one scene with police 20 operations since Sharpeville. 21 BRIGADIER CALITZ: Ekskuus, ek het nie 22 die laaste – 23 MR NTSEBEZA SC: Since Sharpeville. 24 BRIGADIER CALITZ: O, Sharpville. 25 MR NTSEBEZA SC: Since the police killed</p>

Page 18678

1 people in 1963.

2 CHAIRPERSON: No, it was before 1963.

3 MR NTSEBEZA SC: 1960.

4 CHAIRPERSON: Ja.

5 MR NTSEBEZA SC: My liberation history -

6 Now, is it something that you can congratulate people for?

7 Let's assume everything is as you see it today. You

8 followed prescripts as they should be followed. Is it

9 something you felt compelled to congratulate your members

10 for? Killing 34 people -

11 BRIGADIER CALITZ: I'm sorry, Mr

12 Ntsebeza, I want to intervene at this stage. When you said

13 I have to congratulate you, what were you congratulating

14 them on? Were you congratulating them on killing 34

15 people, or were you congratulating them on something else?

16 BRIGADIER CALITZ: Mnr die Voorsitter,

17 ja, baie dankie. Ek wil - dit sou my response ook nou

18 gewees het dat ek het in my vorige antwoord gesê dat ek het

19 nooit, in enige een van hierdie woorde, het ek iets gesê

20 oor die skietery nie, ek het nie gesê oor die aanval nie.

21 Ek het die persone en die bevelvoerders wat daardie dag

22 saam met my was bedank vir die manier waarop ons die linie

23 gehou het en waarop hulle ge-respond het op die plan, soos

24 wat ons was. Ek het spesifiek verwys na - ek dink dis daar

25 by 807, "Exactly how we planned it and we briefed the

Page 18679

1 commanders, exactly, we executed that in that line." Ek

2 dink op die dag het ek verwys na die strategiese planne of

3 die strategiese punte in die beplanning. Ons moes die

4 persone disperse, wat wel gebeur het. Ons moes die persone

5 geïsoleer het, wat wel gebeur het. Ons moes die persone

6 geontwapen het en dit het gebeur, en ons moes die persone

7 gearresteer het en dit het gebeur. So dit is die

8 strategiese punte op die plan, mnr die Voorsitter, waar ek

9 my mense wel geluk gewens het, as ek dit so kan stel. Ek

10 het onder geen omstandighede hier verwys na die dood van

11 die families en die dood van enige persoon nie. Ek dink

12 almal van ons wat in hierdie vertrek sit het een of ander

13 stadium iemand aan die dood afgestaan, en dit is nie iets

14 wat jy ligtelik doen of waarop jy die mense geluk wens nie.

15 So ek verskil, met die sterkste woorde, van wat u - die

16 stelling was.

17 MR NTSEBEZA SC: Now, you were referring

18 here to a big action - somewhere there. Remember after any

19 big action, there is now a board of inquiry that will sit

20 and then take it frame by frame, minute by minute of what

21 happened, alright. A board of inquiry.

22 [12:48] Clearly and obviously the purpose of the

23 constitution in relation to the police is to determine

24 whether the police acted lawfully and justifiable when it

25 killed 34 people. Was your statement that the police acted

Page 18680

1 110% correct made in that context?

2 BRIGADIER CALITZ: Mnr die Voorsitter, ek

3 het nou nie gevolg waar hy gelees het nie, maar ek kan u

4 antwoord op die 110% -

5 CHAIRPERSON: What Mr Ntsebeza was doing,

6 he was reading from the top of page 3, but perhaps to get

7 it in context we should look at the bottom of page 2. He

8 says, this is against 7:50, "Then he announced there will

9 be a board of inquiry. Some of you might wonder what is

10 now going to happen. Remember after any big action" - this

11 is the piece he read - "Remember after any big action

12 there's now a board of inquiry that sits and then take it

13 frame by frame, minute by minute as to what happened,

14 alright." And then you go on to say, "The police, we will

15 give 100% full cooperation." So you're referring to, as I

16 understand it, 100% full cooperation to this Commission.

17 BRIGADIER CALITZ: Dit is die Kommissie

18 wat tans aan die gang is.

19 CHAIRPERSON: That's the context in which

20 the passage which Mr Ntsebeza has read to you appears.

21 BRIGADIER CALITZ: Dit is wat ek daarby

22 bedoel het. Dit is korrek, mnr die Voorsitter.

23 MR NTSEBEZA SC: Now there's another

24 passage, "and that is where the TRT line and the NIU line

25 was formed and when they come under attack, that is where

Page 18681

1 the command was given by their commanders, as well as some

2 of them act in self-defence, alright. So on that nothing,

3 nothing, nothing was wrong, okay. You acted. It was

4 justified and that is exactly the commitment and the

5 cooperation that we are going to give the people. So those

6 people that still need to fill the 15s and say how many

7 rounds," you were referring to the killings?

8 BRIGADIER CALITZ: Mnr die Voorsitter,

9 hier het ek vir die persone verduidelik, ek het weereens

10 vir u gesê in die lig, daar was persone wat daardie dag nie

11 op die toneel was nie. Ek dink ons gaan nou terug in my

12 verduideliking in waar - maar as ek dit weer moet doen,

13 daar was baie persone wat op daardie dat SMS boodskappe en

14 hierdie Whatsapp boodskappies gekry het dat dit gaan gebeur

15 en dreigemente, en, en, en, en dit is waar die 110%

16 motivering van my kant af op hulle kom. Die sin waarna u

17 verwys het, is "That is where the command was given by the

18 commanders." Daarna het ek verwys die "basic line". As

19 ons na die video luister sal almal hoor die "Basic line,

20 basic line," dit is die "command," and as well as them

21 acted in self-defence, ek het hieroor ook getuig, "some of

22 them," is omdat almal het nie hulle wapens gebruik nie. So

23 die wat het, op daardie stadium het in "self-defence"

24 opgetree. Toe sê ek vir hulle, "Alright," so dit beteken

25 daar was nuwe personeel wat nie geweet het wat aangaan nie.

Page 18682

1 "So on that nothing, nothing, nothing was wrong, okay. You
 2 acted, it was justified and that is exactly the commitment
 3 and the cooperation that we're going to give the people."
 4 "The people" het ek verwys na die kommissie wat aangestel
 5 word sodat op daardie stadium was die lede se inligting van
 6 my hulle is aangeval, dit was in "self-defence," en dit is
 7 in daardie lig wat ek gesê het vir hulle dat maak nie saak
 8 wat u gedoen het nie, "you acted correctly," en daarso het
 9 ek verwys dat "exactly that commitment and cooperation we
 10 will give to the people." Dit is vir die Kommissie, sodat
 11 hulle kan weet presies wat hulle gedoen het moet hulle ter
 12 tafel lê. Net daarna, "So those people that still need to
 13 fill the 15s and say how many rounds," daardie het ons
 14 verwys na die, kan ons terugkom op die woordjie, wat ons
 15 noem "hot debriefing" en 'n "second debriefing." Daar het
 16 ons dan vir die mense gesê laat ons begin konsolideer sodat
 17 ons die feite op die tafel kan stel presies wat het gebeur.
 18 Dit was die sin in die lig waarop ek dit gesê het. Ek het
 19 geensins mense geluk gewens omdat enige persoon doodgeskiet
 20 is nie, nee glad nie. Ek is professioneel en as my doel as
 21 'n brigadier in die Suid-Afrikaanse Polisie kan dit ook nie
 22 so gedoen word nie.

23 MR NTSEBEZA SC: I'll just put one
 24 proposition to you, and that will be the end of it. You
 25 see, Brigadier, when you say this, both on the 18th and in

Page 18683

1 your testimony to questions put to you by Mr Budlender, and
 2 now even to questions put to you by me, you see there is a
 3 sense here which I want to put to you, you don't seem to
 4 appreciate and it is this; what you are saying here is
 5 well, 34 people were killed by the police, but what were
 6 the police expected to do? The police were justified, they
 7 acted in self-defence. Now is that how you want to express
 8 what happened, that when those people were killed, the
 9 police were justified and therefore you are 100%, 110%
 10 correct? It doesn't matter that 34 people were killed in
 11 one day. Is that how you want to be perceived? Because
 12 that's how it comes across.

13 CHAIRPERSON: That's the proposition
 14 that's been put to you. Do you want to be perceived in
 15 that light, is what Mr Ntsebeza says. What answer do you
 16 give to that proposition? He says this is the last
 17 question he's asking on this point and he's giving you an
 18 opportunity to deal with the proposition he's put.

19 BRIGADIER CALITZ: Mnr die Voorsitter,
 20 nee, ek stem glad nie saam met wat hy nou net gesê het nie.

21 VOORSITTER: Dit is nie mnr Budlender
 22 [mikrofoon af, onhoorbaar], dit is mnr Ntsebeza.

23 BRIGADIER CALITZ: Ja, die Advokaat.

24 VOORSITTER: Mnr Budlender – tensy ek
 25 verkeerd gehoor het.

Page 18684

1 BRIGADIER CALITZ: Nee, nee, nee, wat die
 2 Advokaat nou net gesê het nie, nee, ek stem glad nie saam
 3 daarmee nie. Ek dink ons het voorheen ook en op hoeveel
 4 kere, en ek het dit wel 'n paar lyne terug wel genoem, ek
 5 dink almal van ons wat in hierdie vertrek sit, nie net die
 6 34 families nie, maar daar is ander ook wat in hierdie
 7 selfde vertrek sit wat mense verloor het nie net op daardie
 8 dag nie; daar is mense wat hier sit wat mense aan die dood
 9 afgestaan het op 'n latere stadium. So onder geen
 10 omstandighede, mnr die Voorsitter, wil ek voorkom en sê u
 11 wens mense geluk omdat mense doodgeskiet is nie. Ek wil
 12 dit in die sterkste term sê dat jy kan dit nooit doen nie.
 13 So as dit so oorkom, dit is beslis nie wat op daardie dag
 14 gesê is nie. Dit was nie die stelling nie. Ons voel baie
 15 jammer vir die persone, veral in hierdie feestyd wat ons
 16 ingaan. Dit is absoluut – ek soek 'n beter woord vir
 17 "nonsens," 'n Afrikaanse woord. So ek stem glad nie saam
 18 met u nie, nee.

19 MR NTSEBEZA SC: Ja well –

20 CHAIRPERSON: I think you've stated your
 21 attitude. Mr Ntsebeza, you put the proposition to the
 22 witness; he gave the answer. I would imagine as far as
 23 this part of the case is concerned it's really a matter for
 24 argument. What he said on the 18th is on record. The
 25 explanations he's given are on record. The contrary

Page 18685

1 contentions are on record, and these are matters that can
 2 be taken further in argument. I don't know if there's any
 3 point at this stage in probing it further.

4 MR NTSEBEZA SC: Just one point, Mr
 5 Chairman, it's not even a proposition. I would like the
 6 Brigadier to think about this, and it is this; when the
 7 families came here because the President had indicated that
 8 they are necessary parties to this, part of what they came
 9 here to find is not necessarily that their loved ones were
 10 injured, if that is the evidence that is going to be shown.
 11 Part of their being here is to find whether there is a
 12 basis for them to be reconciled to the reality of what
 13 happened on the 16th, and I just want to put to you that
 14 when they see an operational commander, and they hear an
 15 operational commander two days after the killings, where no
 16 inquiry had happened, where no sides of the story were
 17 given, when they hear that he went on to say "34 people got
 18 killed. You were 100% correct in killing them," that for
 19 them –

20 BRIGADIER CALITZ: Mnr die Voorsitter –

21 CHAIRPERSON: That's not what he said.
 22 It isn't entirely accurate, but in fact it's inaccurate on
 23 a material point. But you've heard the point he's made.
 24 There had been no formal inquiry yet. You accepted on the
 25 basis of information you'd received that the shootings were

<p style="text-align: right;">Page 18686</p> <p>1 justified because the doctrines of private defence and 2 self-defence applied. Part of his, the thrust of what he 3 says to you is there was no inquiry yet. So you want to 4 deal with that part of the point before we take the lunch 5 adjournment? 6 BRIGADIER CALITZ: Mnr die Voorsitter, ek 7 kan nie meer saam met u stem nie. Dit was die 8 omstandighede. Ek dink wat Adv Ntsebeza doen, met alle 9 respek, u probeer die mense mislei en woorde in my mond 10 sit – 11 CHAIRPERSON: No, no, no – 12 BRIGADIER CALITZ: Nee, ek sê net oor wat 13 hy gesê het ek het gesê, mnr die Voorsitter. 14 CHAIRPERSON: No, no, no, I don't agree, 15 and I said – 16 BRIGADIER CALITZ: Ek het dit nie gesê 17 nie – 18 CHAIRPERSON: - with his summary of what 19 you said. 20 BRIGADIER CALITZ: Ekskuus, ek het nie 21 dit gehoor nie. 22 CHAIRPERSON: But I don't think we must 23 accuse Mr Ntsebeza – he's a very respected practitioner – 24 of doing anything like that deliberately, and if anyone 25 suggests it then I would leap to his defence.</p>	<p style="text-align: right;">Page 18688</p> <p>1 basis of certain information that was available to us, we 2 believed that all of the people listed on this page had 3 been injured with shotgun pellet injuries on the 16th. As a 4 consequence of further investigation it now appears that we 5 had made a mistake in three respects. Mr Joseph Moeketsi, 6 Mr Daniel Tshwana, and Mr Phuka Ramapapu, the last name on, 7 it now transpires were not in fact injured on the 16th, and 8 we simply wanted to place on record those facts, lest that 9 we thought that we were attempting to misrepresent the 10 position to the Commission. 11 CHAIRPERSON: I understand. 12 MR GOTZ: Chairperson, we also do though 13 wish to note that further analysis may well reveal, and we 14 think we've identified at least one other person who may 15 have been injured with shotgun injuries, and we also 16 believe that the Mr Phatsha who gave evidence in the 17 tribunal at quite an early stage – 18 CHAIRPERSON: Commission; we're not a 19 tribunal. 20 MR GOTZ: - the injury to his toe in fact 21 may have been caused by a shotgun on the basis of the 22 hospital records. 23 CHAIRPERSON: Alright. Well, may I say 24 this to you; if this information is readily available and 25 I've overlooked it, I'd be grateful to be told. I would</p>
<p style="text-align: right;">Page 18687</p> <p>1 BRIGADIER CALITZ: Dankie. 2 CHAIRPERSON: But anyway, I think you've 3 expressed your attitude to what was put. Mr Ntsebeza has 4 had a chance to put what his clients feel on the matter, 5 and I think on this note we can take the lunch adjournment. 6 MR NTSEBEZA SC: And I can promise you, 7 Mr Chairman, after lunch it will be just one item and we'll 8 be done. 9 CHAIRPERSON: Thank you, Mr Ntsebeza. On 10 that promising note we will take the lunch adjournment. 11 [COMMISSION ADJOURNS COMMISSION RESUMES] 12 [14:04] MR NTSEBEZA SC: Thank you, Mr Chairman. 13 Mr Chairman, my learned junior Adv Gotz is going to 14 continue with the Brigadier. 15 CHAIRPERSON: Yes, Mr Gotz? 16 MR GOTZ: Chairperson, I'm not intending 17 to put any questions to the Brigadier. I simply wanted to 18 place something on record. Chairperson, perhaps we can for 19 that purpose have a look at exhibit KKK11. It's the 20 presentation in relation to the shotgun victims, and to 21 turn to the last page of that presentation, page 32 – 22 CHAIRPERSON: It's the document headed 23 "Others." 24 MR GOTZ: It is indeed, Chairperson. 25 Chairperson, the document was prepared at a time and on the</p>	<p style="text-align: right;">Page 18689</p> <p>1 like to be told each of these blue circles here on page 31 2 represents a shotgun victim. I'd like to know who they 3 were and I think it would be helpful for us – you can give 4 it to me when we resume next year. I take it we – I'm not 5 sure if we have the medical reports in respect of them, but 6 if we haven't I'd like them, and if we have I'd like the 7 reference. That's the first thing I want to say. 8 Secondly, I understand that the evidence leaders 9 have asked one of their investigators to specifically 10 investigate this whole shotgun question and it may well be 11 that he will be able to elicit a number of facts which will 12 be placed before the Commission and will have a bearing on 13 this whole matter. But thank you for the correction that 14 you've given us. That then concludes the participation of 15 the representatives of the families as far as Brigadier 16 Calitz is concerned. Thank you, Mr Ntsebeza and Mr Gotz. 17 Mr Chaskalson, you are going to continue now. As was 18 indicated for reasons that were explained, I think the 19 presence of the families for most of the time, Mr Ntsebeza 20 was sandwiched in as it were in the middle of your cross- 21 examination. May I ask you whether you have a discrete 22 topic which you should be able to finish by about 3 23 o'clock? 24 MR CHASKALSON SC: Chairperson, you put 25 me in a very difficult position. Do I have to be sworn in</p>

Page 18690

1 before I answer this question? I must concede,
 2 Chairperson, there is unfortunately at least one topic I
 3 can deal with in a discrete form.
 4 CHAIRPERSON: May I suggest that you
 5 embark upon that topic and if you finish it before 3
 6 o'clock we will stop, and if you only get to 3 o'clock and
 7 you haven't finished it, we will stop anyway. So that's a
 8 gesture which is made very reluctantly to deal with the
 9 pressures to which I've been unfairly and totally
 10 unjustifiably exposed. Alright, Mr Budlender. Brigadier,
 11 you're still under oath.
 12 ADRIAAN MARTHINUS CALITZ: Dankie, mnr
 13 die Voorsitter.
 14 CHAIRPERSON: Mr Chaskalson.
 15 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 16 Chairperson, as my learned friend Mr Budlender has
 17 previously said, I've been called worse before. Brigadier,
 18 I'd like us to start with slide 215 of exhibit L, so if we
 19 can get slide 215 of exhibit L, and Brigadier, you'll
 20 recall that your testimony was that after you drove through
 21 the fence you drove towards, with the intention of
 22 reforming a dispersion line, where the protesters, where
 23 you ultimately found the protesters. Is that correct? Or
 24 let me not put that question, because it may take us down
 25 side alleys which are not germane to my cross-examination.

Page 18691

1 Does this slide depict the point at which you and your
 2 fellow POPS members stopped after you had left the kraal
 3 area?
 4 BRIGADIER CALITZ: Dit is korrek, mnr die
 5 Voorsitter, hier is waar ons verwys na die, waar ons
 6 gehegroepeer het. Ek dink, mnr die Voorsitter, die "dry
 7 riverbed" maar dis net so 'n entjie voor dit, ja.
 8 MR CHASKALSON SC: But Brigadier, if I
 9 can just take you up on that answer; the dry riverbed
 10 itself was in fact a little bit to the west of this
 11 picture. The dry riverbed, what we see in this slide is,
 12 what I'm indicating now, is that's koppie 2. Will you
 13 confirm that? And what I'm marking with my slide is the
 14 rocky outcrop essentially at the centre of the slide.
 15 BRIGADIER CALITZ: Mnr die Voorsitter,
 16 kom ek net terug na die vorige vraag; ek het saam met u
 17 gestem. Ek sê ons het net daarna verwys vroeër as 'n "dry
 18 riverbed" maar dit is die posisie waar ons gestop het.
 19 MR CHASKALSON SC: Yes.
 20 BRIGADIER CALITZ: So ek het saam met u
 21 gestem.
 22 MR CHASKALSON SC: Thank you.
 23 BRIGADIER CALITZ: Net om dit korter te
 24 maak.
 25 MR CHASKALSON SC: But I think for the,

Page 18692

1 so that we can orient ourselves, let's just identify the
 2 landmarks. That's koppie 2 that I'm pointing out at the
 3 centre of the picture. Will you confirm that's correct?
 4 BRIGADIER CALITZ: Waar die pointer nou
 5 was, dit is koppie 2. Dit is korrek, mnr die Voorsitter.
 6 MR CHASKALSON SC: This is sort of half
 7 of koppie 1. Koppie 1 stretches off the slide to the
 8 right-hand side. Will you confirm that's correct?
 9 BRIGADIER CALITZ: Dit is korrek, mnr die
 10 Voorsitter.
 11 MR CHASKALSON SC: Koppie 3 we cannot see
 12 on this slide, but where it would be is to the base of the
 13 slide approximately where I think I'm indicating now.
 14 We'll show another photograph shortly which will fix it
 15 precisely, but without wanting to pin you down to an exact
 16 position, would you agree that this is broadly where koppie
 17 3 will be, towards the bottom right-hand corner of the
 18 slide, but actually off what we can see on the slide?
 19 BRIGADIER CALITZ: It's a west, southwest
 20 direction, dit is korrek, mnr die Voorsitter.
 21 CHAIRPERSON: Just for the sake of the
 22 record, on slide 215 exhibit L what's being shown firstly
 23 is koppie 2, which is more or less in the middle of the
 24 slide. It's almost, virtually a semi-circle with a fair
 25 amount of green at one end and some in the middle. Then

Page 18693

1 from it is what looks like a column of people stretching
 2 down towards the, in the direction of the bottom right-hand
 3 corner of the slide, and then more or less in the middle of
 4 the right-hand side of the slide is half of koppie 1, which
 5 as Mr Budlender said extends to the right beyond the edge
 6 of the slide, and then koppie 3 is at a spot, as the
 7 Brigadier put it, more or less in the southwest corner, or
 8 actually slightly beyond the bottom right-hand corner of
 9 the slide, which is to the southwest of the scene as
 10 depicted on the slide.
 11 MR CHASKALSON SC: Then if I can ask us
 12 to go to JJJ178.3, which is an annexure to Mr White's
 13 statement, JJJ178.3, annexure GW6C to that statement at
 14 page 12, and that is a page on which the South African
 15 Human Rights Commission have identified, this in fact
 16 reproduces this slide and on that page the South African
 17 Human Rights Commission have identified each of the Nyalas
 18 and other armoured vehicles in this line that we see on the
 19 slide. So can I ask if that page gets called up, GW6C.
 20 That's correct, page 12. That's correct, and if we could
 21 zoom it up a little bit so that we can see the
 22 identifications, thank you. Now Brigadier, I'm not
 23 interested in the identification of any of the armoured
 24 vehicles that are remaining behind at scene 1 at this
 25 stage, but for present purposes if we focus on the line

<p style="text-align: right;">Page 18694</p> <p>1 that's formed up in front of koppie 2, are you in a 2 position to confirm the identification of the South African 3 Human Rights Commission on this slide? 4 BRIGADIER CALITZ: Dit is korrek, mnr die 5 Voorsitter. Ek kan my posisie aandui waar ek was en dit is 6 Pappa1. 7 MR CHASKALSON SC: And can you confirm 8 the correctness of the identification of the other armoured 9 vehicles in this line? 10 BRIGADIER CALITZ: Ek sal ongelukkig nou 11 nie vir u kan sê dit is korrek nie. Ek dink die bewyse wat 12 daar is, en dit wat u vir ons gewys het, sal ek u woord 13 daarvoor vat. Maar – 14 MR CHASKALSON SC: From our perspective 15 we're satisfied that it is correct, but there will 16 certainly be some identifications that you are able to 17 confirm. That for instance is the POPS Casspir – 18 BRIGADIER CALITZ: Ja. 19 MR CHASKALSON SC: - that I'm pointing 20 to, what is marked as Casspir A on the diagram. What's 21 marked as Casspir B on the diagram is the STF Casspir. 22 BRIGADIER CALITZ: Dit is korrek. 23 CHAIRPERSON: And the Scorpion is the 24 vehicle that's marked as Scorpion on the Casspir. That's 25 the STF Scorpion.</p>	<p style="text-align: right;">Page 18696</p> <p>1 Botha's video which has been shown in the Commission and I 2 must just get the exhibit number. Would you accept that 3 that is correct? It may have been formed up in fact a 4 little earlier, because what one sees on Colonel Botha's 5 video is Papa4, which is the last vehicle in the line, 6 moving into position – 7 CHAIRPERSON: So when you talk about the 8 line, you are referring to the line of vehicles stretching 9 from Papa4 to the left to Casspir A? 10 MR CHASKALSON SC: That's correct, 11 Chairperson. Also including Casspir B, although Casspir B 12 is not positioned in the line. Casspir B is part of the 13 same function that the line is performing. Would you 14 accept that timing, Brigadier, or would you want to see the 15 clip from Colonel Botha? 16 BRIGADIER CALITZ: Nee, mnr die 17 Voorsitter, ek dink as ons na die "exhibit" kan gaan dan 18 kan ons dit, na die tyd net kyk en as daar verskil is dan 19 sal ons terugkom. Ek dink nie dis nodig om nou die "clip" 20 te wys nie. Dit is tog wat, die linie waar ons geëindig 21 het. Ek dink die tyd waarna u verwys, 2:26, strook miskien 22 ook met iets wat ek dink gister of eergister gewys het. As 23 u kan reg onthou was daar ook daardie selfde tyd genoem. 24 MR CHASKALSON SC: It was, I gave a 25 similar time in relation to when the radio call to the TRT</p>
<p style="text-align: right;">Page 18695</p> <p>1 BRIGADIER CALITZ: En die waterkanon bo 2 hom, ja. Nee, dit is korrek. Waarna ek net verwys het is 3 die Pappa roepseine dalk van die Nyalas – 4 MR CHASKALSON SC: I understand, 5 Brigadier – 6 BRIGADIER CALITZ: Maar die res is, kan 7 ek vir u uitwys. 8 MR CHASKALSON SC: And you identified, 9 you confirmed that this was in fact the water cannon, but 10 there were two water cannons. Can you confirm that this 11 was the Johannesburg water cannon? 12 BRIGADIER CALITZ: Ek kan ongelukkig nie 13 vir u sê watter een is Johannesburg. Die ander een sien 14 ons daar net by Nyala 5 aan die noordekant bo, dit is die 15 ander een. Ek sien hy wys "North West" – 16 CHAIRPERSON: That's the North West one, 17 ja. 18 BRIGADIER CALITZ: Maar of dit Noordwes 19 of Johannesburg was kan ek nou nie vir u bevestig nie. 20 Maar dat dit twee waterkanonne is, beslis. 21 MR CHASKALSON SC: Thank you, Brigadier. 22 Now from the video footage that we have, we can show that 23 this line had formed up by 15:56:16 – 15:56:16 – eTV time, 24 which is two minutes and 26 seconds after the shootings, 25 and where we get that time from is 12 seconds into Colonel</p>	<p style="text-align: right;">Page 18697</p> <p>1 was. I think that's what you're referring to. 2 BRIGADIER CALITZ: Dit is korrek. Dis 3 hoekom ek sê dat ek dink ons twis nie oor daardie tyd nie, 4 as dit korrek is. 5 MR CHASKALSON SC: And when I say the 6 line was formed up, maybe I'm overstating it because in 7 fact the Johannesburg water cannon that we see there came 8 in a little later and there was a lengthy delay before the 9 North West water cannon that's marked in the top of the 10 screen made it's way to the line. Do you confirm that? 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 ja, daar was wel 'n tyd aan my genoem. Ek moet nou 13 heeltemal onder korreksie praat; daar was etlike minute wat 14 ek gewag het vir die waterkanonne om by te kom. Presies 15 kan ek nie vir u sê hoe lank nie. 16 MR CHASKALSON SC: Look, I can help you 17 there, Brigadier. We see the North West water cannon, 18 which is the second water cannon to come onto the, to reach 19 the line, the last water cannon to reach the line, which is 20 still behind the barbed wire on this slide, being marked 21 now with water cannon North West. We see that water cannon 22 reaching the line at eTV time 16:03:51 – 16:03:51 – and we 23 see that on the Protea Coin helicopter video at the 24 corresponding time to 16:03:51. 25 CHAIRPERSON: I don't think that makes</p>

