

# 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 190

24 FEBRUARY 2014

PAGES 22990 TO 23164



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1 [PROCEEDINGS ON 24 FEBRUARY 2014]  
 2 [09:20] CHAIRPERSON: The Commission resumes.  
 3 Major-General, you're still under oath. Mr Chaskalson, I  
 4 believe you're going to cross-examine the witness?  
 5 GENERAL NAIDOO: s.u.o.  
 6 MR CHASKALSON SC: I am, Chairperson, but  
 7 I thought that SAPS might want to show their video before I  
 8 start.  
 9 CHAIRPERSON: Oh yes, there was a  
 10 discussion about the video. Are you ready to show the  
 11 video, Mr –  
 12 MR SEMENYA SC: We are indeed, Chair.  
 13 CHAIRPERSON: Very well, so the cross-  
 14 examination will not yet begin and effectively it's part of  
 15 the evidence-in-chief. If it's not been shown before we  
 16 have to give it an exhibit number.  
 17 EXAMINATION BY MR SEMENYA SC (CONTD.):  
 18 The exhibit is KKK55, 39 minutes –  
 19 CHAIRPERSON: Sorry, is it KKK55.39? Is  
 20 that what you say?  
 21 MR SEMENYA SC: 999 55, 49th minute into  
 22 the video.  
 23 CHAIRPERSON: How do I describe it?  
 24 Video of?  
 25 MR SEMENYA SC: I don't know, Chair, if

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1 it will be adequate to refer to it as depicting the  
 2 interference with the medical –  
 3 CHAIRPERSON: Video depicting  
 4 interference –  
 5 MR SEMENYA SC: With the medical  
 6 personnel.  
 7 CHAIRPERSON: With medical personnel.  
 8 Alright and you say that's KKK30?  
 9 MR SEMENYA SC: 55.  
 10 CHAIRPERSON: 55, alright.  
 11 [VIDEO IS SHOWN]  
 12 MR SEMENYA SC: Sorry, can we just go  
 13 back a few seconds?  
 14 [VIDEO IS SHOWN]  
 15 MR SEMENYA SC: If you can go just  
 16 slightly back and perhaps slower.  
 17 [VIDEO IS SHOWN]  
 18 CHAIRPERSON: Please put on record the  
 19 point at which you want us to start looking so that when  
 20 the record is read later, it can be appreciated what  
 21 actually it is that we've been asked to look at.  
 22 [VIDEO IS SHOWN]  
 23 MR SEMENYA SC: The image, Chair, we wish  
 24 to point to is an individual throwing an object at the  
 25 medical personnel.

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1 CHAIRPERSON: Where is that on the video  
 2 clip so we can – you know, it's, no, no, I didn't mean –  
 3 it's 31 seconds, is it?  
 4 MR SEMENYA SC: It looks like 33 to us,  
 5 Chair. General, is that what you're referring to in your  
 6 evidence?  
 7 GENERAL NAIDOO: That's correct,  
 8 Chairperson.  
 9 MR SEMENYA SC: Those are the questions  
 10 we have for the witness.  
 11 CHAIRPERSON: It's a picture of one  
 12 individual throwing one object, is that correct?  
 13 MR SEMENYA SC: That's correct, Chair.  
 14 CHAIRPERSON: Thank you, and that's the  
 15 end of your evidence-in-chief?  
 16 MR SEMENYA SC: That's the end of the  
 17 evidence-in-chief.  
 18 CHAIRPERSON: Thank you. Mr Chaskalson.  
 19 MR MPOFU: Sorry, Chairperson, I'm sorry,  
 20 I didn't quite get the description of what is supposed to  
 21 be happening?  
 22 CHAIRPERSON: There was a person who was  
 23 being circled by the arrow, who appeared to have a bare top  
 24 actually, just trousers, and he appeared to be throwing an  
 25 object of some kind.