<p style="text-align: right;">Page 18698</p> <p>1 sense, because presumably if the North West water cannon 2 was where it was initially, as we see on this slide, it 3 couldn't have gone – unless it went through the barbed wire 4 fence. It would have had to go around, is that correct? 5 So it would have taken some time to get to this line that 6 we're now talking, the reorganised line. Is that correct? 7 BRIGADIER CALITZ: Korrek, mnr die 8 Voorsitter. 9 MR CHASKALSON SC: So this line in the 10 form that we see was essentially static in that form - I 11 say essentially; there were one or two slight movements 12 that we might discuss - for a period of seven and a half 13 minutes. 14 BRIGADIER CALITZ: Dit kan – ek het nie 15 die tyd uitgewerk nie, maar ek aanvaar dit is korrek. 16 MR CHASKALSON SC: Now Brigadier, if we 17 keep this image in mind, and I'd ask the video operators to 18 hold, to have this slide accessible so that we can put it 19 back up, and look for a moment at what the original plan 20 was, which is set out at slide 181 of exhibit L, so let's 21 look at slide 181 of exhibit L, and if I can just identify 22 certain landmarks on slide 181. Where the T for target is, 23 is koppie 1. Can you confirm that, Brigadier? 24 BRIGADIER CALITZ: Korrek, mnr die 25 Voorsitter.</p>	<p style="text-align: right;">Page 18700</p> <p>1 left of the icon of the blue man at the top of the four 2 blue men, I'm trying to describe it in terms that will make 3 sense on the record, but you can see what I'm identifying, 4 Brigadier. 5 CHAIRPERSON: Well, what you're 6 identifying is a red vehicle at the corner of the small 7 kraal. What I suspect actually happened was that if Nyala 8 6, - sorry, Nyala 4 had to accelerate and advance towards 9 the small kraal that I suspect cut the corner there, didn't 10 go through the position indicated for Nyala 5. The one 11 next to the kraal is supposed to be Nyala 6, if one counts 12 it. We know that's not the one that reached the corner of 13 the kraal, so I suspect that, if I'm wrong I hope I'll be 14 corrected, that the line of the fenced area was in fact 15 from where, close to where the fourth Nyala is depicted on 16 this image through to the corner of the little kraal, is 17 that right? In other words that corner was cut? 18 MR CHASKALSON SC: Yes, Chairperson and 19 Brigadier, would you confirm that too? 20 BRIGADIER CALITZ: Ek dink daar is foto's 21 wat dit aandui, die rigting van daardie draad, mnr die 22 Voorsitter. 23 MR CHASKALSON SC: I merely wanted to 24 identify the position of the small kraal but we're all on 25 the same page now. Now if one looks at this picture and</p>
<p style="text-align: right;">Page 18699</p> <p>1 MR CHASKALSON SC: The darker coloured 2 patch to the north of the T for target is koppie 2. 3 BRIGADIER CALITZ: Die een net noord van 4 die blou pyl, dit is korrek, mnr die Voorsitter. 5 MR CHASKALSON SC: North of the – 6 BRIGADIER CALITZ: North – 7 MR CHASKALSON SC: - second blue arrow. 8 BRIGADIER CALITZ: Dis korrek, mnr die 9 Voorsitter. 10 [14:24] MR CHASKALSON SC: The area, as we look 11 at the slide, to the left of the first blue arrow with the 12 dark colouring is koppie 3, the darker colouring. 13 BRIGADIER CALITZ: Dit is korrek, mnr die 14 Voorsitter. 15 CHAIRPERSON: Just to the right of the 16 big white box with phase 2 in it? 17 MR CHASKALSON SC: Yes, that's possibly a 18 better way of describing it, Chairperson, and the orange 19 line that runs through the arrows at the end of the box 20 describing phase 1 is the barbed wire line running up to 21 and in fact on the plan a little bit past the small kraal. 22 BRIGADIER CALITZ: Tot by die hoek van 23 die klein kraal. 24 MR CHASKALSON SC: Yes, Chairperson, yes, 25 Brigadier, and the little kraal is what we see just to the</p>	<p style="text-align: right;">Page 18701</p> <p>1 compares it with the picture on slide 215, sorry, before we 2 leave slide 181, these Nyalas, the blue vehicles with a 3 sort of brown/green coloured vehicle in the middle, a line 4 of five of them, represent the POP's armoured vehicle line. 5 BRIGADIER CALITZ: Dit sal korrek wees, 6 dit is die eerste linie, "dispersion line". 7 MR CHASKALSON SC: Yes, Chair, thank you, 8 Brigadier, and behind is the second line of, which was 9 supposed to be TRT, NIU and STF. I understand that the, - 10 well, Specialised, let's call them the Specialised Forces, 11 the line of Specialised Forces with armoured vehicles on 12 the outside. 13 BRIGADIER CALITZ: Dit is korrek, mnr die 14 Voorsitter, dit is die lyn van TRT wat dan, ek dink as u na 15 die rooi verwys wat dan koppie 2 moes "sweep" en dan die 16 Specialised Forces, NIU, STF, koppie 1. 17 MR CHASKALSON SC: If we now move back to 18 slide 215 or even, - sorry, either that or the page of 19 Exhibit JJJ1783, whichever is the quickest, here we are, 20 slide 215. What I would like to put to you is that in 21 broad terms the picture that we see here broadly 22 corresponds to what the plan was and what I want to put to 23 you on that basis is that by this stage SAPS had put the 24 plan back on track, so let's start with the second 25 question. Would you accept that by this stage SAPS had put</p>

Page 18702

1 the plan back on track in broad terms?
 2 BRIGADIER CALITZ: Die "back on track"
 3 sou ek nie sê nie, mnr die Voorsitter, want ons het reeds
 4 begin met die "dispersion action", so daar was reeds aksie
 5 geneem teen hulle. Ek sou sê hierdie is miskien 'n opvolg
 6 en dit is waarna ons in my vorige, die opspraakwekkende,
 7 waarna ek verwys het van "follow up in that line," dit is
 8 waarna ek verwys het en vir die lede gesê het hulle het so
 9 opgevolg. So hierdie is nie van vooraf nie, hierdie is 'n
 10 opvolg aksie, as ek dit so kan stel.
 11 CHAIRPERSON: But, Brigadier, could we
 12 put it this way? If what happened with the shooting at
 13 kraal 1, scene 1 –
 14 BRIGADIER CALITZ: Ja –
 15 CHAIRPERSON: - scene 1, is described as
 16 a disruption of phase 3, then phase 3 got back on track at
 17 the point which is depicted on this slide, would that be
 18 right?
 19 BRIGADIER CALITZ: Dit is korrek, mnr die
 20 Voorsitter, dit is waar ons dan opgevolg het. Daar was
 21 wel, al wat ek net wil sê, 'n uiteendrywing gewees tussen
 22 hierdie, van insident 3 af tot waar hy hier is, was dan 'n
 23 uiteendrywing van protesters, skare.
 24 MR CHASKALSON SC: And, Brigadier, if we compare
 25 this slide with the previous slide we see that it shares a

Page 18703

1 lot of the peaches at the pan, so the barbed wire is in
 2 position, the safe area has been enclosed and I'm marking
 3 the line from the barbed wire Nyala trailer on the right
 4 hand side of the slide which is in fact Nyala 2, through to
 5 Nyala 3 which is stopped by the mast, through to Nyala 4 at
 6 the corner of the kraal. On the plan the barbed wire was
 7 supposed to look a little bit different, as the chairperson
 8 pointed out but nothing really is going to turn on it at
 9 this stage, would you agree with that?
 10 BRIGADIER CALITZ: Ja, nee, ek dink
 11 daardie posisie is korrek, mnr die Voorsitter. Op die plan
 12 sou ons dalk miskien om hierdie bossie of Nyala 5 was op
 13 hierdie stadium, maar daar kan ons dan sien wat ons
 14 voorheen bespreek het, die hoek wat 'n bietjie, as ons kan
 15 noem, gesny is, ja.
 16 MR CHASKALSON SC: And when the plan was
 17 taking place, if we can go back to 181 quickly, there was
 18 going to be a line of POP's vehicles to the north of koppie
 19 2, if we go back and if we slip back to 215 we'll see that
 20 that is in fact what we see there. So this line of pop's
 21 vehicles was formed up in pretty much the position that the
 22 plan had contemplated relative to koppie 2.
 23 BRIGADIER CALITZ: Ek dink dit is soos
 24 ons die voorligting vir die persone gegee het om dan in
 25 daardie lyn uit te beweeg, dit is korrek, mnr die

Page 18704

1 Voorsitter.
 2 MR CHASKALSON SC: There was a slight
 3 change in that the plan contemplated that there would be
 4 people on, that there would be strikers on koppie 1 but by
 5 the time the, after scene 1 there were no longer strikers
 6 on koppie 1, they had all left koppie 1 and if they hadn't
 7 dispersed entirely they were congregated in this line,
 8 leading up the back of koppie 2.
 9 BRIGADIER CALITZ: Nee, mnr die
 10 Voorsitter, u sê "entirely dispersed" of wat het u gesê,
 11 "entirely" uiteengegaan, hierdie was net 'n klein deel van
 12 die groepie. As ek sê hierdie is dit die persone wat in
 13 'n, hoe kan ons sê, in 'n suidelike rigting of suid of dan
 14 weer terug noord beweeg, daardie lyn. Dit is die klein
 15 groepie waarna ons verwys, die res van die persone was
 16 buite beeld, hier was 'n groot groep, as ek sê hier bedoel
 17 ek aan die westekant, onder die helikopter was 'n groot
 18 groep wat dan die westekant toe beweeg het, die 2 na 3,000,
 19 so hulle het nie hier uiteen gegaan nie. Daar was nog
 20 steeds, hulle was staties nog in die veld, kan ek dit so
 21 stel.
 22 MR CHASKALSON SC: Brigadier, maybe if we
 23 can go to another picture, a photograph that might help us
 24 to see what you're describing.
 25 CHAIRPERSON: The point is, it is clear

Page 18705

1 is it not, that this group we see on this slide aren't
 2 3,000 people?
 3 MR CHASKALSON SC: No.
 4 CHAIRPERSON: I don't know how many
 5 people are there but an exercise may have to be performed
 6 or may not have to be performed, but clearly a significant
 7 number of people are now gone from the 3,000, that must be
 8 right?
 9 BRIGADIER CALITZ: Ja, ek wil net
 10 versigtig wees vir oor die term "gone", hulle was nog
 11 steeds op die –
 12 CHAIRPERSON: Gone from the scene, gone
 13 from the picture we see.
 14 BRIGADIER CALITZ: "Gone from the picture
 15 we see," as ek dit so kan –
 16 CHAIRPERSON: You say there were many of
 17 them to the left of the slide –
 18 BRIGADIER CALITZ: The western area –
 19 CHAIRPERSON: - which is the western side
 20 area below the helicopter.
 21 BRIGADIER CALITZ: Miskien in die rigting
 22 van die bladsynommer 215, mnr die Voorsitter, asook die wit
 23 helikopter wat dan, u sal sien daar loop egter, as ons dit
 24 kan sê, kraggrade, oorhoofse kraggrade dink ek loop af van
 25 die noordelike rigting in 'n westelike rigting, buite

<p style="text-align: right;">Page 18706</p> <p>1 beeld, links van die, wes van die wit helikopter wat ons 2 daar in die beeld sien, reguit af in die rigting van die 3 bladsynommer 215. So dit is ook waar 'n groot grope mense 4 dan heen beweeg het en in groepies gaan staan het daar. 5 COMMISSIONER HEMRAJ: Mr Chaskalson, 6 please assist me with something, perhaps I misunderstand. 7 This line of vehicles that you've been referring to on 8 slide 215, you're not suggesting that that's the initial 9 dispersion line up as it appears on the plan in the 10 previous slide that you showed? 11 MR CHASKALSON SC: No, I am suggesting 12 that it is broadly similar, it is very similar to the 13 initial dispersion line. What it doesn't have, it is the 14 POP's dispersion line, it is the line of POP's vehicles 15 which, as the brigadier testified, had been previously at 16 the briefing instructed that this was the point at which 17 they would form up. 18 COMMISSIONER HEMRAJ: But on the plan 19 this POP's line is before any dispersal takes, before 20 dispersion action takes place. This is a regrouping as I 21 understand, after a dispersal action has already taken 22 place, or am I mistaken, am I missing something? 23 MR CHASKALSON SC: Well, there has been a 24 confrontation at scene 1 already by the time we see this 25 picture, which wasn't part of the plan.</p>	<p style="text-align: right;">Page 18708</p> <p>1 COMMISSIONER HEMRAJ: Are you saying 2 there is a further regrouping after this line on 215? 3 MR CHASKALSON SC: That's what the 4 presentation says, I don't know what the brigadier's 5 evidence is in that regard, but the only proposition I want 6 to put to the brigadier is that the original plan 7 contemplated a POP's line to the north of koppie 2 prior to 8 the dispersal action of the protestors that remained at 9 koppie 2 and koppie 1. What we see now is a POP's line to 10 the north of koppie 2 after some of the protestors have 11 been dispersed following the events at scene 1, but there 12 remains a congregation of protesters behind koppie 2 and 13 that broadly the arrangement of vehicles that we see is in 14 accordance with what the plan contemplated. 15 CHAIRPERSON: - the witness to agree that 16 this was in effect more or less a resumption of phase 3, 17 that's what he said earlier. Did I understand correctly? 18 BRIGADIER CALITZ: Ek probeer net sin 19 maak, mnr die Voorsitter, verskoon my. Ek het getuig, as 20 ek net u woorde kan, dat hier is dit reeds, ek het 21 verduidelik nadat ons die opdrag gegee het om te gaan 22 disperse, so dit was die naaste moontlike manier of plek 23 waar ek dan weer kon regroup om dan die forces, as ek dit 24 so kan stel, weer in plek te kry. As ek deurbeweeg het 25 byvoorbeeld na die river bend toe, hier, nadat ons gesien</p>
<p style="text-align: right;">Page 18707</p> <p>1 COMMISSIONER HEMRAJ: And according to 2 the brigadier, I beg your pardon, and according to the 3 brigadier he already drove across the fence, etcetera, to 4 disperse, so this is a regrouping after some sort of action 5 has taken place? 6 MR CHASKALSON SC: Yes, yes. 7 COMMISSIONER HEMRAJ: Yes. 8 MR CHASKALSON SC: Yes, absolutely but 9 the point that I was putting to the brigadier is that the 10 regrouping is in broadly the same position and the same 11 form that the plan contemplated that the dispersion line 12 would initially have formed up if there hadn't been any 13 interference with it. 14 COMMISSIONER HEMRAJ: Is there not also 15 provision on the plan for a regrouping of a similar sort in 16 the riverbed for them to reassess their position? 17 MR CHASKALSON SC: Yes, Chairperson, and 18 according to Exhibit, the riverbed I'm marking now is an 19 indentation that runs about, roughly a third of the way up 20 the page that one can see on the slide 215. According to 21 the presentation there was after this group that we see on 22 slide 215 was dispersed, there was thereafter a regrouping 23 on the dry riverbed. We can get to that point in due 24 course with the brigadier but I don't need to get there 25 yet.</p>	<p style="text-align: right;">Page 18709</p> <p>1 het toe ons daar aankom, hier staan 'n groep staties, sou 2 dit sinneloos gewees het om hier te gaan op groepeer. 3 Hierdie groep sou ons dan terug gejaag het in 'n, kan ek sê 4 in 'n noord oostelike rigting wat glad nie die doel was 5 nie, die doel was, onthou ons het gesê as ons will 6 "disperse" sou dit in, af na die onderkant van die bladsy, 7 hier waar die veld brand, in 'n westelike rigting moes ons 8 almal ge-disperse het. 9 So wat ons hier doen, alhoewel dit dieselfde lyk 10 is dit net 'n plan wat miskien weer van vooraf in werking 11 gestel, hier was die "dispersion" klaar gewees, hierdie 12 'n opvolg aksie waar ek my voertuie in lyn moes kry, seker 13 gemaak het dat een van my verantwoordelike, van my 14 bevelvoerders, wat gaan aan, wat is in plek en ek dink ook 15 dit is, u het nou verwys self daarna, mnr Chaskalson, waar 16 ek dan teruggekyk het, as ek nou so ver kan gaan en 17 verduidelik, dat daar is die, hier is my voertuig en toe ek 18 nou terugkyk toe sien ek dat die TRT nie opvolg nie. Nou 19 as u na slide 181 verwys, die doel was na hulle 20 "dispersion" moes hulle dan uitkom en hulle moes hierdie 21 koppie kom vee met 'n vee aksie en 'n deursoekingsaksie om 22 te kyk wat lê agter. 23 CHAIRPERSON: Hierdie koppie synde – 24 BRIGADIER CALITZ: Koppie 2 – 25 CHAIRPERSON: Koppie 2?</p>

<p style="text-align: right;">Page 18710</p> <p>1 BRIGADIER CALITZ: Koppie 2, mnr die 2 Voorsitter. So die groep wat uiteen sou gaan, dit is nie 3 te sê dat hulle het niks agter gelaat nie, en net plein weg 4 "disperse" nie. Die doel van die TRT was, hulle sou 5 hierdie koppie tydens die voorligting moet deursoek en dan 6 die doel van die NIU wat daar in 'n lyn is, asook die 7 taakmag, die SDF, hulle sou dan die groter koppie, hier 8 verwys ek na koppie 1, gaan deursoek het. Dit was die plan 9 gewees want op daardie koppie, koppie 1 en koppie 2, sou 10 dan daar moontlike gevaarlike wapens agter gelaat gewees 11 het en dit was die doel hoekom hulle dan opgevolg het. 12 Tweërlei, die Taktiese Response Eenheid, van hulle dan ook 13 saam met die Openbare Orde voertuie om dan arrestasie 14 tegnieke uit te voer in die veld soos ons dan opvolg, dit 15 was die kort en die lank miskien. 16 COMMISSIONER HEMRAJ: And on this slide 17 where would that line of POP be that is shown on slide 181 18 as the initial dispersion line? 19 BRIGADIER CALITZ: Kommissaris, dit sal 20 'n bietjie verder terug wees, as u kyk waar die kraal is, 21 kraal 1, 45 grade, dit sou miskien, as ons dan sou 22 uitbeweeg daar dan sou ons miskien so op vorm dat daar 'n 23 spasie is waar ons dan die waarskuwing sou gegee het met 24 die waterkanonne voor en die TRT agter, en dan sou die 25 waarskuwing in hierdie rigting. Ons sou nie so na aan</p>	<p style="text-align: right;">Page 18712</p> <p>1 die doel was van die Taktiese Response Eenheid, as ek reg 2 verstaan het, waarna ons verwys het omdat ek teruggekyk het 3 en gevra het waar is hulle, dit is omdat hulle moes 4 opgevolg het saam met ons om dan hierdie koppie spesifiek 5 te kom, wat ons noem 'n "sweep", 'n vee aksie, om dan die 6 koppie te deursoek het volgens die plan en dan – 7 CHAIRPERSON: What you showed was the 8 Tactical Reaction Unit still in position, more or less at 9 scene 1. 10 BRIGADIER CALITZ: Dit is korrek, mnr die 11 Voorsitter. 12 CHAIRPERSON: In the vicinity of that 13 small corrugated iron shack and you've indicated they were 14 supposed to come around, to the left on the slide – 15 BRIGADIER CALITZ: Die enigste – 16 CHAIRPERSON: Around the small kraal and 17 then proceeded in the direction of the line that you 18 referred to, is that right? 19 BRIGADIER CALITZ: Dit is korrek, mnr die 20 Voorsitter. 21 CHAIRPERSON: In order to sweep koppie 2? 22 [14:44] BRIGADIER CALITZ: "To sweep" en dan die 23 ander waarna ek verwys het was dan die NIU lyn, as ek so 24 kan verwys, miskien as ons sê aan die westekant van Nyala 25 3, Nyala 3 se statiese posisie, aan sy westekant is daar 'n</p>
<p style="text-align: right;">Page 18711</p> <p>1 hulle gekom het, onthou hulle sou, die plan was hulle sou 2 steeds op koppie 2, koppie 1 gesit het en hier was ook 'n 3 groot groep wat ons na die militante groep verwys. So die 4 hele gebied – 5 CHAIRPERSON: You must give me a chance 6 to put some of that on record. What you're indicating was 7 the line where you intended to form up according to the 8 original plan, where you would have given the warning, 9 would it stretch more or less from under that helicopter as 10 we see at the left hand side of the page, - 11 BRIGADIER CALITZ: To the small – 12 CHAIRPERSON: - across to, more or less 13 the small kraal? 14 BRIGADIER CALITZ: Ja, 'n bietjie weg van 15 die small kraal af, maar ons kan sê in daardie rigting. 16 CHAIRPERSON: A bit below the small kraal 17 as we see it on the picture, right? 18 BRIGADIER CALITZ: Ja, ja, dit is – 19 CHAIRPERSON: Alright that is the first 20 thing you said. Then you pointed to koppie 2, I think? 21 BRIGADIER CALITZ: Ja. 22 CHAIRPERSON: You referred to that, that 23 is essentially what you said, was there anything else that 24 you said, while pointing to something on the screen? 25 BRIGADIER CALITZ: Nee, ek wou net sê wat</p>	<p style="text-align: right;">Page 18713</p> <p>1 lyn van persone. Dit is die NIU lyn. 2 CHAIRPERSON: Yes, you point out the NIU 3 which are more or less in the middle of the picture below 4 the barbed wire barricade that had been erected, and below 5 the barbed wire Nyala which is the, I think is number 3, 6 but it's the second one which we can see here moving from 7 the right of the picture, more or less in the middle of the 8 picture. That was the NIU group. 9 BRIGADIER CALITZ: Korrek. 10 CHAIRPERSON: And they were supposed to 11 move forward to sweep koppie 1. Is that correct? 12 BRIGADIER CALITZ: Koppie 1 saam met die 13 STF, die Spesiale Taakmag. 14 CHAIRPERSON: Okay, together with the 15 Special Task Force. 16 BRIGADIER CALITZ: Korrek. 17 CHAIRPERSON: So I think we've now got on 18 record all the things you've pointed out. 19 BRIGADIER CALITZ: Dit was die plan 20 gewees, ja, dankie, mnr die Voorsitter. 21 MR CHASKALSON SC: Brigadier, let's start 22 with koppie 1. Or let me start somewhere else. Let's 23 assume - and I'm going to put a hypothetical scenario to 24 you - let's assume there had been no disruption at scene 1, 25 that the barbed wire had rolled out as planned, that you</p>

<p style="text-align: right;">Page 18714</p> <p>1 had come out and given a warning and that in response to 2 your warning there had been a partial dispersion and the 3 scene that remained in terms of the position of the 4 protesters was what we see here, that some of the 5 protesters had dispersed west, others had congregated in a 6 line that we see. All of the protesters had left koppie 1. 7 Assume that had happened. How would the layout of your 8 vehicles and the positioning of your vehicles at that point 9 have differed from what we see now, on the basis of that 10 hypothetical scenario? 11 BRIGADIER CALITZ: As ek u vraag reg 12 verstaan, ons sou dan opgevorm gewees het tussen die wit 13 helikopter en dan die klein kraal. Van daar sou die 14 waarskuwing gegee gewees het aan die skare dat ek sou hulle 15 20, 30 minute kans gegee het om uiteen te gaan. Ons sou 16 vir hulle verduidelik het om in 'n westelike rigting uiteen 17 te gaan aangesien die draad toe is, en aan die suidekant 18 van koppie 1 het ons dan die kragtasie. So die enigste 19 moontlike opening en spasio waarnatoe hulle kon beweeg was 20 dan in 'n westelike rigting. So ons sou dan in 'n, die 21 taal wat hulle verstaan deur middel van die "interpreter" 22 sou ons van daardie posisie af vir hulle dit gesê het en 23 sou hulle gereageer het – 24 CHAIRPERSON: That's the position I 25 indicated previously where you –</p>	<p style="text-align: right;">Page 18716</p> <p>1 the people, and you then indicated that this line is the 2 line we can see on the slide, of people, it's a line or 3 column almost stretching from koppie 2 to the bottom right- 4 hand corner of the slide. 5 BRIGADIER CALITZ: Ja, die enigste 6 verskil is dat as ons dan sou opvolg, daar sou dan die TRT 7 lyn ons gevolg het sodat wanneer hierdie groep dan opbreek 8 in kleiner groepies en ons hulle omsirkel en arrestasies 9 uitvoer, sou hulle dan "assist" het. Hulle sou ons 10 bygestaan het daarmee. 11 MR CHASKALSON SC: So Brigadier, if I 12 understand your answer correctly, the most important 13 difference, or let me put it this way, the only material 14 difference between what would have happened on my 15 hypothetical scenario and what actually happened, which is 16 seen in an earlier stage here and then would also involve 17 of course what happened when the water cannon finally came 18 around and you proceeded to disperse this line, the only 19 material difference is that you didn't have a TRT line 20 behind you to act as a protection line for the POPS. Would 21 you accept that that's the only material difference? 22 BRIGADIER CALITZ: Op hierdie stadium, en 23 waar ons voorheen was? 24 MR CHASKALSON SC: Sorry, Brigadier, I'm 25 not sure I'm understanding.</p>
<p style="text-align: right;">Page 18715</p> <p>1 BRIGADIER CALITZ: Dit is die posisie 2 soos ons die aanvanklike plan was, mnr die Voorsitter. Die 3 TRT lyn sou agter ons opgevorm het en dan sou hulle 4 gereageer het. U vraag is, of die proposisie wat u stel is 5 indien hulle sou gereageer het net op hierdie stadium dat 6 die koppie 1 en koppie 2 leeg is maar nog steeds op vorm, 7 sou dit dan na my waarskuwing gewees het. So die 8 waarskuwing sou gelees het, en ek dink ek het dit op 'n 9 stadium vir mnr die Voorsitter gesê, dat indien u nie 10 uiteengaan en u wapens neerlê nie sal daar teen u opgetree 11 word, en ons sou dan die force kontinuum vir hulle 12 verduidelik het hoe daar teen hulle sou opgetree word, en 13 dan sou ons vir hulle gesê het die persone wat agterbly op 14 die toneel en nie uiteengaan nie, daar sal teen julle 15 opgetree word met die "dispersion action," waarop julle dan 16 gearresteer sou word. Ons sou dan verduidelik het dit is 17 'n "illegal gathering" en so meer, so as u vir my nou vra 18 dat die mense, dit is al hoe hulle "ge-disperse" het, net 19 daardie groepie en net daardie groepie, dan sou daardie 20 voertuig lyn van my onder opdrag vorentoe gekom het met die 21 waterkanon en ons sou voortgegaan het met die "dispersion," 22 opbreek in kleiner groepe, "encircling," isoleer, en ons 23 sou hierdie mense ontwapen en gearresteer het. 24 CHAIRPERSON: You indicate first it was 25 koppie 1 which is now, which has been vacated presumably by</p>	<p style="text-align: right;">Page 18717</p> <p>1 BRIGADIER CALITZ: Oukei, die "material 2 difference" is as, soos ek u reg verstaan, as ons dan 3 opgevorm het tussen die wit helikopter en die hoek van die 4 klein kraal, soos ek voorheen verduidelik het, en die TRT 5 agter ons sou opgevorm het, die eerste ding wat sou verskil 6 is daar sou ons die geleentheid gegee is, gegee word om dan 7 'n waarskuwing aan die persone te gee. Ek het die 8 waarskuwing mooi uiteengesit. So dit is die eerste 9 verskil. 10 In hierdie geval het die TRT gereageer agter, so 11 hulle kon ons nie opvolg om te help met die arrestasie, 12 alhoewel daar hier en daar wel TRT saam was, maar die 13 groter groep het agtergebly en kon dan nie van hulp wees 14 met van die arrestasie tegnieke nie. So dit is die eerste 15 verskil, en dan het ons na dit reeds begin met die 16 uiteendrywing. 17 So, en die tweede verskil wat ek – ja dis 18 omtrent, dit is hoe die lyn sou op vorm miskien met die 19 Scorpion "vehicle" dan na koppie 1 toe omdat STF en Taakmag 20 miskien daardie kant gaan deursoek. So dis die verskille, 21 as ek u proposisie reg verstaan het. 22 MR CHASKALSON SC: Okay, you see what I 23 want to put to you in this regard is that whatever 24 disruption was caused to the plan at phase 1 in relation to 25 scene 1 by the advance of the strikers at scene 1, by this</p>

<p style="text-align: right;">Page 18718</p> <p>1 stage that disruption was no longer exercising a material 2 impact on the police operation, that the police had 3 essentially recovered their position and were in a position 4 that they would broadly have been in had the plan not been 5 disrupted. Would you accept that? 6 BRIGADIER CALITZ: Ek sou sê nie 7 heeltemal nie, maar ek kan met u saamgaan en hoor waarnatoe 8 u miskien gaan, maar nee, nie heeltemal nie, omdat ek, die 9 redes wat ek reeds vir u gegee het. Ons het reeds begin 10 uiteendryf en nadat u 'n skare begin uiteendryf het is die 11 hele scenario verander hy, verstaan. Voor ek u waarsku sou 12 u rustig wees. U sou sit en ek sou 'n waarskuwing vir u 13 gegee het en dit sou – maar vandag ons begin “disperse” dan 14 verander die hele dinamika van die omgewing, met ander 15 woorde die mense wat wegbeweeg hier na die weste toe, dis 16 nuwe groepe wat vorm. As ons kyk die persone wat wegbeweeg 17 het, byvoorbeeld een, die veld wat aan die brand gestek 18 is, daar is dinamiese verskille. Die groep het anderste 19 gereageer. So die hele scenario, prentjie, omstandighede, 20 het dan begin verander en sou nie so rustig gewees het as 21 ons 'n geleentheid gehad het om dan hulle die geleentheid 22 te gee om te waarsku, vreedsaam uiteen te gaan, en dan 23 indien die wapens neergelê is sou hulle nog steeds deur die 24 filterlyne gegaan het en ons sou die mense net deursoek het 25 en daar sou geen insidente plaasgevind het op daardie</p>	<p style="text-align: right;">Page 18720</p> <p>1 MR CHASKALSON SC: Well, you talk about 2 people dispersing in a westerly direction. Can I ask you 3 to look at a different slide, or a different photograph? 4 It is Captain Nel's aerial photograph 1178, JJJ6.1178, and 5 can we call that photograph up? 6 BRIGADIER CALITZ: Was dit van die nuwe 7 versoeke wat u deurgegee het? 8 MR CHASKALSON SC: Yes, yes, Brigadier. 9 BRIGADIER CALITZ: Oukei, so hulle sal 10 aan die voorste kant van my – is ons klaar met die – 11 MR CHASKALSON SC: Mark it, because we 12 may have to come back to it. 13 CHAIRPERSON: [Microphone off, inaudible] 14 back to 215 later, I think. 15 BRIGADIER CALITZ: Let me take it out, 16 otherwise I'm – 17 MR CHASKALSON SC: Maybe not later today 18 though, if I look at the time. While the Brigadier is 19 finding his photograph, can I ask that we zoom in a little 20 bit on koppie 3, which is the rocky outcrop around the 21 middle of the picture. Can we scroll down so that we see 22 the bottom half of the picture? All the way down to the 23 bottom half of the picture, and what we want is the bottom 24 left quarter of the picture. 25 CHAIRPERSON: Is that koppie 3?</p>
<p style="text-align: right;">Page 18719</p> <p>1 stadium nie. 2 CHAIRPERSON: In paragraph 119 of your 3 statement, JJJ107, you say this, “While waiting next to 4 koppie 2 for the water cannons to join the line,” you're 5 obviously talking now about the situation where you were 6 waiting in that line which we see in slide 215. I take it 7 that's right, isn't it? Sorry, you want to catch up first, 8 sorry. It's page 24 of your statement, paragraph 119. 9 Okay, “While waiting next to koppie 2 for the water cannon 10 to join the line,” that's presumably the situation as we 11 see it here on this slide, “we saw several people running 12 in northerly and westerly directions.” So those running in 13 the northerly direction were going to the left of the slide 14 as we saw it, in the direction of the area under the 15 helicopter effectively, and those going in the westerly 16 direction were the ones running more or less parallel with 17 that line of people we saw stretching out from koppie 2. I 18 take it that's right. “I instructed the water cannons to 19 move with some of the Nyalas in order to continue with the 20 dispersal action as per their briefing received.” So “as 21 per their briefing received” obviously relates back to the 22 plan and the briefing they received at about 2:30 that 23 afternoon. Is that right? 24 BRIGADIER CALITZ: Korrek, mnr die 25 Voorsitter.</p>	<p style="text-align: right;">Page 18721</p> <p>1 MR CHASKALSON SC: Brigadier, will you 2 confirm that what we see in the foreground of this picture 3 is koppie 3, the sort of bushes and rocks that we see in 4 the foreground of this picture? 5 BRIGADIER CALITZ: Ek probeer dit nou net 6 vergelyk met daardie bladsy 12 van die vorige een. Ek sien 7 die Casspir en die waterkanon, so die, dan die onderkantste 8 regterkantste moet dan koppie 3 wees, op bladsy 12, as 9 hierdie koppie 3 voor my is. As u met my is? Is die foto 10 geneem – kyk net op u bladsy 12, dis nie nodig dat ons – 11 heel regs onder, die een waarna u verwys het. 12 MR CHASKALSON SC: No, Brigadier, what – 13 BRIGADIER CALITZ: Dit is die koppie dan. 14 MR CHASKALSON SC: No, Brigadier, maybe 15 to orient yourself, look at the line of people behind 16 koppie 2 and you'll see that the koppie that I identified 17 on page 12 to the right of that line is koppie 1, whereas 18 on this picture if we zoom back out, can we zoom back out? 19 BRIGADIER CALITZ: Oukei, daar sien ek – 20 MR CHASKALSON SC: I am marking the line 21 over here. 22 BRIGADIER CALITZ: Daar sien ek dit nou, 23 ja. Nee, ekskuus. Ja, noudat hy bietjie verder uitgaan, 24 ja. 25 MR CHASKALSON SC: Ja, so this is koppie</p>

Page 18722

1 3. You confirm –

2 CHAIRPERSON: What you are showing is an

3 area to the left, as one looks at the photograph, of the

4 sort of hump on which one sees people, various colour T-

5 shirts. That's correct, isn't it?

6 MR CHASKALSON SC: Yes, Chairperson. Now

7 Brigadier, just to orient yourself, again I'm marking the

8 position of your Casspir there, which is – and the easy way

9 of identifying the position of your Casspir is there's this

10 dark – sorry, Nyala, there's this dark patch of ground just

11 in front of koppie 2 and yours is, there's one Nyala in the

12 dark patch and yours is always to the left of the - well,

13 to the left of the dark patch as we face it, to the right

14 as you face it in your Casspir. So that's your Casspir,

15 Papa1.

16 BRIGADIER CALITZ: Dit is korrek, mnr die

17 Voorsitter.

18 CHAIRPERSON: Of course another way of

19 doing it is to say it's the fifth Nyala in that line,

20 counting from the left. Is that correct? Or have I got it

21 wrong?

22 BRIGADIER CALITZ: As we look at -

23 MR CHASKALSON SC: Chairperson, there's a

24 Scorpion and a water cannon and a Casspir –

25 CHAIRPERSON: Oh, sorry, okay. I take

Page 18723

1 the correction. The fifth vehicle counting from the left

2 of that line.

3 MR CHASKALSON SC: There's in fact an STF

4 armoured vehicle there as well, so I'm not sure if you're

5 counting both it and – you seem not to be counting both it

6 and the water cannon behind it.

7 CHAIRPERSON: [Microphone off, inaudible]

8 MR CHASKALSON SC: Fifth white vehicle

9 from the left, I'll settle for, Chairperson. Brigadier,

10 when you talked about people dispersing to the west, from

11 your Casspir here did you see people disperse – sorry, as

12 Commissioner Hemraj points out, it's a Nyala – did you see

13 people dispersing into this koppie where we see people

14 gathered on the rocks at the top of the koppie, koppie 3?

15 BRIGADIER CALITZ: Mnr die Voorsitter,

16 nee, ek kan nie rêrig vir u sê op daardie stadium het ek

17 die persone, die paar wat hier, wat in die foto is gesien,

18 nee. Die wat sigbaar was van my Nyala, as ons na die ander

19 foto ook weer kan sien, u kan die lyn sien. Ek kan 'n

20 gedeelte gesien het van die persone wat wel, ek dink vroeër

21 in my getuienis het ek gesê lyk of hulle stilgestaan het.

22 So ek kon 'n gedeelte van hulle sien. Daardie rots – as ek

23 sê "daardie rots" is dit koppie 2 – is redelik hoog en

24 versper 'n redelike gedeelte van die Nyala se sig. As ek

25 praat van mense in die weste wat wegbeweeg het, dan is dit

Page 18724

1 totaal na die, soos ons nou na die foto kyk, na die

2 linkerkant van hierdie foto, nie na die koppie toe nie, na

3 die "village" se kant, asook in die veld, af van die foto

4 af.

5 MR CHASKALSON SC: I think the reason for

6 our misunderstanding, Brigadier, is in fact if one draws a

7 line due west from koppie 2 over here, one gets into koppie

8 3. The line west is from koppie 2 through towards the

9 bottom of koppie 3. So you're talking about people who are

10 dispersing northwest in some cases there, and southwest in

11 some cases here. Is that correct?

12 BRIGADIER CALITZ: Miskien nie

13 "southwest" nie. Ek sou sê "northwest." As ek weer na

14 "slide" 181 kyk, hy het vir my 'n rigtingaanduiding waar

15 noord is. So ek sou sê noordwes en verder wes verby koppie

16 3, met ander woorde na die linker onderste hoek van hierdie

17 foto.

18 CHAIRPERSON: Northwest would be parallel

19 with this line of white vehicles, towards the bottom of

20 the, closer to the bottom of the picture than – in other

21 words on the lower side of the picture rather than the

22 upper side of the picture, but parallel with the line of

23 white vehicles, that's northwest, and the westerly moving

24 ones –

25 BRIGADIER CALITZ: Northwest.

Page 18725

1 CHAIRPERSON: - are people breaking off

2 at an angle I suppose of about 45 degrees from that column

3 of people proceeding to the right side of the picture,

4 breaking off at an angle of about 45 degrees and moving

5 down towards the bottom of the picture. Is that right?

6 BRIGADIER CALITZ: Mnr die Voorsitter,

7 wat hulle vir my aandui, van die klein kraal na die Nkaneng

8 "village" toe, dit is noord. So as die, as ons vat daardie

9 noord en die koppie is wel wes, reg wes, dan tussen, ek sou

10 sê noordwes. So in lyn met ons polisievoertuie, as u dalk

11 met 'n liniaal 'n lyn trek dan sal u aan die ver linkerkant

12 van hierdie foto, dan is dit waar die mense dan, die groter

13 deel –

14 CHAIRPERSON: Those are the ones parallel

15 with the line of Nyalas that I talked about, and then the

16 other lot –

17 BRIGADIER CALITZ: Parallel.

18 CHAIRPERSON: - are the people in line

19 with –

20 BRIGADIER CALITZ: Ja, ja-nee.

21 CHAIRPERSON: The other lot are the ones

22 moving from that line of people going to the right of

23 koppie 2 on the picture, going away at an angle of about 45

24 degrees from the line of that column of people. Would that

25 be right?

1 BRIGADIER CALITZ: Ek glo hulle is verby
 2 die, verby koppie 3, af in 'n linker, na die linker
 3 onderste hoek toe.

4 CHAIRPERSON: Alright. Okay.

5 MR CHASKALSON SC: Chairperson, I see
 6 I've reached my cut-off time.

7 CHAIRPERSON: Well if you can wrap the
 8 point up in a minute or two, you can do it, but if it's
 9 going to take a bit of time then I fear it's going to have
 10 to wait till after the New Year to reach its conclusion.
 11 What is the position? Have you reached a point which you
 12 can sum up very quickly?

13 MR CHASKALSON SC: I think I must wait
 14 until the New Year at this point.

15 [15:03] CHAIRPERSON: There is a sort of end of
 16 term atmosphere, the school is just about to breakup, which
 17 I find inappropriate. Very well, Brigadier, I'm afraid we
 18 can't excuse, - we're excuse you for the moment but you'll
 19 have to come back on the 6th of January when we resume at
 20 nine o'clock in the morning here, when your evidence will
 21 continue. I want to say that we are not sitting on the 8th
 22 of January, that's the Wednesday, because that's the day
 23 when this Chamber will be required by the municipality, but
 24 the evidence leaders inform me that they're very keen to
 25 organise another inspection in loco so that we can

1 familiarise ourselves with the position and the brigadier
 2 can in fact show us some of the things on the ground that
 3 we've been trying to see on these various slides.

4 So we'll resume on the 6th of January with the
 5 inspection on the 8th of January. So it remains for me to
 6 say that we're going to adjourn then until the 6th. We wish
 7 you all a very happy festive season and a prosperous and
 8 successful new year and thank you for your participation
 9 and contributions to the Commission that we've received in
 10 the course of this year. We will now adjourn.

11 [COMMISSION ADJOURNED]

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<p>AAA 18632:22 aan 18587:7,7 18593:11 18596:5,5 18605:14 18607:3 18613:18 18618:7 18621:23 18649:17 18649:22,25 18651:23 18652:6 18653:14 18658:9 18663:14,15 18664:14,22 18665:1 18665:9,12 18666:9 18666:13 18671:23 18675:9,11,11 18679:13 18680:18 18684:8 18695:14 18697:12 18704:17 18709:14 18710:25 18712:24,25 18714:14,17 18717:7 18718:17 18720:10 18725:11 aandag 18595:3,9 18605:18 18636:9,25 18639:25 18666:13 aandui 18694:5 18700:21 18725:7 aanduidings 18587:20 aangaan 18603:17 18607:8 18681:25 aangedui 18641:14 18651:16 aangegaan 18647:16 18666:2 aangehaal 18650:17 aangekom 18662:10 aangemeld 18601:7 aangeneem 18619:12 aangesien 18661:5 18714:17 aangespreek 18635:24 18636:9 aangestel 18682:4 aangeval 18682:6 aanhou 18662:3 aankom 18592:5,23 18601:10 18709:1 aanmeldingspunt 18601:11 aantal 18588:13 18603:22 aanvaar 18698:15 aanval 18666:10 18678:20 aanvanklik 18659:12 aanvanklike 18715:2 abandon 18615:16 able 18581:5 18583:14 18606:7,10 18627:25 18643:23,24 18644:22 18645:6 18647:14 18664:11 18689:11,22 18694:16</p>	<p>absolutely 18707:8 absoluut 18684:16 absorbed 18654:11 accelerate 18700:8 accept 18591:15 18635:15 18641:2 18647:9 18666:22,23 18666:25 18667:1,5,6 18677:3 18696:2,14 18701:25 18716:21 18718:5 accepted 18614:5 18685:24 access 18600:1 18601:15 18602:2 accessible 18698:18 accounts 18634:6 accurate 18629:9 18646:13 18685:22 accurately 18667:15 accuse 18686:23 acronym 18626:14 act 18675:2 18681:2 18716:20 acted 18679:24,25 18681:3,21 18682:2,8 18683:7 acting 18621:11 action 18659:6 18679:18,19 18680:10,11 18702:4 18706:20,21 18707:4 18708:8 18715:15 18719:20 actions 18636:18 activated 18622:14 actual 18631:10 added 18622:12 addressed 18652:11 adequately 18676:23 adjourn 18727:6,10 ADJOURNED 18727:11 adjournment 18624:17 18624:21 18686:5 18687:5,10 ADJOURNS 18624:24 18654:19 18687:11 admitted 18588:20 ADRIAAN 18578:4 18625:2 18690:12 Adv 18686:8 18687:13 advance 18700:8 18717:25 advancing 18582:3,5 Advocate 18672:22 Advokaat 18586:24 18683:23 18684:2 aerial 18644:2,7 18720:4 af 18587:1 18590:15 18593:12 18601:5 18609:9 18610:16,17 18611:11,14,24,25 18612:20 18616:15 18636:7 18658:10</p>	<p>18660:4 18661:20 18681:16 18683:22 18702:22 18705:24 18706:2 18709:6 18711:15 18714:22 18724:3,4 18726:2 affidavit 18614:6,20 18619:7 affidavits 18644:20 afgekom 18593:12 afgestaan 18679:13 18684:9 afraid 18642:10 18726:17 African 18652:12 18693:14,16 18694:2 Afrikaans 18586:6,17 18586:22 18591:12 Afrikaanse 18684:17 afspers 18600:4 afstand 18612:13 afternoon 18719:23 afvuur 18584:9 ag 18612:1,23 age-related 18654:9 ago 18580:19 18629:23 agree 18580:24 18590:18,25 18606:15,17 18609:20 18610:2,3,4 18612:9 18623:6 18634:6,11,14 18640:10 18645:13 18657:21 18672:1,1,3 18674:8 18686:14 18692:16 18703:9 18708:15 agreed 18624:13 18629:13,15 18673:20 agreeing 18606:5 agter 18585:20 18600:9 18602:21 18661:20 18664:17 18709:22 18710:3,10,24 18715:3 18717:5,10 agterbly 18715:13 agtergebly 18668:12 18717:13 agterkant 18664:22 agterste 18600:12 18602:9 18669:5,7 agtste 18677:14 airconditioner 18583:23,25 aksie 18659:5,9 18661:5,6,23 18662:3 18665:19 18670:15 18702:4,10 18709:12 18709:21 18712:5 aksies 18636:10 aktiewe 18600:7 al 18632:23 18634:7 18665:10 18702:21 18715:18 alert 18619:20</p>	<p>algemeen 18606:4 alhoewel 18585:10 18709:9 18717:12 alight 18622:13 alle 18686:8 allegedly 18608:2 alles 18675:11 alleys 18690:25 allow 18639:13 18676:16 allowed 18639:7 allowing 18676:18 almal 18648:5 18679:12 18681:19 18681:22 18684:5 18709:8 alreeds 18656:20 18669:21 alright 18579:14,18 18583:18 18617:19 18620:14,15 18626:8 18628:4 18629:6 18655:11 18675:2 18679:21 18680:14 18681:2,24 18688:23 18690:10 18711:19 18726:4 alternatively 18604:15 18647:1,2 ambiguous 18647:2 ambulance 18632:5 18644:2 ambulances 18625:22 18627:12,21 18628:7 18629:4 18630:9,13 18631:3,18,24 18642:13,15 18643:12,13,20 18644:6,8,13,21 18645:2 AMCU 18601:2 ammo 18589:9 ammunition 18588:23 amount 18692:25 analysis 18644:16 18688:13 ander 18600:4 18613:19,20 18649:16 18661:16 18662:9 18664:20 18665:5 18669:24 18679:12 18684:6 18695:13,15 18712:23 18718:14 18723:18 18724:16 anders 18610:11 anderste 18586:13 18718:18 angle 18657:2 18676:21 18725:2,4 18725:23 annexure 18693:12,13 announce 18579:9,10 18579:24 announced 18680:8 answer 18601:17</p>	<p>18610:7 18626:19 18652:15 18671:2 18683:15 18684:22 18690:1 18691:9 18716:12 answered 18584:11 antwoord 18610:16 18612:1 18678:18 18680:4 anybody 18590:12 anyway 18583:14 18591:15 18614:13 18687:2 18690:7 apart 18600:22 apparently 18603:5 18626:22 appear 18582:4 18640:15 18643:11 18644:10 appeared 18588:17 appears 18582:2 18601:17 18633:18 18634:8 18642:22 18643:2 18645:25 18646:3 18680:20 18688:4 18706:9 applied 18686:2 appreciate 18683:4 approach 18600:20 approaching 18630:13 appropriately 18641:17 approximately 18622:9 18623:9 18644:5 18692:13 area 18581:6 18586:22 18587:4,5 18592:7 18600:1,17,17,23,24 18601:8,15,17,25 18602:1 18623:1 18636:7,12 18642:15 18642:24 18650:19 18652:16,21 18653:24 18665:10 18691:3 18699:10 18700:14 18703:2 18705:18,20 18719:14 18722:3 aren't 18581:21 18705:1 argument 18656:3 18684:24 18685:2 armed 18594:23 18597:24 18598:13 18598:18 18602:17 18603:1 18658:24 armoured 18693:18,23 18694:8 18701:4,11 18723:4 arrangement 18708:13 arrangements 18651:3 arrestasie 18710:13 18717:11,14 arrestasies 18665:21 18666:3 18716:8 arrested 18606:24</p>

18608:1,6 arrival 18625:25 18646:20 arrive 18642:13 arrived 18618:22,23 18623:17,20,20 18624:8,10 18625:23 18627:21 18628:8,8 18630:9 18642:14 18643:10 18644:14 18644:23,25 18645:1 18654:15 arriving 18659:11 arriving 18643:20 arrow 18699:7,11 arrows 18699:19 ascertain 18626:20 18652:10 asked 18599:11,15,16 18601:14 18629:7,12 18654:5 18672:22 18676:16,19,19 18689:9 asking 18598:22 18647:18 18676:3 18683:17 asks 18610:2 asof 18652:19 asook 18607:5 18664:25 18667:20 18705:22 18710:6 18724:3 aspect 18588:15,21 18614:17 18654:11 18666:19,22 18672:18 asseblief 18591:8 assessment 18641:20 assist 18619:23 18642:8 18647:14 18706:6 18716:9 assistance 18622:12 18643:11 assisting 18639:20 associated 18606:24 assume 18591:24 18644:20 18647:8 18663:23 18673:24 18677:5 18678:7 18713:23,24 18714:7 assured 18676:2 atmosphere 18726:16 attack 18673:17 18674:7,25 18680:25 attacked 18675:6 attacking 18673:11,16 attempt 18671:20 attempting 18688:9 attend 18621:15 attention 18635:13 attitude 18684:21 18687:3 August 18589:20 18606:25 18607:11 18632:24 18633:9 18672:25	authority 18649:6,10 18650:15 18651:21 available 18688:1,24 aware 18592:1,12 18595:12 18600:21 18604:6 18607:25 18608:5,13 18616:1 18616:14 18617:1,4 18618:2 18623:10,15 18623:18 18634:23 18635:13 18647:19 18647:21 18658:14 <hr/> B B 18669:17 18694:21 18696:11,11,12 back 18581:15,16,18 18581:18 18582:21 18588:6,14 18600:23 18621:14 18622:21 18622:23 18631:23 18632:3 18634:3 18636:14 18698:19 18701:17,24 18702:1 18702:2,16 18703:17 18703:19,19 18704:8 18719:21 18720:12 18720:14 18721:18 18721:18 18726:19 badly 18638:11 baie 18585:20 18591:2 18611:25 18645:16 18666:11 18678:17 18681:13 18684:14 ball 18652:20 balls 18603:14 barbed 18697:20 18698:3 18699:20 18703:1,3,6 18713:4 18713:5,25 barricade 18600:18 18713:4 base 18646:19,20 18692:12 based 18604:7 18641:19 basic 18646:4,6 18681:18,19,20 basies 18650:9,16 basis 18603:25 18604:3 18615:1 18627:21 18629:12 18639:14 18664:11 18685:12 18685:25 18688:1,21 18701:23 18714:9 bear 18628:19 18648:18 bearing 18689:12 bedank 18678:22 bedoel 18674:13 18680:22 18704:16 beeld 18704:16 18706:1,2 beg 18626:24 18707:2 began 18649:7 beginning 18579:23	18580:20 18581:20 18581:23 18674:17 beginsels 18650:9 behalwe 18600:3 behandel 18641:12 behandeling 18641:10 18641:12 beheer 18652:22 18665:9 18666:15 18667:16 18669:25 18670:20 beheersd 18601:1 belangrik 18611:25 beleidsdokument 18650:1,10,17 18665:18 beleidsdokumente 18649:13 believe 18602:16 18603:19 18619:2 18620:18 18632:23 18637:5 18662:12 18672:22,24 18688:16 believed 18627:1 18688:2 bend 18708:25 bepaal 18612:13 18613:21 18653:25 beplanning 18650:3 18679:3 beseef 18589:14 besef 18661:23 besig 18601:22 18645:23 besit 18605:16 18606:1 18606:2 beskerm 18617:13 beskikbaar 18606:4 beskikking 18666:17 beskryf 18669:8 beslis 18593:9 18595:3 18605:17 18617:21 18639:15 18659:2 18684:13 18695:20 besluit 18659:4 18661:3 bespreek 18640:5 18703:14 best 18581:2 beste 18669:8 beteken 18681:24 beter 18594:1 18597:9 18684:16 betref 18665:14 better 18627:10 18672:7 18699:18 bevel 18636:6 18649:2 18670:23 bevelvoerder 18592:6 18601:6 18605:18 18618:6 18648:12,25 18648:25 18649:3,14 18649:20 18650:10 18650:12 18651:12 18664:20,22,22	18665:2,25 18666:16 bevelvoeders 18605:17 18618:7 18649:15,18,19,21,22 18651:13 18664:21 18678:21 18709:14 bevestig 18593:13 18596:10 18620:22 18623:25 18635:8 18695:19 bevestigend 18584:14 beweeg 18587:11 18592:8 18600:5 18612:16 18653:25 18658:17 18660:2,4 18661:20 18662:2,8 18666:9,16 18668:1,1 18668:3 18669:22,24 18670:2 18703:25 18704:14,18 18706:4 18714:19 beweging 18602:21 bewering 18590:15 bewus 18593:15 18595:8 18605:19 18658:18,20 18662:6 bewyse 18694:11 beyond 18646:1 18693:5,8 bietjie 18639:10 18703:14 18710:20 18711:14 18721:23 big 18679:18,19 18680:10,11 18699:16 bit 18581:16 18582:20 18614:7 18691:10 18693:21 18699:21 18703:7 18711:16 18720:20 18726:9 bladsy 18666:7 18669:3 18709:6 18721:6,8,10 bladsynommer 18705:22 18706:3 blanket 18582:4 blou 18587:20 18593:10 18595:19 18699:4 blue 18689:1 18699:7 18699:11 18700:1,2 18701:2 blues 18587:16,22 bo 18656:23 18695:1 18695:14 board 18679:19,21 18680:9,12 bodies 18588:9,18 boodskap 18649:25 boodskappe 18681:13 boodskappies 18681:14 boonste 18659:10 boontoe 18621:22 bossie 18703:12 Botha 18696:15 Botha's 18696:1,4	bottom 18583:4 18628:1 18680:7 18692:17 18693:2,8 18716:3 18720:22,23 18720:23 18724:9,19 18724:20 18725:5 box 18608:9,11 18615:16,16 18625:5 18699:16,19 branches 18646:21 brand 18666:10 18709:7 18718:17 break 18654:15,17 breaking 18725:1,4 breakup 18726:16 breedvoerig 18655:20 briefed 18678:25 briefing 18669:25 18672:20,25 18706:16 18719:20 18719:21,22 brigadier's 18708:4 bringing 18652:12 broad 18701:21 18702:1 broadly 18692:16 18701:21 18706:12 18707:10 18708:13 18718:4 brought 18619:23 18676:23 brown/green 18701:3 Budlender 18672:23 18676:7 18683:1,21 18683:24 18690:10 18690:16 18693:5 buite 18601:5 18704:16 18705:25 buitekant 18640:5 bulletin 18632:23 bundel 18580:9,9 18619:9,10,13,18 18620:25 bundle 18587:13 18619:3 18620:12 18624:11,13 bushes 18721:3 busy 18625:24 18626:4 18626:9 18641:16 18645:5 bygestaan 18716:10 byvoorbeeld 18651:23 18651:23 18708:25 18718:17 <hr/> C C 18669:17 calibrate 18644:9 call 18621:13 18646:17 18647:3 18657:17 18696:25 18701:10 18720:5 called 18586:4 18600:17 18619:22 18620:5,8 18624:11 18643:7 18690:17
--	--	--	---	--