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1 MR MPOFU: To? Where was he throwing at?  
 2 We don't know. Okay.  
 3 CHAIRPERSON: - can tell you, the witness  
 4 can perhaps be asked about it in cross-examination. My  
 5 understanding from Friday was that it was allegedly at  
 6 medical personnel, allegedly at medical personnel. That's  
 7 a point that can be elaborated at a later –  
 8 MR MPOFU: Alright, but that's not shown  
 9 in the picture. Thank you, Chairperson.  
 10 MR CHASKALSON SC: Chairperson, just for  
 11 the record purposes, is this a clip that's been extracted  
 12 from KKK55? Then I think we ought to give it a separate  
 13 exhibit number so that we can find it again because if we  
 14 look on KKK55 it's going to be somewhere else. So if we  
 15 could call this 55.1 or if you could give us the –  
 16 CHAIRPERSON: [Microphone off, inaudible]  
 17 Let's call it video – let's call it 55.1, video depicting,  
 18 well, I've describe it as depicting interference with  
 19 medical personnel but I'd better say allegedly depicting  
 20 interference with medical personnel because that may be the  
 21 subject of further questions.  
 22 MR MPOFU: Yes.  
 23 CHAIRPERSON: And it starts, it's round  
 24 about 30 to 33 seconds, is that correct?  
 25 CROSS-EXAMINATION BY MR CHASKALSON SC:

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1 Thank you, Chairperson. Major-General, I'd like to start  
 2 this morning by clarifying your evidence on your movements  
 3 on the afternoon of the 16th and if we can start with the  
 4 special JOCCOM.  
 5 GENERAL NAIDOO: Yes, Chair.  
 6 MR CHASKALSON SC: From what I can  
 7 gather, you weren't present at that meeting, is that  
 8 correct?  
 9 GENERAL NAIDOO: That is correct, Chair.  
 10 MR CHASKALSON SC: Where were you at  
 11 ?  
 12 GENERAL NAIDOO: I was at forward holding  
 13 area 1.  
 14 MR CHASKALSON SC: Were you aware that  
 15 there was a special JOCCOM taking place at 1:30?  
 16 GENERAL NAIDOO: No, Chair.  
 17 MR CHASKALSON SC: When did you find out  
 18 that there had been a special JOCCOM meeting at 1:30?  
 19 GENERAL NAIDOO: Chair, when we were  
 20 informed that there would have to be a meeting at 2:30 and  
 21 subsequent to the JOCCOM at 1:30.  
 22 MR CHASKALSON SC: If I can just ask you  
 23 to go to the list of cell phone calls which is KKK4. In  
 24 fact, let me introduce now the list of cell phone, of your  
 25 cell phone calls as opposed to KKK4, which will make it

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1 easier for us to focus in this cross-examination, so –  
 2 CHAIRPERSON: Sorry, will this be MMM4?  
 3 MR CHASKALSON SC: This will be – I had  
 4 thought it would be MMM3 but if yours is MMM4.  
 5 CHAIRPERSON: MMM3 is extract from  
 6 Alexander et al, Marikana, a view from the mountain –  
 7 MR CHASKALSON SC: Oh, of course, of  
 8 course. MMM4, MMM4 it is and if we can then call up MMM4.  
 9 CHAIRPERSON: How do we describe it?  
 10 Telephone calls?  
 11 MR CHASKALSON SC: To and from Major-  
 12 General Naidoo's cell phone in the period 14 to 16 August  
 13 2012.  
 14 CHAIRPERSON: Yes, from his mobile  
 15 telephone?  
 16 MR CHASKALSON SC: That's correct.  
 17 CHAIRPERSON: From 14 to 16 –  
 18 MR CHASKALSON SC: No, no, I'm sorry,  
 19 Chairperson. This is the wrong – can we just take that one  
 20 down?  
 21 CHAIRPERSON: We'll take that one down  
 22 but I want to get the description of the one you want to  
 23 give. So it's telephone calls to and from Major-General  
 24 Naidoo's mobile telephone from 14 to 16 August 2012, is  
 25 that right?

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1 MR CHASKALSON SC: Just in the interests  
 2 of privacy though, for the exhibit we've removed the  
 3 telephone numbers and so you've been given the one with the  
 4 telephone numbers. I can, well, we can, I'll arrange for  
 5 the – oh, we have the correct one and if we can go down to  
 6 16 August at 13:08.  
 7 CHAIRPERSON: Mr Mpfu, I'm sorry, I  
 8 forgot to warn those present to turn their cell phones off  
 9 so I can't do anything to you because I didn't warn you  
 10 beforehand.  
 11 MR MPOFU: Yes, thank you.  
 12 CHAIRPERSON: But I've now warned you and  
 13 everybody else and you know what I do if people's  
 14 telephones –  
 15 MR MPOFU: I know, Chairperson. I was  
 16 saved by that.  
 17 CHAIRPERSON: I can't blame you, I didn't  
 18 warn you.  
 19 MR MPOFU: Thank you, Chairperson.  
 20 CHAIRPERSON: You have to be reminded.  
 21 MR MPOFU: Thank you, Chairperson.  
 22 MR CHASKALSON SC: I'd just like us to  
 23 look at that entry at 13:08:26 which was a 47 second call  
 24 which was made by Brigadier Pretorius to your cell phone.  
 25 That's at 13:08. Did Brigadier Pretorius not mention that