<p>18693:19 calls 18620:11,17 CALS 18659:21 camera 18624:12 18626:16 18627:11 18628:12 18630:8,25 18631:10 18644:3,4 cameras 18631:14,18 canisters 18603:14 cannon 18624:9 18695:9,11 18697:7,9 18697:17,18,19,21,21 18698:1 18716:17 18719:9 18722:24 18723:6 cannons 18695:10 18719:4,18 canvassed 18673:3 can't 18614:20 18618:15 18628:2 18633:11 18642:10 18644:1 18645:9 18726:18 capable 18644:16 capacity 18598:22 Captain 18619:3 18623:7 18653:12 18720:4 carnage 18664:11 carried 18651:8,9 carrier 18600:15 carry 18584:2 18627:23 18654:2 carrying 18593:3,17 18598:4,8 cartridge 18586:4,7,8 18586:10,13 case 18586:8,11 18684:23 cases 18724:10,11 Casspir 18587:6,7,8 18591:5 18657:18 18658:4,9 18659:7,8 18694:17,20,21,21,24 18696:9,11,11,12 18721:7 18722:8,9,14 18722:14,24 18723:11 Casspirs 18617:3 18659:15 casualties 18621:10 catch 18719:7 cause 18589:8 18633:8 18633:16 18648:10 18676:23 caused 18688:21 18717:24 CCTV 18626:16 18632:4 18644:17 CC3A 18625:8 CC38 18624:12 18642:14 centre 18599:13 18691:14 18692:3 certain 18653:2 18660:8 18672:5</p>	<p>18673:20 18676:14 18688:1 18698:22 certainly 18590:22 18591:20 18599:23 18634:9 18694:16 Chair 18626:25 18675:21 18677:18 18701:7 Chairman 18578:8,8 18578:18 18579:7,25 18581:9 18582:8 18583:17 18584:5 18599:22 18604:25 18608:12 18614:14 18615:3,24 18618:25 18624:19 18625:7,10 18625:20 18626:10 18626:21 18628:11 18629:24 18632:21 18633:21 18637:5,14 18637:18 18638:2,24 18642:5 18647:9,10 18647:10 18654:8,18 18654:24 18672:14 18673:8 18676:5 18677:2 18685:5 18687:7,12,13 challenges 18615:6 chamber 18633:13,17 18726:23 chance 18687:4 18711:5 change 18704:3 charge 18583:24 18618:13 18652:16 18667:11,11,14,15 18669:14,15 18670:17 checked 18638:10 chief 18663:16 choices 18660:8 circles 18689:1 circuit 18644:4 circumstances 18667:10 circumstantial 18673:19 civilian 18593:21 18596:14,16,18,25 18597:4,15,18,24 18598:4,22 18599:17 civilians 18593:3 clarified 18614:23 clarifies 18614:23 clarify 18595:22 18602:5 18630:5 clarity 18657:16 clear 18636:15 18654:6 18704:25 clearly 18607:24 18650:25 18672:10 18679:22 18705:6 client 18676:20 clients 18649:8 18660:19 18671:19 18676:17 18687:4</p>	<p>client's 18672:19 clip 18578:8,15,15,21 18578:25 18579:4,19 18580:3,16,19 18582:1 18583:2,8 18584:5 18590:21,25 18591:3,4 18597:16 18608:23 18625:7 18628:22 18630:6 18632:22 18633:23 18643:25 18696:15 18696:19 clock 18628:6,7 close 18618:1 18644:4 18700:15 closer 18724:20 closest 18657:18 closing 18660:12 clothes 18596:14,16 clothing 18593:22 18596:18 18597:1,4 18597:15,18,24 18598:22 18599:17 18659:18 Coin 18697:23 colleagues 18637:3 18675:16 colonel 18644:3,8,12 18662:13,19 18663:2 18663:9 18667:24 18668:9 18695:25 18696:4,15 colour 18722:4 coloured 18699:1 18701:3 colouring 18699:12,12 column 18693:1 18716:3 18725:2,24 come 18588:14,18 18614:1 18615:5 18636:14 18677:11 18680:25 18697:18 18712:14 18714:1 18720:12 18726:19 comes 18582:14,18 18612:5 18674:23 18683:12 comfort 18654:15,16 coming 18582:6 18584:20 18591:12 18656:18 18660:13 command 18636:11 18648:21,21 18664:1 18675:1 18676:3 18681:1,17,20 commander 18591:25 18592:14 18594:22 18598:23 18618:21 18620:18,19 18635:15,17 18636:2 18636:4,5,16,17 18645:8 18648:8,16 18648:17 18649:5,20 18650:15 18652:21 18655:2 18663:22 18664:3,10 18665:14</p>	<p>18671:16,21 18675:20 18685:14 18685:15 commanders 18675:1 18679:1 18681:1,18 commanding 18591:25 commenced 18629:8 commencement 18626:1 commentary 18629:7,9 18629:10 Commission 18578:2 18624:24,24,25 18654:19,19,20 18680:16 18687:11 18687:11 18688:10 18688:18 18689:12 18693:15,17 18694:3 18696:1 18727:9,11 Commissioner 18586:8 18599:24 18626:11 18642:7,11,12,19 18643:18 18644:12 18653:18 18706:5,18 18707:1,7,14 18708:1 18710:16 18723:12 commitment 18681:4 18682:2,9 common 18589:8 18648:10 communication 18578:13 compare 18702:24 compares 18701:1 compelled 18678:9 concede 18690:1 concentrate 18626:6 concentrating 18582:12,14 concern 18649:8 concerned 18684:23 18689:16 concludes 18689:14 conclusion 18623:11 18726:10 confess 18642:16 confirm 18585:14 18589:4 18634:25 18635:3 18655:6 18691:13 18692:3,8 18694:2,7,17 18695:10 18697:10 18698:23 18700:19 18721:2 18722:1 confirmation 18582:15 18582:16 confirmed 18695:9 confirming 18630:1 confrontation 18706:24 congratulate 18676:11 18678:6,9,13 congratulating 18678:13,14,15 congregated 18704:7 18714:5</p>	<p>congregation 18708:12 conjecture 18646:1 consequence 18593:22 18629:19 18688:4 consequences 18636:23 con sider 18642:18 consistent 18671:20 constantly 18597:3 constitute 18673:19 constitution 18679:23 contact 18653:12 contacted 18638:17 CONTD 18578:7 18625:6 18690:15 contemplated 18703:22 18704:3 18707:11 18708:7,14 contentions 18685:1 context 18680:1,7,19 continue 18687:14 18689:17 18719:19 18726:21 continues 18624:25 contrary 18684:25 contributions 18727:9 conversation 18663:9 conversion 18628:20 convey 18672:10 conveyed 18672:12 cooperation 18680:15 18680:16 18681:5 18682:3,9 coordination 18649:16 copy 18637:23 18639:18 corner 18579:11 18583:4 18628:2 18657:17,18 18658:1 18692:17 18693:3,7,8 18700:6,9,12,16,17 18703:6 18716:4 correct 18590:3,13 18596:2 18601:18 18603:6 18604:21 18616:25 18617:17 18632:12 18640:6,7 18645:9 18646:23 18650:21 18651:4 18653:8 18656:2 18657:19 18658:13 18680:1 18683:10 18685:18 18690:23 18692:3,8 18693:20 18693:20 18694:15 18696:3,10 18698:4,6 18713:11 18722:5,20 18724:11 corrected 18700:14 correction 18689:13 18723:1 correctly 18682:8 18708:17 18716:12 correctness 18694:8 corresponding 18697:24 corresponds 18701:22</p>
--	---	--	--	---

<p>corroborates 18644:3 corrugated 18712:13 couldn't 18673:15,21 18698:3 counting 18722:20 18723:1,5,5 country 18606:10 counts 18700:11 couple 18582:22 18632:3,9,9 course 18629:15 18634:22 18653:1 18673:2 18707:24 18716:17 18722:18 18727:10 cover 18676:6 covered 18676:3,7 crime 18592:2 18594:22 18638:14 18639:2,7,14,21 18640:9,16 criminal 18599:13 critical 18581:23 criticise 18667:2 criticism 18652:10,11 cross 18689:20 cross-examination 18578:7 18604:8 18614:21 18625:6 18654:7 18673:3 18690:15,25 cut 18700:9,17 cut-off 18726:6</p> <hr/> <p style="text-align: center;">D</p> <p>D 18669:17 daai 18597:12 18600:10,12 18602:21 daarby 18677:15 18680:21 daardeur 18623:24 daardie 18590:6 18593:1,7 18595:2,8 18595:18 18597:12 18600:13 18602:19 18602:22 18603:3 18605:16 18607:7 18610:13,16 18613:12,13 18623:24 18635:3 18650:4 18652:3 18653:14 18658:19 18658:20 18659:24 18660:5 18661:9 18662:1 18663:7,14 18665:3,11 18670:21 18670:23 18674:10 18675:8,12 18678:21 18681:10,13,23 18682:5,7,13 18684:7 18684:13 18696:23 18697:3 18700:21 18703:11,25 18704:14 18710:9 18711:15 18714:22</p>	<p>18715:19,19,19 18717:20 18718:25 18721:6 18723:16,22 18723:23 18725:8 daarmee 18580:11 18645:23 18684:3 18716:10 daarna 18580:10 18586:17 18592:20 18666:7 18681:18 18682:12 18691:17 18709:15 daarnatoe 18601:3,3 daarom 18611:11 daaroor 18592:4 daarso 18682:8 daartoe 18608:21 daarvan 18605:19 18635:22 18641:1 18662:3 daarvoor 18586:17 18635:4 18652:4 18675:10 18694:13 daar's 18594:3,4 dag 18593:19 18595:2 18595:8,20 18598:9 18616:16 18648:12 18649:2,3 18651:17 18674:10 18675:8,12 18678:21 18679:2 18681:10 18684:8,13 dalk 18597:9 18623:23 18666:5 18695:3 18703:12 18725:10 danger 18633:15 Daniel 18688:6 dankie 18578:4 18580:14 18610:9 18625:2 18649:12 18654:22 18664:14 18678:17 18687:1 18690:12 18713:20 dark 18699:12 18722:10,10,12,13 darker 18699:1,12 date 18606:23 18607:25 18642:8 day 18589:9 18591:21 18593:16,20 18595:6 18597:18 18598:6,17 18607:10 18623:9 18635:15,17 18637:6 18638:5 18647:20 18648:21 18664:8 18671:22 18676:10 18677:5,6 18683:11 18726:22 days 18676:10 18685:15 dead 18638:11 deal 18627:22 18683:18 18686:4 18690:3,8 dealing 18614:20 deals 18643:5 dealt 18615:25 18616:4</p>	<p>18642:23 18643:16 18676:1 deaths 18641:3 18664:2 debate 18615:13 debating 18604:22 debriefing 18682:15,15 DECEMBER 18578:1 decided 18658:25 18660:22 18661:1 deel 18594:14 18639:10 18662:20 18704:11 18725:13 defence 18686:1,25 definitely 18644:10 definitief 18595:9 18635:24 18651:25 18663:13 18666:14 degrees 18725:2,4,24 delay 18635:14,18,19 18636:22 18645:4 18652:12 18697:8 delayed 18625:25,25 deliberately 18686:24 denim 18596:5 18597:11 deny 18589:4 depict 18691:1 depicted 18617:2 18618:2 18693:10 18700:15 18702:17 deployed 18622:13 deployment 18623:1 describe 18700:2 described 18596:13 18601:16 18702:15 describing 18699:18,20 18704:24 description 18650:14 desire 18580:25 detail 18579:7 detective 18596:15 detectives 18596:19 18598:24 18599:1,10 18599:12,17 18622:23 determine 18679:23 deur 18588:12 18600:4 18600:5 18612:13 18618:6 18641:12 18649:17 18650:6 18651:25 18659:24 18660:1 18662:2 18663:17 18714:21 18718:23 deurbeweg 18662:7 18708:24 deurgegee 18720:7 deurgeom 18658:7 deurmekaar 18591:2 18591:10 deursoek 18710:5,8 18712:6 18717:20 18718:24 deursoekingsaksie 18709:21</p>	<p>diagram 18694:20,21 didn't 18580:4 18585:6 18593:21 18594:22 18594:24 18595:5,14 18598:3 18603:13 18609:12,24 18618:14 18626:25 18629:20 18630:12 18655:6 18660:9,14 18660:20 18661:14 18662:23 18667:7 18671:6,6 18673:10 18673:16 18674:6 18675:5 18700:9 18716:19 died 18588:17 18633:9 18638:16 18641:21 18641:21,22 dieselfde 18593:9 18598:9 18601:8 18613:16 18709:9 differed 18714:9 difference 18716:13,14 18716:19,21 18717:2 different 18610:19,23 18610:24 18643:20 18644:2 18677:12 18703:7 18720:3,3 differently 18635:17 difficult 18608:5 18610:25 18689:25 difficulty 18655:1 18658:23 18660:18 dinamiese 18718:18 dinamika 18718:14 ding 18717:5 dink 18584:23 18585:10 18586:12 18586:14 18588:1 18592:20 18593:9,11 18597:6,10 18599:4 18606:2 18608:20 18610:15 18611:10 18612:12 18613:21 18641:13 18648:5 18655:18 18659:20 18659:22 18662:4 18663:11,12,15 18664:18 18666:6 18668:21 18678:24 18679:2,11 18681:11 18684:3,5 18686:8 18691:6 18694:11 18696:17,19,21,22 18697:3 18700:20 18701:14 18703:10 18703:23 18705:24 18709:14 18715:8 18723:20 direct 18670:4 direction 18609:16 18627:12 18631:4,5 18644:13 18658:25 18660:10,22 18661:14 18663:24 18692:20 18693:2</p>	<p>18712:17 18719:13 18719:14,16 18720:2 directions 18614:3 18719:12 direk 18666:8 dis 18580:7 18584:8 18585:20 18621:1 18624:3 18668:21 18678:24 18691:7 18696:19 18697:2 18699:8 18717:17,20 18718:15 18721:10 disadvantage 18614:7 disagree 18587:24 18634:17 discovery 18644:16 discrete 18689:21 18690:3 discretion 18653:19 discuss 18698:12 discussed 18604:13 dispersal 18706:19,21 18708:8 18719:20 disperse 18679:4 18707:4 18708:22 18709:6 18710:4 18716:18 18718:13 18723:11 dispersed 18704:7,10 18707:22 18708:11 18714:5 dispersing 18720:2 18723:10,13 18724:10 dispersion 18659:6 18690:22 18701:6 18702:4 18706:9,13 18706:14,20 18707:11 18709:11 18709:20 18710:18 18714:2 18715:15,21 disrespectful 18614:12 disrupted 18718:5 disruption 18702:16 18713:24 18717:24 18718:1 distance 18630:14 distinction 18596:20 distress 18633:16 doctrines 18686:1 document 18687:22,25 doel 18650:8 18665:21 18665:21 18682:20 18709:4,5,19 18710:4 18710:6,11 18712:1 doen 18599:4 18613:21 18650:7 18666:5 18679:14 18681:12 18684:12 18686:8 18709:9 doenlik 18652:7 doesn't 18578:21 18585:17 18590:10 18596:16 18614:8 18643:10 18646:13 18676:14 18683:10</p>
--	--	---	---	---

18706:13 dog 18599:13 doing 18579:10 18609:25 18680:5 18686:24 18722:19 dokters 18641:14 dokument 18623:23 18645:22 don't 18579:6,17 18582:21 18583:10 18583:20,23 18585:14,14 18586:22 18592:12 18594:17 18604:23 18614:11,12 18617:9 18617:24 18618:12 18625:11 18627:24 18629:4 18631:4 18637:23 18638:4 18640:21 18641:6,15 18642:1 18643:15 18648:16,17 18652:10 18655:24 18666:23,25 18667:5 18667:6 18668:24 18669:12 18672:1,2,3 18672:11 18675:23 18676:2,19,20,24 18677:16 18683:3 18685:2 18686:14,22 18697:25 18705:4 18707:24 18708:4 dood 18679:10,11,13 18684:8 doodgeskiet 18682:19 18684:11 door 18652:14 doppie 18584:18,24 18585:10,23 18586:5 18586:10,13,17,24 double 18619:16 18659:18 dra 18641:1 18647:23 draad 18600:5 18657:12 18659:8 18700:21 18714:17 draai 18601:10 18659:4 drag 18592:5,17,24 18593:7,11 18594:2,4 18594:6 18595:18 18596:4,6 18597:21 18599:3,6 drawing 18596:19 drawn 18673:20 draws 18724:6 dreigemente 18681:15 dress 18598:4 drie 18607:7 18612:14 18612:17,19 drive 18631:24 18637:12 18658:25 18660:22 18661:1 driving 18631:5 drove 18661:15 18669:13 18690:20	18690:21 18707:3 dry 18691:6,9,11,17 18707:23 dryf 18660:6 18662:4 18662:11 18665:22 due 18629:15 18707:23 18724:7 duidelik 18590:7 duideliker 18585:21 duidelikheid 18612:18 duties 18636:16 duty 18579:10 dying 18639:21 18640:9 18652:13 <hr/> E <hr/> earlier 18632:9 18641:23 18643:6 18645:19 18675:24 18696:4 18708:17 18716:16 early 18688:17 ease 18638:1 easiest 18630:3 easily 18605:1 easy 18722:8 edge 18693:5 education 18627:14 eed 18640:5 18670:22 een 18584:19 18586:25 18602:10 18610:16 18613:16 18620:22 18665:2 18667:21 18678:19 18679:12 18695:13,13,15 18699:3 18709:13 18718:17 18721:6,11 Eenheid 18710:12 18712:1 eenheidsbevelvoerder 18667:18 eergister 18696:22 eers 18601:6 eerste 18592:9 18593:14 18616:16 18639:25 18649:18 18701:6 18717:5,8,14 effect 18708:16 effectively 18667:9 18719:15 effek 18659:19 egter 18580:7 18619:10 18705:23 eintlik 18608:17 either 18604:14 18609:3 18628:5 18643:15 18647:6 18701:18 ejected 18582:17 18584:16 18586:3,21 ejection 18584:24 ekskuus 18603:11 18609:13 18610:21 18677:21 18686:20 18721:23 elapsed 18634:12	electricity 18622:21,24 elicit 18689:11 eliminate 18617:20 eliminates 18604:11 elke 18668:1 elkeen 18613:15 18650:6 18651:13,16 elucidated 18647:5 embark 18690:5 emergency 18623:2 Employed 18646:4 empty 18585:7 encircling 18715:22 enclosed 18703:2 enclosure 18657:17 18658:2 encourage 18604:25 ended 18649:7 Engels 18599:14 English 18591:14,14 18596:14 enige 18605:15 18606:19 18608:20 18618:6,8 18652:1,3 18663:6 18664:16 18678:19 18679:11 18682:19 enigste 18640:25 18712:15 18714:18 18716:5 enlarged 18638:6 ensure 18623:1 entire 18600:1 18634:4 entirely 18614:11 18685:22 18704:7,10 18704:11 entjie 18691:7 erected 18713:4 erger 18666:5 ernstig 18645:16 escorted 18646:22 especially 18673:8 essentially 18691:14 18698:10,11 18711:23 18718:3 establish 18599:20 18602:24 18607:24 18634:5 18640:2 18648:19 18675:15 established 18599:19 18634:23 18635:10 18648:8 etcetera 18646:21 18647:13 18707:3 etlike 18697:13 eTV 18628:9,16,22 18644:5,9,9,17 18695:23 18697:22 evade 18671:21 events 18606:24 18708:11 eventually 18660:23 18661:15 everybody 18614:6 evidence 18593:2 18595:15 18600:14	18600:16 18603:9,12 18603:15 18604:19 18605:10 18614:4,10 18614:12,22 18616:8 18618:24 18623:16 18624:6,7 18634:23 18641:19 18642:23 18643:17 18644:19 18655:5,12 18656:15 18659:1,3 18663:16 18663:17 18666:19 18666:22 18671:8 18673:8,19,22 18674:2 18685:10 18688:16 18689:8 18708:5 18726:20,24 exact 18589:25 18692:15 exactly 18625:15 18636:15 18647:12 18648:19 18678:25 18679:1 18681:4 18682:2,9 examination 18623:11 18689:21 exception 18601:16 exclude 18604:20 excuse 18726:18,18 executed 18679:1 exercise 18624:22 18634:4,25 18635:10 18705:5 exercising 18718:1 exhibit 18578:9 18579:12 18587:13 18602:6 18618:25 18619:24 18620:3 18621:19,20 18624:12 18625:7 18632:22 18637:5,16 18642:21 18646:1 18666:6 18668:21 18669:3 18672:23 18687:19 18690:18 18690:19 18692:22 18696:2,17 18698:20 18698:21 18701:19 18707:18 exhibits 18588:20 18620:11 expect 18609:19 expected 18609:21 18683:6 experience 18612:5 18614:15,16 expert 18612:11,13 18613:17 18614:1,5,7 18614:20 18615:8 18641:19 experts 18612:16 explain 18628:12,13,14 18643:3,8 explained 18650:18 18667:10,13 18672:6 18689:18 explaining 18654:25	explanations 18684:25 explore 18642:6 18672:18 exploring 18654:25 exposed 18633:15 18690:10 express 18683:7 expressed 18687:3 expression 18674:4,4 extends 18693:5 extensive 18666:19 extensively 18672:22 18676:7 extent 18663:22 18664:1 extracts 18623:6 extremely 18605:9 <hr/> F <hr/> face 18722:13,14 fact 18578:19 18579:22 18582:11 18589:21 18603:19 18632:8 18647:3 18654:15 18661:13 18669:4 18675:5 18685:22 18688:7,20 18691:10 18693:15 18695:9 18696:3 18697:7 18699:21 18700:14 18703:4,20 18723:3 18724:6 18727:2 facts 18688:8 18689:11 fair 18618:16 18623:10 18636:15 18666:20 18692:24 familiar 18587:2 18646:15 familiarise 18727:1 families 18647:20 18656:15 18658:23 18666:22 18671:1 18672:6 18676:8 18679:11 18684:6 18685:7 18689:15,19 far 18583:2 18590:3 18600:21 18604:1,6 18605:21 18608:4 18616:25 18630:25 18684:22 18689:15 faster 18631:10 fatal 18588:9 fatally 18589:11 fear 18645:5 18726:9 feel 18676:22 18687:4 feestyd 18684:15 feite 18682:17 fellow 18691:2 felt 18678:9 fence 18656:11 18657:25 18658:1 18690:21 18698:4 18707:3 fenced 18700:14 festive 18727:7 fifth 18722:19 18723:1
---	--	---	---	--

18723:8 fill 18681:6 18682:13 filterlyne 18718:24 finally 18716:17 find 18586:2 18634:5 18643:24 18668:14 18677:6 18685:9,11 18726:17 finding 18720:19 finish 18689:22 18690:5 finished 18690:7 fire 18582:19 18587:17 18588:24 18589:10 18589:11 18614:2 18622:13,15,20,22 18659:23 firearm 18584:6 18590:2 fired 18586:20 18590:2 18590:12 18604:7 18609:16,22 18610:24 18611:3 18612:8 firing 18584:6 18586:2 18608:15,25 18616:3 18617:16 18643:1 firma 18593:10 first 18623:17,19 18624:8 18628:15 18631:22 18632:4 18639:18 18640:17 18644:11 18645:1,3 18646:2 18689:7 18699:11 18711:19 18715:24 18719:7 firstly 18582:15 18634:11 18649:6 18692:22 fisies 18667:25 18668:4 18669:7 five 18628:17 18629:5 18629:23 18701:4 fix 18692:14 flashing 18630:13,15 FLIR 18624:12 18626:14 18628:6,7,9 18628:12,15,24 18629:3 18630:8,25 18631:20 18632:12 18644:4,6 focus 18693:25 follow 18702:7 followed 18640:1 18663:23 18678:8,8 following 18622:7 18638:2 18669:16 18672:9 18708:11 follows 18629:3 foolish 18600:20 foot 18668:5 footage 18608:24 18634:12 18644:3,4,6 18644:9,17,17 18695:22 force 18637:20	18647:13 18657:8,18 18658:3 18661:7 18713:15 18715:11 forces 18701:10,11,16 18708:23 foreground 18721:2,4 forgive 18583:21 18620:1,15 forgotten 18626:13 form 18614:6 18690:3 18698:10,10 18706:17 18707:11 18711:7 formal 18685:24 formed 18674:23 18680:25 18694:1 18695:23 18696:3 18697:6 18703:21 18707:12 forms 18614:25 forth 18643:13 forward 18582:22 18592:7 18601:8 18622:25 18627:5,7,7 18627:11,11,15 18632:17 18636:7,12 18642:14,24 18650:19 18652:16 18652:21 18653:24 18657:25 18665:9 18713:11 foto 18591:23 18592:18 18592:25 18593:8 18613:18 18656:25 18721:9 18723:17,19 18724:1,2,3,17 18725:12 foto's 18700:20 found 18581:2 18646:22 18660:11 18674:18 18690:23 four 18700:1 fourth 18700:15 frame 18679:20,20 18680:13,13 free 18600:1 18601:15 friend 18690:16 front 18582:2,4 18600:22,24 18601:25,25 18694:1 18722:11 full 18634:8 18680:15 18680:16 fully 18647:5 18673:3 18676:1 function 18648:19 18696:13 funksie 18652:20 further 18642:2 18647:11,14 18649:11 18673:21 18676:15,21 18685:2 18685:3 18688:4,13 18708:2 fusillade 18611:17 F-L 18626:15 18627:3	F-L-I-R 18624:12 18626:12 18627:2 <hr/> G gaan 18585:15 18600:3 18613:19 18619:12 18621:22 18623:24 18649:23 18651:14 18652:25 18660:6 18661:21,23 18664:19 18670:8,15 18670:20 18681:11 18681:14 18696:17 18706:4 18708:21 18709:2,14,16 18710:2,8 18714:15 18714:17 18717:20 18718:8,22 gang 18680:18 gap 18582:6 18657:16 18657:24,25 18658:2 gathered 18723:14 gathering 18715:17 geantwoord 18619:18 gearrester 18679:7 18715:16,23 gebeur 18585:12 18610:13 18617:13 18653:16 18660:17 18664:19 18666:14 18675:13 18679:4,5,6 18679:7 18681:14 18682:17 gebied 18600:8 18601:9,21,21,21,21 18711:4 gebreek 18659:24 gebring 18595:9 18605:18 18637:1 gebruik 18606:3 18610:12,18 18612:19,19 18660:25 18681:22 gedagte 18659:13 gedeelte 18600:3 18723:20,22,24 gedoen 18651:15 18682:8,11,22 gedrag 18595:24 18596:13,17,18 18597:3 gedryf 18659:12 gee 18641:8 18649:22 18652:5 18717:7 18718:22 geen 18590:8 18595:18 18608:18 18610:10 18616:6 18651:24 18659:19 18665:21 18679:10 18684:9 18718:25 geensins 18682:19 gegaan 18659:12 18704:19 18718:24 gegee 18580:9 18650:7 18657:5 18659:20	18661:4,8 18662:1 18663:18 18666:13 18670:8 18703:24 18708:21 18710:23 18714:14,15 18717:6 18717:6 18718:9,13 gehad 18593:11 18599:3 18659:18 18665:8 18718:21 gehergroepeer 18691:6 gehoor 18594:14 18662:21 18663:18 18683:25 18686:21 gehou 18663:12 18678:23 gejaag 18709:3 gekom 18595:3 18600:9 18636:9 18657:2,13 18658:11 18711:1 18715:20 gekommunikeer 18663:13 gekry 18619:10 18639:24 18640:4 18681:14 gekyk 18580:10 gelaat 18710:3,10 geleentheid 18650:7 18717:6 18718:21,21 gelees 18608:18 18680:3 18715:8 geloods 18665:19 18666:10 geluk 18679:9,14 18682:19 18684:11 gelyktydig 18611:12 gemaak 18639:4 18650:5 18651:25 18666:3 18709:13 geneem 18612:1 18613:14 18657:1 18702:5 18721:10 Generaal 18592:8 18636:13 18652:2 18653:23 Generaal-Majoor 18665:10 General 18622:20 18623:8 18642:20 18653:19 genoeg 18649:25 genoem 18600:8 18666:4 18669:24 18684:4 18696:23 18697:12 geontwapen 18679:6 geplaas 18665:9 18666:15 gerapporteer 18607:4 18609:10 18618:7 18649:17 18651:23 18653:14 gereageer 18662:6 18714:23 18715:4,5 18717:10 18718:19 gerig 18652:4,6	18665:12 germane 18690:25 geroof 18607:5,6 gesien 18584:18 18590:9 18591:3,4,23 18592:18,19,24 18593:7 18595:2 18609:8 18610:11 18616:7,9,12 18623:25 18634:15 18634:20 18653:13 18659:10,11 18708:25 18723:17 18723:20 gesit 18711:2 geskakel 18621:2 geskiet 18589:1 18590:15 18609:9 18613:16 18665:23 geskree 18663:15 gesny 18703:15 gesoek 18620:25 gesteek 18666:10 18718:17 gestel 18618:8 18664:14 18709:11 gestem 18606:19 18691:17,21 gestop 18590:7 18665:17 18691:18 gesture 18690:8 geswaai 18661:10 gesê 18584:13 18592:20,23 18593:6 18593:8,8 18594:1 18599:2 18600:3 18605:13,14 18606:19 18608:20 18611:8 18613:13 18616:8 18634:20 18636:8,20,25 18639:5 18640:14 18651:11 18657:1 18658:19 18659:3,17 18659:21,22 18661:2 18661:3 18665:12 18669:25 18670:13 18670:14,18,22 18674:10,11 18675:18 18677:14 18678:18,19,20 18681:10 18682:7,16 18682:18 18683:20 18684:2,14 18686:13 18686:13,16 18702:8 18704:10 18709:5 18714:22 18715:9,13 18723:21 getref 18589:15 18613:20 getting 18620:15 18624:6 18635:19 18636:22 getuienis 18592:17,21 18592:24 18593:25 18595:17 18603:16
--	---	--	---	---

18608:20 18616:6 18658:17 18659:5,7 18660:4 18664:15,16 18665:24 18674:12 18723:21 getuig 18584:18 18592:4 18595:7 18616:16 18636:6 18656:20 18659:10 18663:6 18664:24 18681:21 18708:19 gevaarlik 18666:11 gevaarlike 18710:10 geval 18597:13 18650:4 18717:10 gevind 18607:8 gevolg 18608:19 18680:3 18716:7 gevolg 18666:5 gevorm 18658:19 18659:13 gevra 18580:7 18595:3 18595:9 18620:25 18647:16 18650:8 18652:1 18658:18 18712:3 gevuur 18589:15 18610:17 18616:7,11 gewag 18660:17 18661:19 18697:14 gewees 18600:7 18601:2,11 18616:6 18619:13 18635:23 18650:8 18651:15 18652:23 18659:9 18664:18 18666:11 18668:4 18674:12 18678:18 18702:21 18709:2,11 18710:9 18710:10 18713:20 18714:12,14 18715:7 18718:20 geweet 18653:24 18670:1,19 18681:25 geweier 18641:11 gewens 18679:9 18682:19 gewerk 18661:7 gewond 18612:15 geword 18593:15 18662:6 gewys 18590:6 18592:25 18613:18 18635:8 18694:12 18696:22 geïdentifiseer 18592:19 geïndig 18696:20 geïsoleer 18666:3 18679:5 ge-bespreek 18669:21 ge-disperse 18709:8 18715:18 ge-respond 18678:23 gister 18588:1 18611:7 18613:18 18640:4 18696:22	give 18578:18 18579:15 18579:16 18610:7 18628:19 18629:7,10 18643:25 18651:2 18680:15 18681:5 18682:3,10 18683:16 18689:3 18711:5 given 18604:21 18614:22 18619:1 18628:24 18640:16 18660:10 18666:19 18671:2 18675:1 18681:1,17 18684:25 18685:17 18689:14 18711:8 18714:1 gives 18642:23 giving 18652:13 18683:17 glad 18594:19 18595:19 18605:19 18618:6 18635:22 18665:16 18682:20 18683:20 18684:2,17 18709:4 glo 18595:17 18600:2,8 18601:7 18606:1 18610:14 18639:4 18640:12,24 18645:22 18726:1 go 18581:15,16,18,18 18582:21,22 18600:20 18605:22 18614:3,6,22 18622:6 18625:11,18 18633:19 18634:3 18646:18 18655:12 18660:8,12 18661:14 18667:11 18673:21 18680:14 18693:12 18698:4 18700:10 18703:17,19 18704:23 goed 18605:16 goeie 18605:15 goes 18590:4 18638:9,9 going 18578:20 18582:12,14 18610:25 18615:13 18624:4,16 18625:5 18625:13 18627:22 18629:15 18631:24 18632:17,17 18633:7 18641:18 18642:6 18645:6 18647:6 18654:4,8 18655:12 18658:15,25 18660:11 18666:19 18669:16,18,18 18673:6 18675:25 18680:10 18681:5 18682:3 18685:10 18687:13 18689:17 18703:8,18 18713:23 18719:13,15 18725:22,23 18726:9 18726:9 18727:6	good 18591:14 Gotz 18687:13,15,16 18687:24 18688:12 18688:20 18689:16 gou 18652:6 graag 18661:2 grade 18657:2 18710:21 grateful 18688:25 great 18677:3 greatest 18676:6 green 18582:3 18692:25 grenades 18603:14 grief 18633:8 groep 18587:6,10 18592:7 18636:6 18649:23 18657:13 18659:10,13 18662:4 18664:21,21,22 18665:2 18666:12 18675:9 18704:16,18 18709:1,3 18710:2 18711:3,3 18716:7 18717:13 18718:18 groepbevelvoerder 18667:20 groepbevelvoerders 18649:1,15 18650:6 18654:1 groepe 18660:2 18715:22 18718:16 groepier 18709:2 groepie 18662:7 18666:6,8 18704:12 18704:15 18715:19 18715:19 groepies 18706:4 18716:8 grond 18592:6 18650:1 18668:4 groot 18585:19 18648:24 18704:16 18704:17 18706:3 18711:3 grope 18706:3 groter 18662:4 18710:7 18717:13 18725:12 ground 18654:6 18676:6 18722:10 18727:2 group 18582:3,5 18622:8,14,16 18638:12 18705:1 18707:21 18713:8 groups 18658:24 guards 18597:5 guidance 18677:17 gun 18605:22,23 18606:7 GW6C 18693:13,19	18707:12 haelgeweer 18584:9,13 18586:13 18590:9 18606:1,2 18607:6 18610:12 18611:13 18612:25 18613:1,2 haelgewere 18590:16 18592:22 18595:19 18603:3 18607:4,7 18612:23 18613:14 18618:8 half 18692:6 18693:4 18698:12 18720:22 18720:23 hand 18581:4 18658:1 18703:4 18711:10 18716:4 handed 18637:6 handwapen 18590:8 handwritten 18638:4 hang 18609:9 18610:16 18611:11,14,24 18612:20 18616:15 hanteer 18655:21 happen 18660:9,15,20 18673:10 18680:10 happened 18640:2 18663:4,10,25 18671:22 18674:6 18679:21 18680:13 18683:8 18685:13,16 18700:7 18702:12 18714:7 18716:14,15 18716:17 happens 18614:2 happy 18650:14 18727:7 hard 18637:12 hardloop 18612:16 18661:11 18665:22 hasn't 18645:18,20 18676:22 hasten 18654:16 haven't 18608:5 18629:18 18642:17 18643:6,23 18689:6 18690:7 head 18581:3 18621:11 18627:20 headed 18687:22 hear 18598:24 18626:25 18631:1 18642:3 18662:23 18685:14,17 heard 18611:5,18 18622:9 18640:16 18643:1 18653:6 18663:2 18669:17 18671:17,19 18685:23 hearing 18615:2 heel 18721:11 heeltemal 18618:17 18665:17 18697:13 18718:7,8 heen 18706:4	hele 18711:4 18718:11 18718:14,19 helicopter 18622:10 18697:23 18705:20 18711:9 18719:15 helikopter 18704:17 18705:23 18706:1 18714:13 18717:3 help 18620:10 18629:11 18645:6,9 18645:24 18649:10 18697:16 18704:23 18717:11 helpful 18689:3 Hemraj 18586:8 18599:24 18626:11 18642:7,12,19 18643:18 18644:12 18653:18 18706:5,18 18707:1,7,14 18708:1 18710:16 18723:12 Hendrik 18637:3,10,12 18646:2 hergroepeer 18665:20 herhaal 18591:8 18594:13 18639:11 herinner 18670:22 he'll 18616:24 18643:3 18650:14 he's 18581:3,5 18584:11 18676:10 18683:17,17,18 18684:25 18685:23 18686:23 HHH4 18619:11,13 HHH44 18619:1,12 18620:3 hidden 18605:3 hier 18585:11 18587:5 18608:20 18641:9 18648:5 18659:9 18664:6 18670:23 18679:10 18681:9 18684:8 18691:5 18702:22 18704:16 18704:16,19 18708:20,25 18709:1 18709:2,7,9,11,17 18710:7 18711:2 18717:12 18718:15 18723:17 hierdie 18585:12 18597:6 18608:21 18639:24 18649:22 18650:4 18657:5,7 18659:6,7,8,11 18665:13 18666:11 18678:19 18679:12 18681:14 18684:5,6 18684:15 18702:5,9,9 18702:22 18703:12 18703:13 18704:11 18704:12 18709:3,11 18709:20,23 18710:5 18710:25 18712:4 18715:5,23 18716:7
--	--	---	--	--

18716:22 18717:10 18721:9 18724:2,16 18725:12 hiernatoe 18657:2,2 hieroor 18656:20 18681:21 high 18588:23 18589:9 highlight 18622:8 highly 18610:5 high-ranking 18623:15 history 18678:5 hoe 18697:15 18704:13 18715:12,18 18717:18 hoek 18657:3 18661:23 18699:22 18703:14 18717:3 18724:16 18726:3 hoekom 18657:22 18697:3 18710:11 hoeveel 18647:23 18684:3 hold 18622:21,23 18698:18 holding 18581:4 18584:11 18592:7 18601:8 18636:7,12 18642:14 18650:19 18652:16,21 18653:24 18665:9 hom 18584:18 18613:19 18617:13 18619:18 18621:1,7 18639:5 18640:14 18651:25 18652:1,5,6 18653:15 18664:25 18668:3 18670:22 18695:2 honde 18599:5 hondemeesters 18599:5 hoog 18723:23 hoop 18613:12 hoor 18639:11 18681:19 18718:7 hope 18642:4 18644:21 18673:5 18675:25 18700:13 hoped 18654:6 hopefully 18620:10 hoping 18588:5 18615:1 hospital 18638:19,23 18638:25 18641:22 18646:16 18688:22 hospitals 18651:4 hot 18682:15 hour 18624:21 18634:8 18634:12 hour's 18635:19 hulp 18717:13 Human 18693:15,17 18694:3 hump 18722:4 hy 18584:23 18585:10 18585:15 18596:5	18609:9,10 18619:17 18647:16 18652:5,22 18653:13,23,24 18663:6,12 18664:24 18667:22,25 18668:2 18668:2,3,11 18669:7 18669:8 18670:20 18680:3 18683:20 18686:13 18695:15 18702:22 18718:11 18721:23 18724:14 hypothetical 18713:23 18714:10 18716:15 hê 18650:11 <hr/> I <hr/> icon 18700:1 identification 18693:23 18694:2,8 identifications 18693:22 18694:16 identified 18688:14 18693:15,17 18695:8 18721:16 identify 18692:1 18698:21 18700:24 identifying 18700:3,6 18722:9 iemand 18605:16 18609:8 18610:11 18666:14 18679:13 iets 18663:6 18678:19 18679:13 18696:22 illegal 18715:17 image 18640:8 18698:17 18700:16 images 18633:7,16 imagine 18684:22 immediately 18622:14 18657:8 impact 18718:2 importance 18628:21 important 18633:14 18641:24 18642:17 18645:3 18654:11 18716:12 improbable 18610:5 inaccurate 18685:22 inappropriate 18726:17 inaudible 18630:16 18654:10 18720:13 18723:7 inbeweeg 18661:5 incident 18621:12 incidents 18672:5 include 18597:5,5 including 18596:19 18634:7 18650:20 18653:7 18696:11 incorrect 18619:11 indentation 18707:19 inderdaad 18586:24 18669:4 indicate 18579:20 18580:17 18622:10	18623:7 18643:7 18644:22 18646:24 18672:4 18715:24 indicated 18583:20 18614:16 18674:17 18685:7 18689:18 18700:10 18712:13 18714:25 18716:1 indicating 18587:18 18691:12 18692:13 18711:6 indication 18612:7,7 indications 18587:22 indien 18609:8 18649:25 18664:16 18665:18 18666:4 18670:20 18715:5,9 18718:23 inelegant 18674:4 inelegant 18674:4 inferences 18673:20 inform 18621:11 18726:24 information 18590:3 18685:25 18688:1,24 informed 18627:10 18633:6 infrared 18626:15 18627:3,8,11,16 ingaan 18684:16 ingelaai 18587:1 ingelig 18635:22,23 18651:13 18664:16 ingeneem 18669:5,7 ingeroep 18635:5 ingesluit 18659:15 initial 18706:8,13 18710:18 initially 18698:2 18707:12 injured 18589:11 18619:23 18626:3 18638:11 18639:1,14 18639:20 18640:8,13 18641:20 18651:3 18652:13 18653:5 18685:10 18688:3,7 18688:15 injuries 18588:8,16 18638:12 18650:25 18688:3,15 injury 18688:20 inligting 18603:17 18682:5 inquiry 18611:17 18679:19,21 18680:9 18680:12 18685:16 18685:24 18686:3 insident 18659:7 18702:22 insidente 18718:25 insights 18677:11 insluit 18597:7 inspection 18726:25 18727:5 instance 18587:15	18608:23 18648:20 18655:3 18694:17 instances 18589:24 18590:1 instructed 18620:6 18622:20 18624:7 18630:4 18666:21 18671:1 18676:14,15 18676:25 18706:16 18719:18 instruction 18640:22 18671:15,15 18672:10 instructions 18639:1 18641:3 18672:19 18676:20 intelligensie 18594:5 intelligent 18630:23 intend 18614:11 intended 18711:7 intending 18687:16 intention 18690:21 interested 18651:18 18693:23 interests 18626:18 interference 18707:13 interpreted 18633:18 interpreter 18617:12 18617:20 18662:13 18662:19 18663:10 18663:12 18714:21 interrogate 18676:9 interrogation 18636:15 interrupt 18613:24 18657:15 interrupted 18584:2 interrupting 18583:22 intervene 18630:12 18678:12 investigate 18689:10 investigated 18641:25 18642:17 18645:15 18645:19 investigation 18647:6 18647:11,12 18688:4 investigations 18642:2 investigators 18642:2 18689:9 involve 18716:16 IPID 18621:11,14,23 18637:4 18642:1,1 18645:21,22 18647:12 18653:8 IRA1 18622:9 iron 18712:13 isn't 18578:22 18583:2 18590:13 18602:13 18604:22,22 18610:20 18611:18 18613:25 18618:16 18685:22 18719:7 18722:5 isoleer 18715:22 issue 18603:19 18642:3 18645:5,10 issues 18645:7	item 18687:7 it's 18578:19 18579:14 18580:16 18581:1,8 18584:1 18586:14,15 18591:12 18624:15 18625:17 18626:14 18626:15 18628:5,17 18628:18 18630:18 18631:4,7,13 18632:11 18633:14 18645:14 18646:23 18647:9 18671:25 18674:3,17 18675:22 18684:23 18685:5,22 18687:19,22 18692:19,24 18697:10 18713:6 18716:2 18719:8 18722:19 18723:12 18726:8,9 I'd 18688:25 18689:2,6 18689:6 18690:18 18698:17 I'll 18626:20 18635:16 18667:14 18671:14 18676:2 18677:17 18682:23 18700:13 18723:9 I'm 18578:17 18580:16 18581:7 18582:12,13 18582:14 18587:18 18589:3,24 18598:22 18609:25 18612:4 18613:23 18615:4,16 18619:2,2 18620:1 18621:12 18623:6,19 18624:4,7 18625:20 18626:15 18628:12 18631:9 18632:16 18633:5,6 18637:12 18640:10 18641:2 18642:10 18643:3 18646:15,17 18650:14 18651:18 18652:9 18657:15 18658:13,13 18666:19,21 18668:24 18669:18 18673:1 18676:18 18677:4 18678:11 18687:16 18689:4 18691:12,13 18692:2 18692:13 18693:22 18694:19 18697:6 18700:2,3,13 18703:2 18707:18 18713:23 18716:24,25 18720:16 18722:7 18723:4 18726:17 I've 18580:16 18618:25 18626:12 18669:17 18688:25 18690:9,17 18726:6 I-R 18626:15 18627:2 <hr/> J <hr/>
--	---	--	--	--

<p>ja 18584:12,15 18585:19 18586:5,12 18590:5 18592:10 18595:17 18596:4 18597:12 18598:19 18599:11 18603:25 18605:7 18609:18 18610:10 18611:9 18616:6 18620:21 18621:22 18624:3 18648:4 18652:19 18657:21,22 18669:9 18674:1,1 18675:10 18675:17 18676:2 18678:4,17 18683:23 18684:19 18691:7 18694:18 18695:2,17 18697:12 18702:14 18703:10,15 18705:9 18711:14,18,18,21 18713:20 18716:5 18717:17 18721:23 18721:23,24,25 18725:20</p> <p>jaar 18664:24 18667:19 18677:14</p> <p>jammer 18684:15</p> <p>January 18726:19,22 18727:4,5</p> <p>jare 18603:22</p> <p>Jazeera 18632:23 18634:7</p> <p>ja-nee 18725:20</p> <p>JJJ107 18719:3</p> <p>JJJ108 18622:6,6</p> <p>JJJ178.3 18693:12,13</p> <p>JJJ1783 18701:19</p> <p>JJJ187A 18621:5,6</p> <p>JJJ188 18619:25 18620:16,22 18621:20</p> <p>JJJ194 18643:24</p> <p>JJJ194.17 18578:9 18579:13,14</p> <p>JJJ6.1178 18720:4</p> <p>JJJ82 18672:24 18674:10,16</p> <p>JOC 18619:22 18620:5 18620:8 18635:11 18653:2</p> <p>Johannesburg 18667:18 18695:11 18695:13,19 18697:7</p> <p>join 18719:4,10</p> <p>joined 18646:20</p> <p>Joseph 18688:5</p> <p>jou 18664:21 18670:22</p> <p>journalist 18634:7</p> <p>Jo'burg 18624:9</p> <p>julle 18665:13 18715:14,15</p> <p>junior 18687:13</p> <p>justice 18676:23</p> <p>justifiable 18679:24</p> <p>justified 18681:4 18682:2 18683:6,9</p>	<p>18686:1</p> <p>jy 18584:18 18592:5 18596:4,5 18606:2 18650:8 18664:20 18674:13 18679:14 18679:14 18684:12</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kaart 18587:19</p> <p>kans 18714:15</p> <p>kant 18585:12 18590:15 18593:12 18681:16 18717:20 18720:10 18724:3</p> <p>Kaptein 18619:19 18621:2</p> <p>kar 18600:5</p> <p>keen 18726:24</p> <p>keep 18698:17</p> <p>keer 18592:9 18593:14 18639:25 18661:25</p> <p>kennis 18607:7 18641:1 18647:24</p> <p>kere 18684:4</p> <p>killed 18589:19 18647:20 18648:3,9 18664:9 18676:10 18677:19,25 18679:25 18683:5,8 18683:10 18685:18</p> <p>killing 18678:10,14 18685:18</p> <p>killings 18681:7 18685:15</p> <p>kind 18581:6 18595:25</p> <p>KKK11 18587:13,14 18602:6 18655:11 18687:19</p> <p>KKK12 18637:16,20 18646:1</p> <p>klaar 18666:14 18709:11 18720:10</p> <p>klein 18662:6 18666:5 18666:7 18699:23 18704:11,14 18714:13 18717:4 18725:7</p> <p>kleiner 18660:2 18715:22 18716:8</p> <p>Klerksdorp 18646:21</p> <p>klink 18652:19</p> <p>knew 18634:10</p> <p>know 18578:10 18581:8 18582:21 18583:9,20 18586:22 18591:19 18592:12 18594:7,11,15,17,22 18594:24 18595:12 18596:12 18597:4 18598:6 18602:17 18604:2 18605:21 18611:6 18613:8 18615:11 18616:25 18617:9 18618:12,14 18620:9 18623:20 18626:9,12 18627:2</p>	<p>18627:24 18629:25 18631:4 18633:3 18638:4,25 18639:18 18640:21 18641:15 18642:1 18643:15 18646:13 18648:16 18648:17 18649:9 18651:20 18653:3 18655:24 18660:7,20 18663:1 18664:1 18666:18,21 18669:12,19 18670:5 18672:21 18675:4,23 18677:16 18685:2 18689:2 18700:12 18705:4 18708:4</p> <p>knowing 18586:1</p> <p>knowledge 18588:22 18604:7 18618:15 18673:16</p> <p>knows 18583:11 18626:22</p> <p>kolletjie 18602:10</p> <p>Kolonel 18600:6 18663:6,13 18664:23 18665:8 18667:17 18669:3,6,23 18670:19</p> <p>kom 18592:9 18636:7 18639:25 18640:25 18657:4,11 18663:6 18665:13 18681:16 18691:16 18697:14 18709:21 18712:5</p> <p>komers 18659:18</p> <p>Kommissaris 18600:2 18601:20 18653:22 18710:19</p> <p>kommissie 18608:19 18640:5 18680:17 18682:4,10</p> <p>kommunikasie 18636:8</p> <p>kon 18590:7 18600:8 18621:1 18636:10 18657:9 18665:8,9,11 18708:23 18714:19 18717:11,13 18723:22</p> <p>konsolideer 18682:16</p> <p>kontak 18651:25 18664:21</p> <p>kontakmiddel 18652:1</p> <p>kontinuum 18715:11</p> <p>koop 18606:19</p> <p>kop 18663:12</p> <p>koppies 18601:10</p> <p>korrek 18580:7 18585:3,24 18589:13 18591:23 18596:22 18597:21 18602:3,11 18605:12 18616:11 18617:6 18618:18 18621:2 18622:4 18623:12 18634:20 18637:24 18639:23 18645:11 18648:12</p>	<p>18649:12 18650:22 18651:5 18652:7 18655:8 18658:7 18662:16,21,24 18664:5 18665:1 18668:7 18670:9 18671:3,13 18675:17 18680:22 18691:4 18692:5,9,20 18694:4 18694:11,22 18695:2 18697:2,4 18698:7,15 18698:24 18699:4,8 18699:13 18701:5,13 18702:19 18703:11 18703:25 18712:10 18712:19 18713:9,16 18719:24 18722:16</p> <p>korreksie 18601:9 18607:2 18657:12 18664:15 18666:7 18697:13</p> <p>korrek 18589:22</p> <p>kort 18710:15</p> <p>korter 18691:23</p> <p>koördinering 18649:17</p> <p>kraal 18587:4,8 18655:14 18656:5,17 18656:18 18657:3 18658:9,15 18660:9 18660:14 18661:20 18691:2 18699:21,23 18699:25 18700:7,9 18700:11,13,16,24 18702:13 18703:6 18710:20,21 18711:13,15,16 18712:16 18714:13 18717:4 18725:7</p> <p>kragdrade 18705:24,24</p> <p>kragstasie 18714:18</p> <p>kriminele 18594:3 18599:4</p> <p>kruising 18601:9</p> <p>kruisondervraging 18663:17</p> <p>kry 18606:2 18621:1 18649:20 18652:7 18708:24 18709:12</p> <p>kyk 18617:11 18656:25 18696:18 18709:22 18710:20 18718:16 18721:10 18724:1,14</p> <p>K9 18599:5,13 18622:24</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L 18666:6 18668:22 18669:3 18690:18,19 18692:22 18698:20 18698:21</p> <p>laag 18663:12</p> <p>laas 18677:14</p> <p>laaste 18639:9 18659:19 18677:22</p> <p>laat 18598:14 18600:4 18610:11 18682:16</p>	<p>lack 18586:1</p> <p>lading 18612:14</p> <p>laid 18652:14</p> <p>landmarks 18692:2 18698:22</p> <p>lang 18609:7 18616:9</p> <p>lank 18697:15 18710:15</p> <p>large 18648:15 18657:17 18658:2</p> <p>largest 18677:18</p> <p>latere 18684:9</p> <p>launched 18647:1</p> <p>lawfully 18592:15 18679:24</p> <p>lay 18615:4,4</p> <p>layout 18714:7</p> <p>laypersons 18648:15</p> <p>leader 18638:18</p> <p>leaders 18663:17 18689:8 18726:24</p> <p>leading 18704:8</p> <p>leaking 18583:23 18584:1</p> <p>leap 18686:25</p> <p>learned 18687:13 18690:16</p> <p>leave 18589:25 18633:13,14 18638:18 18667:14 18669:14 18701:2</p> <p>leaving 18670:6</p> <p>lede 18603:2 18649:23 18651:14 18682:5 18702:8</p> <p>leeg 18715:6</p> <p>lees 18640:12 18641:9</p> <p>left 18588:9,18 18638:19,22 18640:9 18667:1,5,9,15 18669:12,13,15 18691:2 18696:9 18699:11 18700:1 18704:6 18705:17 18711:10 18712:14 18714:6 18719:13 18720:24 18722:3,12 18722:13,20 18723:1 18723:9</p> <p>left-hand 18583:4</p> <p>Legau 18637:13,17 18639:19 18640:6,22 18646:2,12</p> <p>Legau's 18639:18</p> <p>lei 18607:3</p> <p>leier 18601:2</p> <p>leiers 18618:7</p> <p>length 18583:8 18672:18</p> <p>lengthy 18697:8</p> <p>lest 18688:8</p> <p>lethal 18661:6</p> <p>letters 18627:2</p> <p>let's 18583:14 18584:2 18589:17 18595:21 18597:18 18623:16</p>
--	--	--	--	--

18625:20 18630:5 18664:12 18678:7 18692:1 18698:20 18701:10,24 18713:21,22,24 liberation 18678:5 licence 18605:22 lid 18584:8 Lieutenant-Colonel 18622:9 18623:8 life 18646:6 lig 18681:10 18682:7 18682:18 light 18664:2 18683:15 lights 18630:13,15 ligtelik 18679:14 likelihood 18595:5 liniaal 18725:11 linie 18601:7 18678:22 18696:20 18701:6 linies 18667:22 linker 18724:16 18726:2,2 linkerkant 18587:8 18613:19 18663:14 18724:2 18725:11 links 18601:10 18706:1 listed 18688:2 lists 18620:11 little 18581:16 18582:20 18691:10 18693:21 18696:4 18697:8 18699:21,25 18700:16 18703:7 18720:19 lives 18641:4 local 18599:12 loco 18726:25 Loest 18618:24,25 18619:3,11,12,19 18620:5,18 18621:2 18623:7 18635:11 18653:12 long 18624:16,23 18625:18 18668:17 longer 18603:20 18704:5 18718:1 Lonmin 18591:20 18592:1,20,20,22 18593:12,17 18594:12,16 18595:23 18596:10 18597:5 18598:12 18599:25 18604:14 18607:15,17 18608:2 18616:13 18617:4,11 18617:15,20 18618:3 18618:8 18626:18 18646:18 Lonmin's 18601:14 look 18585:7 18612:3 18615:5 18619:24 18623:16 18624:17 18625:15 18629:18 18630:15 18644:18 18669:18 18674:16	18674:18 18676:2 18680:7 18687:19 18697:16 18698:19 18698:21 18699:10 18703:7 18720:3,18 18721:15 18722:22 looked 18584:20 18588:19 18643:5 looking 18578:25 18585:2 18611:4 18625:14 18626:18 18627:5,7,8,11,11,15 18628:22 18657:25 18674:16 looks 18579:15 18581:10 18584:1 18585:16 18604:16 18628:25 18631:19 18693:1 18700:25 18722:3 loop 18587:1 18705:23 18705:24 los 18665:22,23 18666:12 lot 18703:1 18725:16 18725:21 love 18672:23 loved 18633:9 18648:9 18685:9 lower 18724:21 luister 18681:19 Luitenant-Kolonel 18665:1 18667:20 lunch 18668:20,23 18686:4 18687:5,7,10 lying 18641:20 lyk 18661:18 18709:9 18723:21 lyn 18657:11,12 18658:19 18659:14 18659:24 18660:4 18661:21 18701:14 18703:25 18704:14 18709:12 18710:6 18712:23 18713:1,1 18715:3,20 18716:7 18717:18 18723:19 18725:10,11 lyne 18684:4 lê 18682:12 18709:22 L-O-E-S-T 18618:25	18612:1,11 18613:13 18613:17 18616:10 18619:11 18621:1 18635:4 18645:23 18647:23 18650:3 18652:6,20 18657:12 18658:20 18659:13 18662:7 18664:15 18665:23 18680:3 18681:12 18684:6 18691:7,18 18694:13 18695:6,18,20 18698:15 18703:13 18711:15 18715:6 18717:12 18718:7,8 18718:13 MacIntosh 18662:13 18662:14,15,19 18663:2,6,14 magasyn 18587:1 magic 18581:6 Magidiwana 18583:7 Majoer 18636:13 major 18623:18 18642:20 Major-General 18622:6 18650:19 18651:19,20 18652:15 Makau 18646:15 Makhubela 18600:6 18664:23 18665:8 18667:17,24 18670:19 making 18602:24 18676:11 maklik 18602:21 18612:12 man 18700:1 mandate 18676:8,8 manier 18678:22 18708:22 marching 18580:23 Marikana 18633:10 18638:19,22,25 18643:6,9,10 18646:18 mark 18632:2 18720:11 marked 18694:20,21 18694:24 18697:9,20 marking 18691:13 18703:2 18707:18 18721:20 18722:7 MARTHINUS 18578:4 18625:2 18690:12 mast 18703:5 material 18675:25 18685:23 18716:13 18716:19,21 18717:1 18718:1 matter 18614:1,21 18641:19,24,25 18642:22 18645:8,14 18652:14,15 18653:8 18661:13 18676:15	18676:21 18683:10 18684:23 18687:4 18689:13 matters 18643:16 18647:4 18685:1 mean 18580:24 18586:19 18589:17 18590:11 18596:17 18598:2 18600:19 18602:1 18607:9 18615:4 18625:21 18657:24 18660:7 18670:25 means 18598:3 18616:18 18646:17 18648:16,17 measure 18646:25 18648:15 mechanism 18586:21 media 18600:9,10,23 18601:3 18616:9 medical 18618:23 18619:22 18622:11 18622:15,20,22 18625:25 18626:1 18635:13 18636:18 18689:5 medics 18618:22 18623:10,16,17,19 18624:8 18634:9,10 18634:13,24 18635:4 18635:19,22 18636:5 18636:13,22 mediese 18651:24 18652:2,21,23 18665:11 meegedeel 18674:12 18675:9,11 meer 18586:14 18595:10 18612:18 18612:19 18661:10 18686:7 18715:17 member 18584:5 18604:4 18610:1 18617:4,15 18618:3 18637:19 18647:13 members 18590:22 18591:15,20 18592:1 18602:13,25 18604:12,20 18609:3 18609:4 18618:13 18620:6 18650:20 18658:14 18678:9 18691:2 memory 18581:11 men 18700:2 Meneer 18603:4 mens 18601:10 mense 18594:3 18599:3 18661:20 18665:11 18665:22 18679:9,14 18682:16,19 18684:7 18684:8,8,11,11 18686:9 18706:3 18715:18,23 18718:15,24	18723:25 18725:12 Mere 18665:1 18667:20 18668:9 18669:3,6 merely 18619:21 18620:4 18700:23 message 18646:23 Microphone 18630:16 18654:10 18720:13 18723:7 middel 18652:1 18660:1 18662:2 18714:21 middle 18689:20 18692:23,25 18693:3 18701:3 18713:3,7 18720:21 mikrofoon 18683:22 militante 18711:3 mind 18645:19 18698:17 minded 18606:8 Mine 18646:18 miners 18660:8 18663:24 18673:10 mineworker 18606:23 18607:25 18608:24 mineworkers 18580:22 18646:22 18674:8 minus 18638:15 minute 18580:19 18679:20,20, 18680:13,13 18697:13 18714:15 18726:8 minutes 18628:17 18629:5,23 18631:10 18634:24 18638:16 18654:17 18695:24 18698:13 misdaad 18594:5 miskien 18585:12 18591:7 18596:10 18597:11 18599:13 18600:9 18601:4,19 18611:12 18613:21 18657:10 18696:21 18702:5 18703:12 18705:21 18709:10 18710:15,21,22 18712:24 18717:18 18717:20 18718:8 18724:12 mislei 18686:9 misrepresent 18688:9 missing 18706:22 mistake 18688:5 mistaken 18706:22 misunderstand 18706:6 misunderstanding 18724:6 Mm 18663:3 Mm-mm 18667:3 Moeketsi 18688:5 moes 18612:18
	M			
maak 18597:8 18609:7 18649:24 18651:12 18651:14 18662:5 18664:21 18665:21 18682:7 18691:24 18708:19 maand 18677:14 Maandag 18607:7 maar 18580:9,10 18584:18 18585:11 18589:15 18596:4,6 18602:21 18606:1 18607:3 18608:19,20				

18649:20,21 18650:2 18650:7 18679:3,4,5 18679:6 18701:15 18709:7,12,20,20 18712:3 moet 18585:12 18593:8 18607:2 18612:1,16 18613:21 18645:22 18649:23 18650:5,11 18651:15 18652:24 18661:4,8 18665:19 18670:9 18671:24 18681:12 18682:11 18697:12 18710:5 18721:8 Molatedi 18621:11 moment 18590:1 18604:9,23 18625:14 18625:18 18626:18 18628:19 18630:17 18641:16 18644:10 18655:11 18663:23 18698:19 18726:18 mond 18686:9 mooi 18594:14 18717:8 moontlik 18613:11,16 18613:17 18650:4 moontlike 18708:22 18710:10 18714:19 morning 18726:20 mortem 18588:6,19 Motaung 18621:14 motivering 18681:16 mountain 18659:1 18669:17 move 18599:20 18608:9 18615:15,22 18615:25 18618:20 18622:14,25 18625:5 18630:5 18672:13 18675:21 18676:4 18701:17 18713:11 18719:19 movements 18698:11 moving 18696:6 18713:6 18724:23 18725:4,22 Mpofu 18613:12 mufti 18596:14 municipality 18726:23	nature 18614:4 natuurlik 18600:11 near 18584:7 nearly 18624:15 necessarily 18685:9 necessary 18581:5 18644:19 18685:8 nee 18586:23 18587:25 18592:6,23 18593:5 18593:19,24 18594:9 18595:20 18598:10 18598:14 18600:13 18601:22 18603:7 18608:17 18610:10 18613:13 18618:9 18619:17 18623:22 18623:25 18624:3 18634:19 18635:22 18636:19,25 18639:3 18639:15 18640:3 18647:16 18649:2 18652:4 18653:22,22 18656:20 18658:16 18658:19 18659:2 18660:16,17 18661:17,22 18663:5 18663:11,11 18665:24 18667:25 18682:20 18683:20 18684:1,1,1,2,18 18686:12 18695:2 18696:16 18703:10 18704:9 18711:25 18718:8 18721:23 18723:16,18 need 18583:23 18623:15 18633:4 18681:6 18682:12 18707:24 needed 18623:19 18635:13 neem 18605:14 18665:1 neergelê 18718:23 neerlê 18715:10 negatief 18597:25 neither 18588:23 18589:9 18632:10 Nel's 18720:4 net 18580:7 18584:12 18584:13 18585:19 18589:13 18590:6 18591:7 18593:25 18594:13 18612:1 18613:15,21 18619:10,17,18 18620:21 18624:2 18635:8 18636:4 18639:10 18640:12 18641:8 18649:2 18662:8 18665:7,21 18665:23 18666:12 18674:11,12 18675:18 18677:15 18682:12 18683:20 18684:2,5,7 18686:12	18691:7,16,17,23 18695:2,14 18696:18 18699:3 18702:21 18704:11 18705:9 18708:18,20 18709:10 18710:3 18711:25 18715:5,18 18715:19 18718:24 18721:5,10 Netcare 18625:22 18629:4 18630:8 18646:3,7,11 neus 18587:7 neutral 18600:7,17,22 18600:22,24 18601:17 18602:1 never 18611:15 18645:19 new 18676:21 18726:10 18726:14 18727:8 niemand 18589:14 nie-polisie 18597:9 niks 18710:3 nine 18726:20 NIU 18674:23 18680:24 18701:9,16 18710:6 18712:23 18713:1,2,8 Nkaneng 18600:10 18725:7 nodding 18581:3 nodig 18670:21 18696:19 18721:10 nods 18627:20 noem 18601:7,9 18659:22 18682:15 18703:15 18712:5 nog 18580:10 18606:3 18607:8 18612:16 18640:4 18652:2 18659:3,23 18661:18 18662:3,10 18675:11 18677:15 18704:19 18704:20 18705:10 18715:6 18718:23 noise 18610:25 Noki 18582:3 nommer 18606:2,3 18668:11 nonsens 18684:17 nooit 18659:3 18678:19 18684:12 noord 18657:3 18699:3 18704:14 18709:4 18724:15 18725:8,9 noordekant 18695:14 noordelike 18705:25 noordwes 18695:18 18724:15 18725:10 normally 18581:5 north 18695:15,16 18697:9,17,21 18698:1 18699:2,5,6 18703:18 18708:7,10 northerly 18719:12,13 northwest 18724:10,13	18724:18,23,25 nose 18656:11 notas 18665:2 note 18630:14 18631:14 18632:13 18687:5,10 18688:13 notes 18629:19 notice 18622:20 nou 18585:20 18590:6 18594:14 18600:12 18602:10 18620:22 18621:1 18635:2,8 18639:25 18647:16 18652:19,19 18657:12 18658:21 18664:15 18665:6,23 18669:5 18670:8,15 18670:22 18674:10 18674:11 18675:18 18678:17 18680:3 18681:11 18683:20 18684:2 18692:4 18694:10 18695:19 18696:19 18697:12 18709:15,16,18,18 18715:17 18721:5,22 18724:1 noudat 18721:23 no-one 18629:10 18633:18 Ntsebeza's 18606:14 18617:24 18649:8 18668:25 number 18579:12 18582:5 18589:25 18608:12 18609:22 18609:23 18612:6 18618:25 18637:12 18653:7 18677:19 18689:11 18696:2 18705:7 18713:5 nuwe 18681:25 18718:16 18720:6 Nyala 18584:7 18590:22 18617:16 18659:8 18660:12 18662:13,19 18664:23,23 18668:1 18668:11 18669:4 18695:14 18700:7,8 18700:10,11,15 18703:3,4,5,12 18712:24,25 18713:5 18722:10,11,19 18723:12,18,24 Nyalas 18580:23 18582:7 18616:14 18617:3 18618:1 18661:4 18668:14 18670:9,12,14 18693:17 18695:3 18701:2 18719:19 18725:15	18677:24 oath 18578:3 18580:4,5 18625:1 18654:21 18690:11 objective 18624:6,7 objects 18629:10 obligations 18653:2 observation 18584:6 obstruction 18600:19 obtained 18614:5 18644:21 obviously 18611:18 18618:15 18629:11 18641:24 18642:17 18642:22 18643:5 18676:24 18679:22 18719:5,21 occurring 18671:17,19 October 18672:21 office 18621:14 officer 18591:25 18596:1 18608:14 officers 18588:22 18589:8 18590:24 18593:17 18598:18 18605:3 18607:11 18616:2 18670:17 officer's 18596:24 oh 18582:13 18583:3 18591:12 18607:16 18632:14 18722:25 okay 18579:15 18581:15 18583:12 18586:18 18591:6,9 18595:21 18616:23 18620:14,15 18625:19 18626:8 18627:17 18628:4 18634:3,22 18655:22 18681:3 18682:1 18713:14 18717:22 18719:9 18722:25 18726:4 om 18602:21 18610:12 18612:12 18613:16 18649:14,18 18651:12,13 18652:6 18652:21 18653:16 18657:21,21 18659:4 18659:4 18660:1,5,17 18661:10,20 18662:4 18662:10 18665:20 18665:20,21,22 18666:11 18670:14 18691:23 18696:19 18697:14 18703:12 18703:24 18708:21 18708:23 18709:2,21 18710:13 18712:4,5 18714:15,16 18717:6 18717:11 18718:21 18718:22 ombeweeg 18659:10 omdat 18593:10 18652:5 18661:7 18681:22 18682:19
<hr/> N <hr/> naaste 18708:22 nadat 18708:21,25 18718:10 Naidoo 18592:8 18622:7 18623:8 18636:13 18650:19 18651:19,20 18652:15 18653:23 18665:10 Naidoo's 18642:21 18653:19 name 18688:6 narrative 18629:15 narratives 18629:13				
			<hr/> O <hr/> O 18616:23 18662:20	

18684:11 18712:2,3 18717:19 18718:8 omdraai 18660:3 omgewing 18718:14 omission 18654:16 omsirkel 18716:8 omstandighede 18609:9 18610:18 18611:12,14,25 18665:5 18679:10 18684:10 18686:8 18718:19 omtrent 18657:5 18717:18 Once 18612:3 onder 18587:1 18592:7 18595:2,9 18601:9 18605:15,17 18607:2 18636:5,9,25 18640:4 18641:12 18657:12 18663:16 18664:15 18666:7 18670:22 18679:10 18684:9 18697:13 18704:17 18715:20 18721:11 onderhandelinge 18601:22 onderkant 18709:6 onderkantste 18721:7 onderskeid 18597:8 ondersoek 18607:3 18645:23 ondersoekbeamptes 18645:22 onderste 18724:16 18726:3 ondervinding 18664:24 18665:15,25 18666:16 18667:19 onduidelik 18585:19 ones 18633:9 18645:1 18648:9 18685:9 18719:16 18724:24 18725:14,21 ongelukkig 18694:10 18695:12 onhoorbaar 18683:22 onmiddellik 18612:17 onmoontlik 18605:13 onthou 18588:12 18594:2 18658:18 18659:6 18675:9 18696:23 18709:5 18711:1 onttrek 18603:21 ontwapen 18666:3 18715:23 ook 18594:2 18601:11 18613:20 18618:6 18641:10,13,13 18649:18,21,24 18650:12 18651:14 18652:3,24 18655:21 18663:16 18664:14 18665:2,11,18,20 18675:9 18678:17	18681:21 18682:21 18684:3,6 18696:22 18696:23 18706:3 18709:14 18710:12 18711:2 18723:19 OOO173 18637:11 oor 18619:12 18650:11 18657:21 18678:20 18678:20 18686:12 18697:3 18705:10 oordra 18649:25 oorgedra 18675:12 oorhoofse 18648:25 18649:19 18650:11 18705:24 oorkom 18684:13 oorlede 18641:13 oostelike 18657:23 18709:4 opbreek 18660:2 18715:22 18716:7 opdrag 18649:22 18651:13 18652:5 18657:5 18659:20,25 18661:3,8 18662:1 18665:12 18670:8 18708:21 18715:20 opdragte 18663:15 openbare 18584:9 18603:2 18659:14,25 18661:24 18662:1 18664:25 18665:15 18667:18,21 18669:23 18710:13 opening 18600:6 18714:19 operasie 18665:16 18666:1 operasionele 18592:6 18605:18 18618:5 18648:12,25 18649:2 18649:14 18650:10 18651:12 18664:20 18665:25 18666:15 operation 18599:25 18647:1 18648:9 18664:2,12 18675:20 18718:2 operational 18591:25 18592:14 18594:21 18598:23 18618:21 18620:18,19 18635:15,17 18636:2 18636:4,5,16,16,17 18645:8 18648:8,16 18648:17 18649:5,16 18650:15 18655:2 18663:22 18664:3,10 18665:14 18671:16 18671:21 18685:14 18685:15 operations 18677:20 operator 18578:10,11 18581:3,12 operators 18698:17 opgestel 18661:25	opgetree 18665:19 18681:24 18715:10 18715:12,15 opgevolg 18666:2 18702:9,20 18710:11 18712:4 opgevorm 18714:12 18715:3 18717:3,5 opinie 18612:11 18613:15 18641:8 opnoem 18599:6 opportunity 18683:18 opsies 18665:8 opspraakwekkende 18702:6 optrede 18664:18 optree 18661:6 18665:18 opvolg 18702:5,10 18709:12,18 18710:14 18716:6 18717:11 oral 18614:22 18644:19 orange 18699:18 orde 18584:9 18603:2 18659:14,25 18661:24 18662:1 18664:25 18665:15 18667:18,21 18669:23 18710:13 order 18586:19 18622:24,25 18712:21 18719:19 ordered 18622:22 ordinary 18593:3 organisasies 18652:24 organise 18726:25 orient 18692:1 18721:15 18722:7 original 18643:25 18698:19 18708:6 18711:8 ought 18644:16 oukei 18620:24 18624:3 18717:1 18720:9 18721:19 outcrop 18691:14 18720:20 outside 18701:12 overall 18636:2,4 18648:16 18649:20 overlooked 18654:14 18688:25 overstating 18697:6 overwhelmingly 18609:24,25 o'clock 18653:5 18689:23 18690:6,6 18726:20	18627:19 18638:9 18646:2 18655:11 18673:1 18674:5,16 18680:6,7 18687:21 18687:21 18688:2 18689:1 18693:14,14 18693:16,19,20 18700:25 18701:18 18707:20 18711:10 18719:8 18721:17 pages 18587:14 18638:4 pain 18633:8 pan 18703:1 Papa 18591:4 18602:7 18602:25,25 18656:22 18661:4 18670:8,12,14 Papa1 18602:20 18655:18 18656:23 18659:23 18722:15 Papa10 18590:24 18591:2 18602:10 18669:4,6 Papa11 18657:4 18661:22 Papa19 18590:23 18591:2 18602:7,9,13 18669:6 Papa4 18696:5,9 Pappa 18695:3 Pappa1 18694:6 para 18674:19 parade 18672:20 paragraph 18619:5,6 18620:2 18621:9,16 18622:7,19 18638:8 18638:10 18646:19 18674:17 18719:2,8 paragraphs 18643:6 parallel 18719:16 18724:18,22 18725:14,17 paramedic 18631:22 18637:4 paramedici 18641:12 paramedics 18624:10 18640:22 18642:23 18643:2,12 18644:8 18644:11,25 18646:20,25 18650:21 18651:1 18652:12,17 pardon 18592:13 18626:24 18707:2 part 18580:21 18582:11 18588:9,18 18600:22,24 18601:25 18602:1 18622:22 18628:3 18648:1 18674:5 18684:23 18685:8,11 18686:2,4 18696:12 18706:25 partial 18714:2 partially 18601:20	participation 18689:14 18727:8 particular 18580:24 18587:17 18598:7 18641:19 particularly 18617:2 18618:1 18634:9 parties 18685:8 pas 18606:18 pass 18652:19 passage 18638:8 18657:21,24 18675:3 18676:1 18680:20,24 patch 18699:2 18722:10,12,13 pause 18630:12 18631:2 peaches 18703:1 pellet 18588:24 18589:10,11 18605:23 18612:14 18612:15 18613:17 18613:19 18688:3 pellets 18587:17,24 18589:19,20 18594:24 18602:17 18603:5,8,13,18 18604:1,7,14 18605:3 18605:9,23 18606:8 18612:12 18614:2 people's 18607:18 perceive 18671:20 perceived 18683:11,14 performed 18705:5,6 performing 18696:13 period 18634:12 18698:12 permitted 18643:2 18677:5 perseel 18666:9 persentasië 18662:5 person 18589:18 18596:25 18606:9 18615:4 18617:15 18648:20 18688:14 persone 18588:13 18592:4,17,24 18593:1,6 18594:1,6 18595:10,18,19 18597:20 18606:1 18613:20 18641:11 18650:1 18659:11 18660:6 18661:5,6,10 18661:25 18662:4 18664:7 18665:6,11 18665:19 18667:16 18669:23 18678:21 18679:4,4,5,6 18681:9,10,13 18684:15 18703:24 18704:12,15 18713:1 18715:13 18717:7 18718:16 18723:17 18723:20 personeel 18601:5 18617:11 18618:8
P				
18650:12 18651:14 18652:3,24 18655:21 18663:16 18664:14 18665:2,11,18,20 18675:9 18678:17	paar 18599:6 18684:4 18723:17 pad 18600:10,11,12,13 18659:14 page 18587:15 18602:6			

<p>18651:24 18652:2,3,7 18652:22 18681:25 personnel 18598:13 18616:14 18618:23 18622:15,21,23,25 18623:2,15 18625:25 persons 18582:2 18626:3 person's 18615:4 persoon 18590:7 18591:4 18606:19 18609:8 18612:15 18613:18 18621:23 18639:4 18640:24 18679:11 18682:19 perspective 18694:14 phase 18674:22 18699:16,20 18702:16,16 18708:16 18717:24 Phatsha 18688:16 phone 18621:13 phoned 18620:19 18621:10,13 photo 18612:4 photograph 18644:7,13 18692:14 18704:23 18720:3,4,5,19 18722:3 photographs 18672:4,5 photos 18593:23 phrase 18674:24 Phuka 18688:6 physical 18600:19 pick 18611:1 picked 18653:5 picture 18624:9,13 18672:7 18691:11 18692:3 18700:25 18701:1,21 18704:23 18705:13,14 18706:25 18711:17 18713:3,7,8 18720:21 18720:22,23,24 18721:2,4,18 18724:20,21,22 18725:3,5,23 pictures 18633:7 piece 18680:11 pin 18692:15 pistol 18609:1 Pitsi 18669:23 PKRS 18665:11 plaas 18661:2 plaasgevind 18664:17 18718:25 plaasvind 18669:22 place 18635:19 18647:4 18672:5 18687:18 18688:8 18703:17 18706:20,22 18707:5 placed 18689:12 plan 18678:23 18679:8 18698:19 18699:21 18701:22,24 18702:1 18703:6,11,16,22</p>	<p>18704:3 18706:9,18 18706:25 18707:11 18707:15 18708:6,14 18709:10 18710:8 18711:1,8 18712:6 18713:19 18715:2 18717:24 18718:4 18719:22 planne 18679:2 planned 18678:25 18713:25 play 18578:11 18581:16 18625:7 18629:2 18630:20 18632:22 played 18578:9 18579:9 18624:14 18630:10,10 playing 18578:14 18579:8 please 18581:19 18628:11 18629:7,16 18654:2 18706:6 plein 18710:3 plek 18708:22,24 18709:14 plus 18638:15 point 18579:24 18581:8 18583:7,15 18590:17 18596:15 18599:19 18606:14 18609:22 18610:6 18614:13 18615:4,23,25 18619:21 18620:2 18625:21 18628:21 18630:4 18631:8 18632:3,18 18634:4 18642:18 18644:20 18647:9 18661:12 18672:19 18676:4,22 18676:22 18683:17 18685:3,4,23,23 18686:4 18691:1 18702:17 18704:25 18706:16 18707:9,23 18713:2 18714:8 18726:8,11,14 pointed 18703:8 18711:20 18713:18 pointer 18692:4 pointing 18582:13 18692:2 18694:19 18711:24 points 18614:23 18723:12 police 18583:13 18588:22 18589:8,18 18590:2,12,24 18595:15 18596:1,8 18596:20 18597:2 18598:6,8,12,18 18601:16 18604:4,12 18604:20 18605:3 18607:10 18608:13 18608:25 18609:17 18614:19 18616:2</p>	<p>18618:4 18622:10,25 18629:5 18631:14,25 18632:2,5 18635:12 18637:12,20 18644:7 18647:13 18652:12 18673:11 18674:7 18677:19,25 18679:23,24,25 18680:14 18683:5,6,6 18683:9 18718:2,2 policeman 18589:10 18607:21 polisie 18589:1 18590:8 18590:15 18596:4 18597:8 18616:9,11 18617:5 18660:4 18682:21 polisiebeampte 18610:14 polisiebeamptes 18594:4 polisieman 18605:15 18607:6 polisiemanne 18607:12 polisievoertuie 18725:10 polisiering 18584:9 18664:25 18665:15 18667:19,21 Polisieringslyn 18661:24 Polisieringsvoertuie 18659:14,25 18662:2 POP 18584:6 18590:22 18591:16 18602:13 18602:25 18609:4 18610:1 18710:17 POPS 18691:2 18694:17 18716:20 pop's 18609:3 18701:4 18703:18,20 18706:14,14,19 18708:7,9 porthole 18617:16 portion 18578:21 posisie 18600:5 18656:22 18658:20 18668:11 18669:5,7 18691:18 18694:5 18703:11 18712:25 18714:22 18715:1 position 18617:3 18618:21 18655:2 18663:23 18672:4 18674:7 18688:10 18689:25 18692:16 18694:2 18696:6 18700:10,24 18703:2 18703:21 18707:10 18707:16 18712:8 18714:3,24 18718:3,3 18722:8,9 18726:11 18727:1 positioned 18602:7 18696:12 positioning 18714:8</p>	<p>positions 18587:15 possession 18608:1,6 possibilities 18605:2 possibility 18605:6 possible 18604:14 18605:1 18637:21 18638:3 18651:2 possibly 18583:25 18604:17 18699:17 post 18588:6,19 power 18664:4 powers 18663:22 praat 18584:23 18607:2 18624:2 18664:15 18665:6 18697:13 18723:25 practitioner 18686:23 precautionary 18646:24 precise 18644:10 precisely 18692:15 prefaced 18614:15 preferable 18638:2 premises 18583:24 prentjie 18718:19 prepared 18629:9,18 18635:15,18 18636:21 18687:25 preponderance 18588:8,16 prerogatives 18617:25 prescripts 18678:8 presence 18595:12 18689:19 present 18620:6 18693:25 presentation 18587:23 18687:20,21 18707:21 18708:4 President 18685:7 presies 18587:5 18602:20 18651:16 18653:16 18664:19 18682:11,17 18697:14 presiese 18635:3 pressures 18690:9 presumably 18647:5 18667:12 18698:1 18715:25 18719:10 Pretoria 18646:16,21 Pretorius 18620:17,19 18621:20,23 18623:7 18653:3 Pretorius's 18621:5 pretty 18703:21 previous 18621:20 18702:25 18706:10 previously 18631:22 18690:17 18706:15 18714:25 prior 18578:12 18708:7 private 18686:1 probabilities 18611:4,5 probable 18609:24,25 probably 18581:2</p>	<p>18644:19 18645:6 probeer 18594:1 18599:14 18660:2 18686:9 18708:18 18721:5 probing 18685:3 probleem 18580:11 18635:24 problem 18578:22 18583:22 proceed 18583:14 18629:16 18633:20 18643:3,9 18653:19 18654:7 proceeded 18645:8 18651:1 18712:17 18716:18 proceeding 18725:3 PROCEEDINGS 18578:1 proceeds 18649:11 professioneel 18682:20 projectile 18585:17,22 18586:20 prominente 18601:9 promise 18687:6 promised 18588:16 18621:14 promising 18687:10 promptly 18651:9 pronounce 18637:13 proper 18644:16 proposisie 18588:1 18613:15 18715:4 18717:21 proposition 18608:4 18613:22 18671:25 18682:24 18683:13 18683:16,18 18684:21 18685:5 18708:5 propositions 18624:5 prosperous 18727:7 Protea 18697:23 protection 18716:20 protesters 18619:24 18690:22,23 18702:23 18708:12 18714:4,5,6 protestors 18655:14 18656:16 18657:1 18658:11,15 18661:7 18662:10 18708:8,10 protocol 18639:6,13 provincial 18621:11 provision 18707:15 provisional 18629:12 Public 18622:24 punctually 18651:9 punt 18657:22 punte 18679:3,8 purchase 18606:8,12 purpose 18579:1 18679:22 18687:19 purposes 18693:25 pursued 18641:17</p>
--	---	---	--	--

<p>put 18578:15 18581:11 18588:7 18595:25 18605:1 18609:24 18610:3 18615:12,19 18624:5 18635:16 18637:22,22 18638:3 18643:23 18645:7 18648:18 18655:10 18660:19 18666:21 18667:14 18671:1,6 18671:14 18672:23 18673:6 18676:12 18677:4,8,17 18682:23 18683:1,2,3 18683:14,18 18684:21 18685:13 18687:3,4,17 18689:24 18690:24 18693:7 18698:18 18701:20,22,23,25 18702:12 18708:6 18711:6 18713:23 18716:13 18717:23</p> <p>puts 18608:3,8</p> <p>putting 18581:24 18588:7 18589:3 18608:8 18609:20 18707:9</p> <p>pyl 18699:4</p> <p>P1 18655:23,25 18656:1</p> <hr/> <p style="text-align: center;">Q</p> <p>quarter 18624:21 18720:24</p> <p>query 18642:13</p> <p>question 18584:11 18589:5,7 18594:18 18596:23 18598:5 18601:13 18609:1,12 18612:5 18614:15 18616:1 18617:5,23 18617:25 18624:6 18626:25 18627:3 18628:15 18635:16 18667:9,14 18669:1 18669:11 18670:4 18677:17 18683:17 18689:10 18690:1,24 18701:25</p> <p>questioning 18627:22 18655:21</p> <p>questions 18581:24 18585:1 18610:6 18648:18 18649:8,11 18654:5 18675:22 18676:14,16,18,24 18677:4 18683:1,2 18687:17</p> <p>quickest 18701:19</p> <p>quickly 18581:2 18651:1 18668:16 18703:17 18726:12</p> <p>quite 18688:17</p> <hr/> <p style="text-align: center;">R</p>	<p>radio 18651:25 18653:7 18670:7 18696:25</p> <p>Ramapapu 18688:6</p> <p>reach 18631:14 18697:18,19 18726:10</p> <p>reached 18700:12 18726:6,11</p> <p>reaching 18697:22</p> <p>Reaction 18712:8</p> <p>read 18638:10 18642:20 18643:7 18680:11,20</p> <p>readily 18688:24</p> <p>reading 18579:24 18674:22 18680:6</p> <p>ready 18578:11 18632:25</p> <p>reager 18659:16</p> <p>real 18631:11</p> <p>realised 18653:4</p> <p>reality 18685:12</p> <p>really 18580:22 18595:24 18596:19 18601:14 18604:13 18611:17 18614:1 18615:6 18645:3,5 18675:22 18684:23 18703:8</p> <p>realms 18605:2</p> <p>reason 18604:21 18640:16 18645:4 18676:17 18724:5</p> <p>reasons 18643:3 18689:18</p> <p>reassess 18707:16</p> <p>recall 18588:15 18690:20</p> <p>received 18621:10 18641:23 18646:16 18646:23 18647:3 18685:25 18719:20 18719:21,22 18727:9</p> <p>recognised 18598:12</p> <p>reconciled 18685:12</p> <p>record 18578:15 18579:1,24 18599:13 18615:13 18620:17 18632:4 18684:24,25 18685:1 18687:18 18688:8 18692:22 18700:3 18711:6 18713:18</p> <p>records 18608:14 18688:22</p> <p>recovered 18608:5,7 18718:3</p> <p>red 18582:14 18597:17 18630:15 18700:6</p> <p>rede 18605:16 18652:4 18660:5</p> <p>redelik 18663:12 18723:23</p> <p>redelike 18601:8 18723:24</p>	<p>redes 18659:17 18663:18 18675:10 18718:9</p> <p>reeds 18595:7 18611:8 18636:6 18659:9 18663:15 18669:25 18702:3,4 18708:20 18717:15 18718:9,9</p> <p>reference 18674:19 18689:7</p> <p>referred 18711:22 18712:18</p> <p>referring 18619:4 18637:16 18675:3 18679:17 18680:15 18681:7 18696:8 18697:1 18706:7</p> <p>refers 18607:21 18647:3</p> <p>reforming 18690:22</p> <p>reg 18589:1,2,13 18601:19 18624:3 18696:23 18712:1 18714:11 18717:2,21 18725:9</p> <p>regard 18642:2 18708:5 18717:23</p> <p>regarded 18596:25</p> <p>regarding 18669:12</p> <p>regroup 18708:23</p> <p>regrouping 18706:20 18707:4,10,15,22 18708:2</p> <p>regs 18721:11</p> <p>regterkantste 18721:8</p> <p>reguit 18706:2</p> <p>rekord 18594:3 18599:4 18661:2</p> <p>relate 18600:16</p> <p>relates 18601:14 18617:23,24,25 18618:21 18719:21</p> <p>relatief 18668:4</p> <p>relation 18581:23 18655:15 18656:4 18675:19 18679:23 18687:20 18696:25 18717:24</p> <p>relative 18587:15 18703:22</p> <p>relatives 18633:8</p> <p>relevant 18583:4 18600:15 18614:17 18617:17 18672:20</p> <p>reliance 18624:9</p> <p>reload 18586:21</p> <p>reluctantly 18690:8</p> <p>rely 18629:25</p> <p>relying 18581:8 18612:4</p> <p>remained 18708:8 18714:3</p> <p>remaining 18693:24</p> <p>remains 18708:12 18727:5</p> <p>remedy 18654:16</p>	<p>remember 18585:25 18588:11 18604:12 18609:21 18611:15 18635:9 18637:6,7 18679:18 18680:10 18680:11</p> <p>remembered 18629:13</p> <p>remind 18580:4,6 18667:23</p> <p>reminding 18676:3</p> <p>remove 18620:7 18638:14 18639:20 18640:13 18641:9 18651:3</p> <p>removed 18639:1 18641:5</p> <p>reorganised 18698:6</p> <p>repeat 18589:5 18673:6 18675:25 18676:24</p> <p>repetitive 18675:22</p> <p>report 18610:4 18618:14 18621:10</p> <p>reported 18589:11 18609:5 18610:2 18674:20</p> <p>reporting 18653:8</p> <p>reports 18689:5</p> <p>represent 18647:19 18655:1 18701:4</p> <p>representatives 18583:14 18614:19 18648:1 18689:15</p> <p>represents 18689:2</p> <p>reproduces 18693:16</p> <p>request 18633:22 18654:9</p> <p>requesting 18619:22 18620:6,8</p> <p>require 18578:21</p> <p>required 18623:10 18625:9 18634:10,24 18726:23</p> <p>res 18695:6 18704:15</p> <p>researchers 18630:7</p> <p>reserve 18622:14</p> <p>residual 18653:2</p> <p>resort 18659:19</p> <p>respect 18624:11 18676:6,20 18677:3 18689:5</p> <p>respected 18686:23</p> <p>respects 18688:5</p> <p>respek 18686:9</p> <p>response 18678:17 18710:12 18712:1 18714:1</p> <p>responsibilities 18655:3</p> <p>responsibility 18635:16 18635:18 18636:1,22 18649:7 18650:15,24 18651:8,17 18671:21</p> <p>responsible 18649:9</p> <p>rest 18602:2</p> <p>restricted 18600:15,24 18601:4,20,25</p>	<p>18602:1</p> <p>resulted 18641:3</p> <p>results 18588:6,19</p> <p>resume 18647:7 18689:4 18726:19 18727:4</p> <p>resumes 18578:2 18624:24 18654:19 18654:20 18687:11</p> <p>resumption 18708:16</p> <p>reveal 18688:13</p> <p>revisiting 18672:15</p> <p>rewind 18634:1</p> <p>reël 18652:22</p> <p>right 18580:15 18581:18 18582:7,20 18590:4,18 18596:17 18596:19 18600:25 18604:21 18611:6,18 18628:7 18656:7 18658:1 18673:11 18693:5 18699:15 18700:17 18702:18 18703:3 18705:8 18711:17 18712:18 18713:7 18716:3 18719:7,18,23 18721:17 18722:13 18725:3,5,22,25</p> <p>Rights 18693:15,17 18694:3</p> <p>right-hand 18628:2 18692:8,17 18693:2,4 18693:8</p> <p>rigting 18610:17 18611:25 18612:20 18613:13 18657:14 18657:23,23 18658:8 18658:10,10 18660:3 18660:5 18661:10,21 18662:9 18670:2,3 18700:21 18704:13 18705:21,25,25 18706:2 18709:4,7 18710:25 18711:15 18714:16,20</p> <p>rigtingaanduiding 18724:14</p> <p>river 18708:25</p> <p>riverbed 18691:7,9,11 18691:18 18707:16 18707:18,23</p> <p>road 18631:3,4 18660:13</p> <p>rocks 18721:3 18723:14</p> <p>rocky 18691:14 18720:20</p> <p>roepseine 18695:3</p> <p>roete 18653:25</p> <p>roetes 18600:11</p> <p>rogue 18605:3,14</p> <p>rol 18651:15,16</p> <p>role 18649:5</p> <p>rolled 18713:25</p> <p>rooi 18593:10 18602:10</p>
--	--	---	---	--

18701:15 room 18620:18 rots 18723:22,23 roughly 18707:19 round 18588:21 18606:22 rounds 18681:7 18682:13 route 18653:20 rubber 18603:14 18611:10 18659:19 ruling 18677:3 run 18582:9 running 18699:20 18719:11,12,16 runs 18699:19 18707:19 Rustenburg 18621:15 18646:3,7,11 rustig 18718:12,20 ry 18659:4 18661:8 rêrig 18584:17 18723:16	18582:21 18585:22 18590:22,24 18594:17 18597:1,3 18597:16,23 18598:7 18598:17 18616:3 18631:22 18634:24 18638:5 18640:17 18642:13 18644:6 18656:17 18657:25 18658:15 18660:8,10 18663:2 18673:17 18719:11,14,17 saying 18584:3 18595:4 18595:13,14 18597:3 18614:15 18616:2 18618:11,12 18636:1 18636:17 18638:10 18640:7 18646:14 18656:15 18660:22 18673:25 18675:15 18677:4 18683:4 18708:1 says 18604:4 18608:4 18614:8 18619:22 18621:9 18623:16 18628:2 18640:7 18646:12,19 18676:9 18680:8 18683:15,16 18686:3 18708:4 scenario 18713:23 18714:10 18716:15 18718:11,19 scenes 18623:17 school 18726:16 Scorpion 18694:23,24 18694:25 18717:19 18722:24 screen 18579:11 18580:19 18612:4 18617:3 18628:8 18630:6 18633:7,8 18697:10 18711:24 scroll 18720:21 SDF 18710:7 se 18587:7 18590:15 18600:10 18605:18 18619:19 18636:6 18654:1 18659:21 18682:5 18712:25 18723:24 18724:3 search 18620:7 season 18727:7 second 18631:3,23 18638:9 18643:22 18662:22 18674:21 18682:15 18697:18 18699:7 18701:8,24 18713:6 secondly 18649:6 18689:8 seconds 18579:5,5 18581:8,19 18582:22 18583:2,3,3 18611:16 18611:16 18631:10 18631:21 18632:4,9,9 18633:22,24 18634:1	18644:5 18695:24,25 section 18578:15,25 18579:2 18601:16 secure 18623:1 security 18593:17 18594:12,12 18595:23,23 18596:1 18596:24 18597:5 18598:12,13 18607:14,15,17 seeing 18608:14 18651:8 seek 18634:5 18648:19 18671:20 seeking 18620:2 18655:3 18676:6 seeks 18598:5 seen 18579:19 18580:16 18583:15 18593:23 18596:12 18596:24 18608:23 18609:5,21 18610:2 18634:18 18658:24 18661:14 18664:9,11 18671:16,18 18716:16 sees 18629:3 18630:12 18696:4 18722:4 seker 18606:4 18649:24 18650:5 18651:12,14 18709:12 sekond 18590:6 seksie 18618:7 seksiebevoorders 18649:1,15,24 18650:2 sekuriteitspersoneel 18592:21,22 18593:13 18601:5 18607:5 self 18606:1 18709:15 selfde 18684:7 18696:23 selfs 18600:9 self-defence 18675:2 18681:2,21,23 18682:6 18683:7 18686:2 SEMENYA 18675:21 semi-circle 18692:24 send 18621:14 sends 18621:21 senior 18651:20 18652:5 sense 18613:25 18683:3 18698:1 18700:3 sentrum 18594:3 18599:4 series 18643:24 serious 18645:14 seriousness 18638:13 service 18604:4,12,20 18647:13 18650:20 18652:12 services 18623:2	ses 18650:9 sessie 18670:19 set 18622:12 18698:20 sets 18643:20 settle 18723:9 seven 18698:12 shack 18712:13 shares 18702:25 Sharpeville 18677:20 18677:23 Sharpville 18677:24 shell 18585:7,7 18586:14,14,15,16 shirts 18722:5 shooting 18617:1 18620:5 18647:4 18702:12 shootings 18655:4,6 18667:7,10 18671:17 18671:18 18685:25 18695:24 shop 18605:23 shops 18606:7,7 shortly 18628:8 18649:5,11 18653:5 18673:17 18674:19 18692:14 shot 18580:23 18586:2 18586:19 18587:16 18587:16,23 18588:23 18589:9 18609:2,22,22 18612:8 18613:5,6,9 18613:10 18616:22 18660:23 18671:7,9 shotgun 18582:16,18 18584:11 18586:3,16 18586:20 18587:17 18587:24 18588:21 18588:24 18589:10 18589:11,19,19 18590:3,12 18594:23 18606:6,24 18607:21 18608:7,15 18609:1,3 18609:16,23 18610:6 18610:24 18612:8,12 18612:14 18613:7,9 18613:10 18614:20 18616:3 18617:16 18687:20 18688:3,15 18688:21 18689:2,10 shotguns 18590:24 18591:16,21 18592:2 18593:4,17 18594:23 18594:24 18595:14 18597:24 18598:4,8 18598:13,18 18602:17 18603:1 18607:10,20 18608:2 18608:5 18614:2,8 shotist 18613:8 shots 18588:17 show 18578:20 18580:25 18581:3 18588:10 18624:7 18625:21 18627:25	18692:14 18695:22 18727:2 showed 18672:6 18706:10 18712:7 showing 18722:2 shown 18578:16 18579:19 18580:22 18581:14,17 18582:24 18591:20 18632:25 18633:13 18634:2 18643:19 18685:10 18692:22 18696:1 18710:17 shows 18608:24 18617:3 18624:9 18630:8,23 18634:12 18644:13 side 18632:5 18644:7 18690:25 18692:8 18693:4 18703:4 18705:19 18711:10 18724:21,22 18725:3 sides 18685:16 sien 18580:12 18585:11 18585:20 18587:6,19 18590:7 18593:8 18613:12,13 18621:1 18621:17 18622:1,17 18623:3 18638:20 18645:21 18646:9 18649:13 18657:9 18659:5,8,16 18660:17 18661:21 18664:6 18669:5 18695:13,15 18703:13 18705:23 18706:2 18709:18 18721:6,19,22 18723:19,19,22 sig 18610:13 18657:11 18723:24 sigbaar 18723:18 sight 18673:18 sign 18581:4 significant 18633:23 18705:6 similar 18696:25 18706:12,12 18707:15 simply 18634:5 18687:17 18688:8 simultaneously 18633:18 sin 18681:16 18682:18 18708:18 sinneloos 18709:2 sit 18639:10 18679:12 18679:19 18684:5,7,8 18686:10 18718:12 sits 18680:12 sitting 18726:21 situation 18651:19 18719:5,10 siviele 18592:5,17,24 18593:7 18594:2,4,6 18595:18,24 18596:4
S				
saak 18682:7 saam 18591:17 18597:13 18606:18 18617:12 18659:24 18668:1,3 18669:23 18673:12 18678:22 18683:20 18684:2,17 18686:7 18691:16,20 18710:13 18712:4 18713:12 18717:12 saamgaan 18718:7 saamstem 18590:20 safe 18598:16 18638:18 18703:2 sagter 18611:11 sake 18692:21 sal 18580:11,12,13 18584:18 18585:10 18587:6 18597:7 18600:12 18602:20 18607:2 18610:14,16 18613:19,20 18639:5 18649:13 18652:5,6 18652:22 18653:23 18661:25 18663:5,6 18669:8,25 18675:9 18681:19 18694:10 18694:12 18696:19 18701:5 18705:23 18710:19 18715:10 18715:14 18720:9 18725:11 sandwiched 18689:20 SAPS 18603:19,20 18605:21 18608:14 18634:10,23 18636:18 18639:13 18640:8 18701:23,25 satisfied 18694:15 saved 18641:4 saw 18580:18,19				

<p>18596:6,13,17,18 18597:3,21 18599:3,6 sixth 18674:18 skakeling 18652:23 18653:15 skare 18660:1 18662:9 18702:23 18714:14 18718:10 skerm 18580:12 18585:19,19,20 sketch 18655:15 skiet 18590:8 skietery 18664:17 18678:20 skoot 18610:17 18613:12,16 skote 18610:15 slegs 18592:18 slide 18617:2 18618:2 18656:2 18690:18,19 18691:1,11,13,14 18692:7,12,13,18,18 18692:22,24 18693:3 18693:4,6,9,10,16,19 18694:3 18697:20 18698:2,18,20,21,22 18699:11 18701:1,2 18701:18,20 18702:17,25,25 18703:4 18705:1,17 18706:8,10 18707:20 18707:22 18709:19 18710:16,17 18712:14 18716:2,4 18719:6,11,13 18720:3 18724:14 slides 18727:3 slight 18698:11 18704:2 slightly 18693:8 slip 18703:19 slowly 18582:10 slow-mo 18581:16 small 18699:21 18700:6,9,24 18711:11,13,15,16 18712:13,16 smoke 18582:18,25 18584:20 18585:1,2 SMS 18621:21,23 18681:13 sodat 18610:16 18660:3 18682:5,10 18682:16 18716:7 soek 18684:16 somebody 18643:7 sooner 18642:4 soorte 18606:3 soos 18587:7 18597:11 18603:3 18605:14 18613:15,17 18616:10 18618:8 18619:13 18635:7 18636:6 18640:12 18649:19 18650:2,3,9 18651:11 18658:21</p>	<p>18659:12 18661:22 18664:6 18665:5 18666:1 18668:2 18670:12,18 18678:23 18703:23 18710:14 18715:2 18717:2,4 18724:1 sorry 18580:2 18583:21 18595:22 18613:23 18620:1,15 18625:20 18626:24 18627:6 18654:2 18657:15 18658:13 18678:11 18700:8 18701:1,18 18716:24 18719:7,8 18722:10 18722:25 18723:11 sort 18692:6 18701:3 18707:4,15 18721:3 18722:4 18726:15 sought 18586:2 18643:11 sound 18610:19,23,24 18630:22,23 18633:3 sounds 18584:1 sources 18604:14 South 18652:11 18693:14,16 18694:2 southwest 18692:19 18693:7,9 18724:10 18724:13 sover 18603:17 18607:3,7 18647:15 span 18584:18 18585:10 spasie 18658:8 18710:23 18714:19 speak 18591:11,14 SPEAKER 18627:16 speaking 18633:18 Special 18657:8,18 18658:3 18713:15 Specialised 18701:10 18701:10,11,16 specifically 18689:9 speculate 18641:24 speculation 18604:25 speech 18676:11 spent 18599:18 Spesiale 18713:13 spesialis 18641:14 spesifiek 18593:9 18678:24 18712:4 spesifieke 18593:11 18595:19 Speuders 18599:8 speuders 18594:3 18599:3,9,10 18652:3 18665:10 speurhoof 18607:3 spies 18599:8 sport 18606:3,7 spot 18693:6 spotted 18587:22 spread 18612:6 18615:6</p>	<p>sprei 18612:12,13 18613:18 staan 18623:24 18674:14 18677:15 18706:4 18709:1 stadium 18597:7 18602:19 18608:21 18611:24 18653:14 18657:5,7 18659:6 18661:9 18663:7,15 18664:17 18670:21 18670:23 18674:13 18679:13 18681:23 18682:5 18684:9 18703:13 18715:5,9 18716:22 18719:1 18723:16 staff 18617:4,15 18618:3 stage 18643:23 18678:12 18685:3 18688:17 18693:25 18701:23,25 18703:9 18716:16 18718:1 stand 18626:12 18627:2,3 18677:10 standard 18603:19 18639:6,12 standing 18633:19 stands 18677:7 start 18579:8,23 18580:3 18595:21 18625:20 18633:11 18633:22,24 18690:18 18701:24 18713:21,22 starting 18579:15 starts 18579:9 18646:14 stated 18578:25 18684:20 statement 18608:14 18614:4 18618:24 18619:3,11 18621:5 18622:6 18623:11 18637:3,4,6,8,12,15 18637:20 18638:4 18639:19 18640:17 18642:1,8,21 18643:4 18646:1,2 18647:2 18653:4,6 18679:25 18693:13,13 18719:3 18719:8 statements 18608:12 18616:1 18635:11 static 18698:10 staties 18704:20 18709:1 statiëse 18666:13 18712:25 stationary 18631:8 18643:14 stay 18633:16 steeds 18640:4 18661:18 18662:3,10 18704:20 18705:11</p>	<p>18711:2 18715:6 18718:23 stel 18594:1 18602:19 18602:22 18605:14 18610:12 18616:10 18653:16 18657:11 18659:15 18668:10 18679:9 18682:17 18702:10 18704:21 18708:24 18715:4 stelling 18609:7 18610:15 18671:23 18679:16 18684:14 stem 18591:17 18597:12 18673:12 18683:20 18684:2,17 18686:7 step 18597:19,19 sterkste 18679:15 18684:12 STF 18694:21,25 18701:9,16 18713:13 18717:19 18723:3 stick 18581:11 stilgestaan 18723:21 stop 18579:20,23 18583:24 18625:11 18625:21 18631:15 18631:18 18632:3 18664:3,12 18690:6,7 stopped 18643:1 18691:2 18703:5 story 18648:2 18685:16 strategie 18679:2,3,8 strength 18675:16 stretch 18711:9 stretches 18692:7 stretching 18693:1 18696:8 18716:3 18719:17 striker 18608:14 18609:2 18610:5 strikers 18590:2 18604:16 18609:16 18622:13 18704:4,5 18717:25 stripes 18597:17 strong 18612:7 strongly 18608:4,8 18609:24 strook 18696:21 stuck 18630:18 stun 18603:13 subject 18604:8 18611:17 submission 18587:21 18602:24 submissions 18615:1 substation 18622:21,24 successful 18727:8 suggest 18614:18 18630:11 18690:4 suggested 18653:21 18673:18 suggesting 18615:16 18706:8,11</p>	<p>suggestion 18590:10,11 18615:17 suggests 18686:25 suid 18704:13 suidekant 18714:17 suidelike 18704:13 Suid-Afrikaanse 18682:21 sulke 18616:10 sum 18726:12 summary 18686:18 summoned 18646:25 support 18646:6 suppose 18582:20 18585:7 18604:17 18610:24 18638:13 18646:18 18725:2 supposed 18648:21 18700:11 18701:9 18703:7 18712:14 18713:10 sure 18578:17 18589:25 18595:13 18619:2 18621:12 18623:6 18626:15 18632:17 18633:5 18637:13 18640:10 18641:2,5 18643:3 18646:17 18673:1 18689:5 18716:25 18723:4 surely 18609:3 surrender 18581:4 suspect 18700:7,9,13 suspects 18638:15 18639:2,8,14,22 18640:10,16 sweep 18701:15 18712:5,21,22 18713:11 sworn 18689:25 sy 18619:18 18651:16 18663:12 18668:11 18712:25 synde 18709:23 sê 18585:19 18589:14 18591:3 18597:11 18598:14 18600:12 18601:22 18602:20 18608:17 18611:11 18611:20,23 18612:14,16,18 18613:15 18616:7 18636:7,10 18639:5 18639:11 18640:12 18640:14,19,25 18649:1 18650:1 18651:23 18652:19 18657:2,5,22 18658:9 18660:16 18661:1 18662:5 18663:5 18665:18 18667:19 18669:8 18670:22 18681:24 18684:10 18684:12 18686:12 18691:17 18694:11</p>
--	---	---	---	---

18695:13 18697:3,15 18702:3,5,21 18704:10,12,13,16 18705:24 18709:3 18710:3 18711:15,25 18712:24 18718:6 18723:16,23 18724:13,15 18725:10	18724:9 tans 18665:5 18680:18 tape 18674:18 target 18698:22 18699:2 task 18628:13 18651:8 18657:8,18 18658:3 18713:15 te 18602:22 18610:12 18612:13 18650:7 18651:12,14,14 18652:7,22,22 18653:16 18657:21 18659:4,4 18660:1,2 18660:6,6,17 18662:4 18662:11 18665:20 18665:20,21,22 18666:12 18670:14 18691:23 18696:20 18697:14 18703:25 18708:21,24 18709:2 18709:22 18710:3,14 18712:5,6 18714:15 18714:17 18717:7,11 18718:22,22,22 tea 18624:17,17,18,20 18635:10 team 18638:17 teargas 18603:14 teatime 18624:16 technically 18600:19 teen 18639:24 18659:8 18661:7 18665:19 18668:1 18702:5 18715:10,12,14 tegnieke 18710:14 18717:14 telephone 18620:11,17 television 18644:4 tell 18614:1 18615:8 18626:19 18630:3,7 18649:4 18651:21 18658:22 18668:24 18669:17 18676:17 telling 18670:11,17 ten 18659:10,21 tensy 18683:24 ter 18682:11 term 18684:12 18705:10 18726:16 terme 18596:4 terms 18700:2 18701:21 18702:1 18714:3 terrein 18600:7 terug 18603:22 18607:8 18635:3 18681:11 18684:4 18691:16 18704:14 18709:3 18710:20 teruggaan 18607:2 teruggekom 18650:2 teruggekyk 18709:16 18712:2 terugkom 18668:18 18682:14 18696:19	terugkyk 18709:18 testified 18583:7 18592:13 18608:24 18671:6 18706:15 testify 18658:24 testifying 18593:21 testimony 18672:9 18683:1 18690:20 thank 18578:8 18579:25 18584:4 18586:18 18606:21 18615:24 18618:19 18627:9 18642:19 18654:18,24 18669:9 18687:9,12 18689:13 18689:16 18691:22 18693:22 18695:21 18701:7 18727:8 thereabouts 18664:9 thereof 18637:23 there's 18578:8 18582:25 18590:11 18595:5 18624:8 18630:23 18676:22 18680:12,23 18685:2 18722:9,10,11,23 18723:3 they're 18631:3,5 18726:24 they've 18641:22 18676:19 thing 18595:13 18640:2 18689:7 18711:20 things 18586:1 18615:5 18630:24 18653:7 18713:18 18727:2 think 18579:11,17 18580:24 18582:22 18583:1,7,10,23 18586:14 18592:14 18599:19 18604:3,23 18605:10 18608:9 18611:6 18613:3 18614:12 18616:18 18617:24 18625:11 18626:23 18629:2,11 18631:22 18632:9 18633:4,5 18637:22 18638:4 18649:4 18653:5,11 18656:3 18672:1,4,7 18674:15 18674:24 18675:2 18676:2,4 18684:20 18685:6 18686:22 18687:2,5 18688:14 18689:3,18 18691:25 18692:13 18697:1,25 18711:20 18713:5,17 18720:14 18724:5 18726:13 thinking 18615:6 18645:9 third 18620:7 18674:16 18707:19 thoroughly 18645:14 thought 18593:3	18599:16 18605:8 18615:13 18641:18 18666:20 18673:14 18677:8 18688:9 three 18599:20 18610:6 18688:5 thrust 18686:2 tick 18589:17 18608:9 till 18726:10 time 18599:18 18600:15 18617:1,2 18617:17 18621:12 18625:18 18627:25 18628:1,9,9,15,16,20 18628:22,24 18629:9 18631:10,11,11,20 18632:12 18637:22 18638:15,17 18639:18 18640:17 18641:21 18643:10 18643:15,23 18644:1 18644:5,10,22 18645:4 18647:1 18654:15 18668:25 18687:25 18689:19 18695:23,25 18696:25 18697:22 18697:24 18698:5 18704:5 18706:24 18720:18 18726:6,9 times 18580:17 18599:20 18609:23 18611:4 18646:13 timing 18696:14 tipe 18597:12 18601:11 today 18673:25 18677:7,11 18678:7 18720:17 toe 18585:20 18592:5,9 18592:23,25,25 18593:8,8 18595:20 18600:12 18616:16 18649:23 18651:14 18657:4 18658:17 18659:5,16 18661:22 18662:9 18665:13 18666:9 18668:19 18681:24 18688:20 18704:18 18708:25 18709:1,17,18 18714:17 18717:19 18718:15 18724:2 18725:8 18726:3 toegang 18600:10 toegelaat 18601:3 toegesprek 18675:10 tog 18603:11 18696:20 told 18580:16 18581:7 18583:25 18626:12 18628:12 18631:9 18638:13 18639:19 18640:7,12 18643:9 18670:5 18671:1 18675:16 18688:25 18689:1 toneel 18591:22	18592:9,10,10 18594:2 18597:21 18599:4 18613:16 18624:3 18635:23 18641:11 18664:6 18665:3,5,7,13 18666:13,13 18667:17 18668:4,12 18669:8 18681:11 18715:14 top 18656:2 18674:19 18680:6 18697:9 18700:1 18723:14 topic 18615:2 18616:21 18626:9 18689:22 18690:2,5 tot 18600:9 18639:25 18664:23,24 18665:6 18666:2,16 18699:22 18702:22 totaal 18724:1 totally 18690:9 track 18701:24 18702:1,2,16 trailer 18629:14 18703:3 transcript 18672:24 transpires 18688:7 traversing 18614:21 treatment 18626:1 18636:18 18641:23 18651:2 18652:14 trek 18725:11 trespassing 18668:25 treë 18612:17 tribunal 18688:17,19 tried 18588:10 18638:12 triumphant 18676:11 troop 18672:25 TRT 18609:3,4 18610:1 18611:13 18658:14 18661:21 18674:23 18680:24 18696:25 18701:9,14 18709:18 18710:4,24 18715:3 18716:6,19 18717:4,10,12 trucks 18622:13 try 18626:20 18630:19 18631:24 trying 18652:9 18700:2 18727:3 Tshwana 18688:6 turn 18583:25 18672:25 18687:21 18703:8 tussen 18587:8 18591:4 18597:8 18648:24 18652:23 18653:15 18658:8 18660:1 18661:4 18702:21 18714:12 18717:3 18725:9 TV 18585:20 18633:7 twee 18607:4 18612:17
---	---	---	--	---

18612:18 18613:14 18695:20 tweede 18594:13 18662:20 18717:17 Tweërlei 18710:12 twis 18697:3 two 18582:7 18583:3,3 18604:13 18623:17 18625:22 18630:8 18638:4 18643:18,19 18676:10 18685:15 18695:10,24 18698:11 18726:8 twyfel 18611:13 tyd 18623:24 18635:3,8 18639:24 18649:25 18664:6,7 18696:18 18696:21,23 18697:3 18697:12 18698:15 tydens 18651:11 18669:21,25 18670:1 18670:13,19 18710:5 tye 18659:11,21 type 18626:16	18585:10 uitvoer 18716:9 uitvoering 18666:1 uitwys 18695:7 ultimately 18644:25 18690:23 un 18591:9 uncontroversial 18614:4 understand 18585:1 18586:11 18590:23 18591:15 18596:7,15 18596:15 18602:7 18605:22 18623:19 18627:2 18635:25 18641:18 18645:2 18648:2,3 18650:21 18655:4,12 18658:12 18658:13 18663:21 18663:21,21 18672:16 18680:16 18688:11 18689:8 18695:4 18701:9 18706:21 18708:17 18716:12 understanding 18636:15 18655:1,13 18656:15 18716:25 understood 18600:16 18655:5 18673:8 unfairly 18690:9 unfortunately 18579:7 18634:5 18690:2 uniform 18595:19,25 18596:1,1,8,10,12,16 18596:20,21,24 18597:2,2,17 uniforms 18597:9,9 unit 18599:13 18712:8 unjustifiably 18690:10 unkind 18614:11 unlawful 18606:16 unsophisticated 18648:15 upper 18724:22 urgent 18635:13 use 18644:9 usurp 18617:24	vat 18635:4 18657:11 18669:25 18694:13 18725:8 vee 18709:21,21 18712:5 veel 18608:17 vehicle 18617:15 18631:23,23 18656:13 18667:23 18694:24 18696:5 18700:6 18701:3,4 18717:19 18723:1,4,8 vehicles 18599:25 18601:14 18617:5 18618:4,13,14 18693:18,24 18694:9 18696:8 18701:2,11 18703:18,21 18706:7 18706:14 18708:13 18714:8,8 18724:19 18724:23 veilige 18600:8 veld 18622:12 18704:20 18709:7 18710:14 18718:17 18724:3 velocity 18588:23 18589:9 ver 18639:10 18709:16 18725:11 veral 18684:15 verander 18718:11,14 18718:20 verantwoordelike 18709:13 verantwoordelikheid 18670:13 verby 18613:19 18657:4,4 18661:22 18724:15 18726:1,2 verder 18670:15 18710:20 18721:23 18724:15 verdere 18610:15 verduidelik 18660:25 18661:19,22 18681:9 18708:21 18709:17 18714:16 18715:12 18715:16 18717:4 verduideliking 18597:10 18648:24 18681:12 vergelyk 18721:6 verhoed 18665:20 verkeerd 18619:13 18683:25 verklaring 18616:6 18617:11 18619:19 18635:4 18639:4,24 18653:10 18674:14 verklarings 18608:17 18608:19 18610:14 18616:8,10 verloor 18684:7 Vermaak 18622:10 18623:8 18644:8	Vermaak's 18644:3,12 verneem 18652:2 18653:15 18658:21 18664:19 versigtig 18657:21 18705:10 verskeie 18588:13 18592:24 18594:1,4,5 18595:17 18599:2,6 18605:16 18610:15 18616:10 18641:11 18652:23 18659:17 18663:18 verskil 18648:24 18674:14 18679:15 18696:18 18716:6 18717:5,9,15,17 verskille 18717:20 18718:18 verskillende 18649:14 18649:18 verskoon 18708:19 verslag 18641:14 versoek 18652:4,6 18665:12 versoeke 18720:7 versper 18723:24 versperrings 18600:13 verstaan 18586:23 18588:4 18589:1,2,13 18601:20 18609:8 18648:5 18650:3,6,8 18651:15,16 18653:9 18661:18 18664:5 18668:3 18712:2 18714:12,21 18717:2 18717:21 18718:11 verteenwoordig 18647:23 vertrek 18667:17 18679:12 18684:5,7 vertrou 18602:14 verwys 18584:12 18586:13 18591:2 18592:5 18594:5 18596:4 18601:4 18605:14 18616:16 18619:10,10,17 18659:8,20 18665:7 18666:7 18674:10 18678:24 18679:2,10 18681:17,18 18682:4 18682:9,14 18691:5 18691:17 18695:2 18696:21 18701:15 18702:7,8 18704:15 18709:15,19 18710:8 18711:3 18712:2,23 18712:24 18721:11 verwysingsnommer 18580:8 vicinity 18643:15 18656:6,9,10 18712:12 victim 18689:2 victims 18588:10,21	18612:6,7 18636:18 18687:20 video 18581:14,17 18582:24 18590:6 18593:23 18624:14 18625:5 18629:2,3,3 18632:3 18633:5,7 18634:2,16,18,21 18642:13 18643:14 18643:23 18645:2 18674:18 18681:19 18695:22 18696:1,5 18697:23 18698:17 videos 18629:13 18643:19 vierdens 18650:5 view 18582:6 18615:4 18641:5,6 18672:19 village 18724:3 18725:8 vind 18580:9 vinnig 18617:13 vir 18580:8 18591:7 18592:9,18 18599:6 18600:8 18602:19,20 18612:11,17 18620:25 18623:23 18623:24 18635:8 18636:7,10 18639:5,5 18639:10 18640:14 18640:14,25 18650:7 18651:11 18652:1 18659:17,25 18660:25 18661:3,19 18661:22 18665:2,13 18668:10,15 18670:13,14,18,21,22 18675:18 18677:15 18678:22 18681:9,10 18681:24 18682:7,10 18682:16 18684:15 18684:16 18694:11 18694:12 18695:7,13 18695:19 18697:14 18697:15 18702:8 18703:24 18705:10 18714:16,22 18715:9 18715:11,13,17 18718:9,12 18723:16 18724:14 18725:7 virtually 18692:24 voel 18684:14 voer 18710:14 voertuie 18603:4 18618:9 18660:1 18661:4,8 18662:8 18664:23 18666:9 18668:3 18709:12 18710:13 voertuig 18602:22 18617:12,13 18657:11 18659:24 18663:7 18668:1 18709:17 18715:20 voet 18668:3 voice 18634:7
U				
uit 18608:18 18649:13 18649:13 18652:7 18653:10 18657:22 18669:22 18703:25 18710:14 uitbeweeg 18710:22 uiteen 18659:12 18660:6 18662:11 18665:22 18704:19 18710:2 18714:15,16 18718:22 uiteendryf 18659:5,9 18661:5,5,23 18662:3 18670:15 18718:10 18718:10 uiteendryfaksie 18670:9 uiteendrywing 18659:17 18669:22 18670:1 18702:21,23 18717:16 uiteengaan 18666:12 18715:10,14 uiteengedryf 18666:2 uiteengegaan 18704:11 uiteengesit 18650:9 18717:8 uiteensetting 18659:21 uitgaan 18721:23 uitgekome 18592:25 18657:23 uitgeprojekteer 18586:25 uitgereik 18603:3 uitgespring 18585:24 uitgewerk 18698:15 uitgooi 18668:2 uitkom 18709:20 uitreik 18596:9 uitspring 18584:19	vacated 18715:25 valuable 18614:13 value 18614:11 18632:17 vanaf 18592:8 vandaan 18657:13 18658:11 vandag 18718:13 vanwaar 18663:7 various 18617:3 18629:13 18650:20 18722:4 18727:3 vas 18602:19,22 18653:16 18668:10 vasgestel 18665:4 vasstel 18668:15	V		

<p>voicemail 18621:13 volg 18580:11,13 18670:9,15 volgende 18586:25 volgens 18668:2 18712:6 volley 18659:23 voor 18601:21 18602:19 18619:19 18657:10 18663:14 18664:6 18691:7 18710:24 18718:11 18721:9 vooraf 18702:9 18709:10 voorbeeld 18666:4 voorheen 18580:10 18635:7 18664:14 18684:3 18703:14 18716:23 18717:4 voorkant 18658:9 voorkom 18684:10 voorlig 18649:21 voorligting 18651:11 18653:23 18670:14 18670:19 18703:24 18710:5 voorligtingsessie 18669:21 voorste 18587:10 18600:5 18601:6 18612:14 18720:10 voort 18660:6 voortgegaan 18665:16 18665:25 18715:21 voorval 18593:19 18663:19 vorentoe 18587:7 18662:2,7,8 18666:16 18670:2,8,20 18715:20 vorige 18584:14 18655:21 18678:18 18691:16 18702:6 18721:6 vorm 18658:20 18710:22 18715:6 18717:18 18718:16 vra 18586:24 18589:1 18619:12 18640:14 18648:24 18664:18 18715:17 vraag 18584:14 18589:13,16 18591:2 18591:8 18598:10 18609:7 18664:14 18671:24 18675:8 18691:16 18714:11 18715:4 vrae 18647:15 vreedsaam 18718:22 vroeër 18691:17 18723:20 vrye 18600:10,11 vuur 18610:12 18611:13</p>	<p>vuurlyn 18659:22 vuurwapen 18584:13 18610:11,18 vuurwapens 18593:7 18593:14 18612:18 18612:19,21 vyf 18650:9 18666:9</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>waar 18590:7 18592:8 18592:19 18593:14 18600:5,9 18601:21 18602:10 18606:3 18610:18 18623:23 18636:13 18653:24 18656:23 18657:5,11 18657:13 18658:6,10 18659:7 18661:6 18664:20 18679:8 18680:3 18681:12,15 18691:5,5,18 18692:4 18694:5 18696:20 18702:20,22 18706:3 18708:23 18709:7,12 18709:15 18710:20 18710:23 18712:3 18716:23 18724:14 18725:12 waargeneem 18592:4,9 18592:19,23 18594:6 18595:18,20 18597:11,21 18657:4 18661:9 18663:7 waarin 18609:9 waarmee 18590:19 waarna 18616:15 18665:7 18681:16 18695:2 18696:21 18702:6,7,8 18704:15 18712:2,23 18721:11 waarnatoe 18652:24 18714:19 18718:7 waarneem 18585:21 waarom 18650:4 18660:5 18663:18 waarop 18678:22,23 18679:14 18682:18 18715:15 waarsku 18718:11,22 waarskuwing 18710:23 18710:25 18714:14 18715:7,8 18717:7,8 18718:12 wait 18660:9,14 18726:10,13 waiting 18719:3,6,9 walk 18631:23 wand 18581:6 wanneer 18716:7 want 18579:4,20 18580:3,5,8 18582:9 18582:11,15,16,23 18583:15 18585:5,13 18593:10 18594:22 18594:24 18595:12 18595:13 18596:11</p>	<p>18597:4,10 18600:6 18600:20 18606:22 18607:24 18609:2 18614:23 18617:24 18618:20,22 18619:24 18620:24 18622:8 18630:5,12 18632:19,22 18648:2 18649:8 18657:16 18659:19 18660:19 18660:20 18663:21 18669:12 18670:1,5 18672:18 18675:14 18677:8 18678:12 18683:3,7,11,14 18685:13 18686:3 18689:7 18696:14 18701:22 18702:3 18708:5 18710:9 18717:23 18719:7 18720:23 18726:21 wanted 18583:7 18599:19 18615:12 18629:8 18637:7 18687:17 18688:8 18700:23 wanting 18604:25 18692:15 wants 18616:25 18650:13 wapens 18595:10 18616:9 18681:22 18710:10 18715:10 18718:23 warned 18633:14 warning 18578:18,21 18579:15,16 18625:9 18633:5 18711:8 18714:1,2 wasn't 18590:11 18675:25 18676:2 18706:25 watching 18655:14 18656:16 water 18624:9 18695:9 18695:10,11 18697:7 18697:9,17,18,19,21 18697:21 18698:1 18716:17 18719:4,9 18719:18 18722:24 18723:6 waterkanon 18695:1 18715:21 18721:7 waterkanonne 18695:20 18697:14 18710:24 watter 18610:17 18611:12,24,24 18612:20 18674:13 18695:13 wave 18581:5 way 18582:13 18583:6 18629:4 18630:3 18632:1 18641:22 18658:25 18660:12 18697:10 18699:18</p>	<p>18702:12 18707:19 18716:13 18720:22 18722:8,18 weapon 18606:6 weapons 18620:7 wear 18596:16 wearing 18595:25 18596:8,12 Wednesday 18726:22 weens 18653:23 weer 18598:14 18620:25 18639:10 18653:15 18657:21 18659:13 18660:25 18661:1 18666:10 18670:21,23 18681:12 18704:14 18708:23,24 18709:10 18723:19 18724:13 weereens 18593:25 18609:7 18612:15 18636:25 18641:8 18681:9 wees 18587:6 18593:10 18597:10 18610:14 18610:16 18612:2 18613:11 18645:23 18701:5 18705:10 18710:20 18717:13 18718:12 18721:8 weet 18585:11 18601:2 18610:10 18641:10 18641:11 18647:22 18647:23 18648:6 18650:4,11 18661:18 18666:5 18668:11,19 18674:13 18682:11 weg 18659:4,12 18660:3 18662:4 18710:3 18711:14 wegbeweeg 18665:6,7 18718:15,16 18723:25 weggebreek 18666:6,8 wel 18584:19 18585:10 18585:21 18589:14 18589:15 18592:17 18592:25 18593:7 18595:2 18600:8 18603:4 18610:13 18616:8,10 18619:12 18635:23 18636:8,10 18651:15 18658:20 18662:6,7 18664:16 18664:19 18666:4,8 18666:12 18669:6 18670:8 18679:4,5,9 18684:4,4 18697:12 18702:21 18717:12 18723:20 18725:9 wens 18679:14 18684:11 went 18587:12 18621:4 18642:25,25 18667:13 18673:17</p>	<p>18685:17 18698:3 werd 18612:12 weren't 18595:24,24 18617:8 18618:16 18643:5 werk 18594:4 18599:5 18659:6 18661:9,24 werking 18709:10 wes 18706:1 18724:15 18725:9,9 Wesley 18581:5 18626:22,23,24 18627:5,7,9,20 west 18691:10 18692:19 18695:15 18695:16 18697:9,17 18697:21 18698:1 18714:5 18723:10 18724:7,8 weste 18718:15 18723:25 westekant 18704:17,18 18712:24,25 westelike 18657:3,14 18657:22 18658:8,10 18660:3 18661:10 18670:3 18705:25 18709:7 18714:16,20 westerly 18719:12,15 18720:2 18724:23 western 18705:18,19 we'll 18588:18 18589:25 18602:24 18615:22,25 18624:20 18626:6 18632:1 18636:14 18645:20 18687:7 18692:14 18703:19 18727:4 we're 18578:25 18581:20 18604:22 18605:2 18611:4 18625:4,7,14 18627:18 18628:22 18629:15 18632:17 18633:6 18682:3 18688:18 18694:15 18698:6 18700:24 18726:18 18727:6 we've 18583:22 18599:18 18616:4 18625:15,18 18635:10 18643:4 18676:25 18688:14 18713:17 18727:3,9 Whatsapp 18681:14 what's 18579:11 18590:23 18645:3 18673:6 18692:22 18694:20 whichever 18701:19 white 18699:16 18723:8 18724:19,23 White's 18693:12 who're 18596:21 who's 18626:17</p>
--	--	--	---	--

<p>wie 18595:10 18602:20 18602:22 18639:5 18640:14 18658:18 wil 18586:24 18620:21 18648:5 18650:11 18652:19 18661:1 18662:5 18674:12 18678:17 18684:10 18684:11 18702:21 18705:9 Wilgers 18646:15,16 wire 18600:17 18697:20 18698:3 18699:20 18703:1,3,6 18713:4,5,25 wish 18633:13 18688:13 18727:6 wishing 18633:19 wit 18587:6,7 18705:22 18706:1 18714:12 18717:3 withdrawn 18605:21 witness 18591:14 18613:24 18614:7 18641:17,23 18643:10 18655:4,6 18673:9 18674:6 18684:22 18708:15 witnessed 18663:25 wonder 18680:9 Wonderkop 18666:8 won't 18601:24 18644:19 18667:10 18676:16 woord 18635:4 18677:15,15 18684:16,17 18694:12 woorde 18593:9 18600:4 18649:16 18660:25 18664:20 18670:24 18678:19 18679:15 18686:9 18708:20 18718:15 18724:16 woordjie 18682:14 word 18582:20 18586:24 18587:1 18612:1,15,19 18613:20 18649:17 18652:6 18665:20 18669:13 18682:5,22 18715:11,12,15,16 18717:6 words 18582:4 18614:25 18640:15 18669:14 18700:17 18724:21 work 18614:2 18629:25 worked 18587:14 workers 18658:24 worry 18668:24 worse 18690:17 worth 18631:13 wou 18580:7 18711:25 wouldn't 18583:9</p>	<p>18611:18 18669:1 wounded 18589:11 wrap 18726:7 wrong 18616:24 18647:2 18648:22 18658:13 18681:3 18682:1 18700:13 18722:21 wys 18587:7 18623:23 18695:15 18696:20</p> <hr/> <p style="text-align: center;">Y</p> <p>year 18607:24 18689:4 18726:10,14 18727:8 18727:10 years 18605:10 yesterday 18581:24 18586:1 18588:8,10 18603:10,13 18604:12 18637:6,22 18638:5 18640:18 18672:9 18673:9,15 18673:15,22 you'd 18596:12,24 18685:25 you'll 18582:22 18592:13 18645:13 18690:19 18721:16 18726:18 you're 18578:3,20 18580:4,4 18596:8,8 18596:18,19 18600:21 18608:8 18612:21,24 18614:21 18615:1 18616:14 18617:1 18618:11 18619:4 18620:14 18625:1,24 18626:9 18627:22 18629:9 18636:16 18637:16 18641:16 18641:18 18654:21 18673:5,24 18674:16 18680:15 18690:11 18697:1 18700:5 18704:24 18706:8 18711:6 18719:4 18723:4 18724:9 you've 18579:19 18592:12 18597:2 18599:19 18650:18 18667:10,13 18672:12 18676:3,13 18676:15 18684:20 18685:23 18687:2 18689:14 18706:7 18712:13 18713:18</p> <hr/> <p style="text-align: center;">Z</p> <p>zone 18600:7 zoom 18693:21 18720:19 18721:18 18721:18 ZTS071VOB 18632:22</p> <hr/> <p style="text-align: center;">0</p>	<p>00 18631:19 01:18 18633:23,24 01:21 18633:24 09:16 18578:2 09:36 18589:17 09:56 18603:18</p> <hr/> <p style="text-align: center;">1</p> <p>10 18602:7,25 18628:5 18633:22,24 18634:1 18654:17 10:15 18619:2 10:57 18624:25 100% 18680:15,16 18683:9 18685:18 11:16 18634:1 11:36 18644:15 110% 18680:1,4 18681:15 18683:9 1178 18720:4 119 18719:2,8 12 18693:14,20 18695:25 18721:6,8 18721:10,17 12th 18607:11,11,19,21 12:09 18654:20 12:29 18667:13 12:48 18679:22 13de 18607:13 13th 18607:11,22 137 18669:3 14:04 18687:12 14:24 18699:10 14:44 18712:22 15 18579:5 18583:2 15s 18681:6 18682:13 15:03 18726:15 15:23 18646:14,17,24 15:45 18622:9 15:53 18634:8 15:56:16 18695:23,23 16 18625:21 18628:5 18664:9 18665:7 16de 18593:18 16th 18589:20 18606:25 18616:19 18616:20,22 18617:1 18632:23 18633:9 18685:13 18688:3,7 16:03 18621:21,24 16:03:51 18697:22,22 18697:24 16:05 18620:20 18621:2 18623:9,14 18623:18 18634:10 18635:12 16:11 18625:14 16:11:53 18625:14 16:20 18625:17 16:31 18624:8 16:31:42 18624:10 16:47:54 18629:2 16:49:40 18631:12 16:53 18623:20 18625:11,13,16,20 18628:2 18634:8,13</p>	<p>18634:13 16:53:16 18627:13 18628:6,7,25 18629:1 16:53:42 18630:14,14 16:53:50 18631:6 16:55 18631:14,19 16:55:00 18631:20 16:55:02 18625:12 18630:8 16:55:49 18631:24 16:58 18632:6 16:58:30 18632:11 16:58:36 18632:2 17 18581:9 18 18672:25 18de 18675:8 18677:14 18th 18672:20 18675:15 18682:25 18684:24 181 18698:20,21,22 18701:2 18703:17 18709:19 18710:17 18724:14 188 18621:1 1888 18620:25,25 1960 18678:3 1963 18678:1,2</p> <hr/> <p style="text-align: center;">2</p> <p>2 18588:23 18589:20 18591:4,20,22 18592:10,10 18594:8 18594:16 18597:18 18598:7 18624:8,10 18626:4 18631:15,16 18642:25 18643:15 18659:7 18665:6 18666:2 18669:19 18670:2 18671:7,10 18671:18 18680:7 18691:12 18692:2,5 18692:23 18694:1 18699:2,16 18701:15 18703:4,19,22 18704:8,18 18708:7,9 18708:10,12 18709:24,25 18710:1 18710:9 18711:2,20 18712:21 18715:6 18716:3 18719:4,9,17 18721:16 18722:11 18723:23 18724:7,8 18725:23 2:26 18696:21 2:30 18719:22 20 18581:8 18644:5 18664:24 18714:15 2012 18606:25 18672:21,25 2012-08-16 18646:14 2013 18578:1 215 18690:18,19 18692:22 18701:1,18 18701:20 18703:19 18705:22 18706:3,8 18707:20,22 18708:2</p>	<p>18719:6 18720:14 22 18631:10 24 18719:8 25 18579:5 18667:19 259 18666:7 26 18695:24</p> <hr/> <p style="text-align: center;">3</p> <p>3 18592:10 18600:11 18642:25 18643:1 18671:12 18680:6 18689:22 18690:5,6 18692:11,17 18693:6 18699:12 18702:16 18702:16,22 18703:5 18708:16 18712:25 18712:25 18713:5 18720:20,25 18721:3 18721:8,9 18722:1 18723:14 18724:8,9 18724:16 18726:2 3,000 18665:6 18666:2 18704:18 18705:2,7 30 18587:14 18632:7 18638:16 18664:24 18667:19 18714:15 31 18587:14,15 18602:6 18655:11 18689:1 32 18687:21 33 18621:9,16 18647:19 34 18647:19 18676:9 18678:10,14 18679:25 18683:5,10 18684:6 18685:17 35 18630:17 36 18632:13,15 3807 18673:1 39 18632:6</p> <hr/> <p style="text-align: center;">4</p> <p>4 18619:14,14,14,14,16 18634:24 18653:5 18659:8 18668:1 18700:8 18703:5 44 18619:14,18 45 18657:1 18710:21 18725:2,4,23</p> <hr/> <p style="text-align: center;">5</p> <p>5 18578:1 18602:25 18606:2 18611:16 18615:5 18631:10 18634:24 18695:14 18700:10 18703:12</p> <hr/> <p style="text-align: center;">6</p> <p>6 18632:14 18664:23 18700:8,11 6th 18726:19 18727:4,6 60 18622:7 61 18622:7 65 18622:19</p> <hr/> <p style="text-align: center;">7</p> <p>7:50 18680:8</p>
---	--	--	--	---

8

8 18611:16 18619:5,6
18619:15 18620:2
8th 18726:21 18727:5
8.53 18674:17
807 18678:25

9

9.20 18674:20,21,22
90% 18662:5
911 18625:22 18629:4
18630:8