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1 there was going to be a JOCCOM in approximately 20 minutes  
 2 after that call ended?  
 3 GENERAL NAIDOO: Not specifically, I  
 4 can't specifically remember that, Chairperson. As you  
 5 would see on the telephone records we had been  
 6 communicating continuously in my supporting role, in  
 7 communication with the JOC but as I indicated, I did not  
 8 know that there was a special JOCCOM being held.  
 9 CHAIRPERSON: If you had known, would you  
 10 have gone?  
 11 GENERAL NAIDOO: I was not invited,  
 12 Chair.  
 13 CHAIRPERSON: No, no, well, weren't you a  
 14 member? You were a member of the JOCCOM, weren't you?  
 15 GENERAL NAIDOO: I was placed at forward  
 16 holding area 1.  
 17 CHAIRPERSON: No, I know you were based  
 18 at forward holding area 1 but were you a member of the  
 19 JOCCOM? Were you at the 6 o'clock meeting?  
 20 GENERAL NAIDOO: Yes, Chair.  
 21 CHAIRPERSON: And you were there not as a  
 22 visitor –  
 23 GENERAL NAIDOO: No.  
 24 CHAIRPERSON: You were there as a member.  
 25 GENERAL NAIDOO: As the commander of –

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1 CHAIRPERSON: Ja.  
 2 GENERAL NAIDOO: - forward holding area  
 3 1.  
 4 CHAIRPERSON: So you would have been  
 5 entitled to go, even without an invitation. So what I'm  
 6 asking you, if you'd been told that there was a meeting,  
 7 would you have gone?  
 8 GENERAL NAIDOO: If I had been asked to  
 9 attend, I would have. Otherwise I would not have left the  
 10 forward holding area, Chair.  
 11 MR CHASKALSON SC: Have you ever asked  
 12 why you weren't invited to the 13:30 JOCCOM?  
 13 GENERAL NAIDOO: No, Chair.  
 14 MR CHASKALSON SC: Did it not strike you  
 15 as odd that you, who were possibly the second or third most  
 16 senior officer in the operation, wasn't invited to the  
 17 JOCCOM meeting that took the crucial decision to move to  
 18 phase 3?  
 19 GENERAL NAIDOO: Chair, there's been  
 20 several meetings whilst I was at my post at forward holding  
 21 area 1 which I did not attend, which includes Wednesday's  
 22 meeting with the union leaders, et cetera, but I think the  
 23 focus was on me executing my responsibilities at forward  
 24 holding area 1.  
 25 MR CHASKALSON SC: But what were your

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1 responsibilities at forward holding area 1 at half past 1  
 2 on Thursday the 16th?  
 3 GENERAL NAIDOO: Chair, that was lunch  
 4 time. I had to ensure that all the personnel in the  
 5 forward negotiation area as well as in the holding area  
 6 received their lunch and other provisions.  
 7 MR CHASKALSON SC: Was that not the sort  
 8 of responsibility that an officer of your rank would have  
 9 been capable of delegating?  
 10 GENERAL NAIDOO: Well, Chair, the way we  
 11 did this was I ensured that the necessary resources went to  
 12 the relevant commanders who, in turn, distributed it to  
 13 their personnel but it was still my responsibility to  
 14 ensure that this occurred because personnel were deployed  
 15 for long hours under very difficult circumstances and that  
 16 was one of my roles at forward holding area 1 to support  
 17 the personnel that had deployed.  
 18 MR CHASKALSON SC: So you're essentially  
 19 saying that because you had to organise lunch for people at  
 20 forward holding area 1, you weren't surprised that you were  
 21 not invited to the JOCCOM, it took the decision to move in  
 22 or to move to phase 3?  
 23 GENERAL NAIDOO: No Chair, what I'm  
 24 saying is I was at my post at forward holding area 1 and I  
 25 was not invited to the JOCCOM.

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1 CHAIRPERSON: Now, if you look at exhibit  
 2 L slide 67 you'll see a slide dealing with what's described  
 3 as the command cell. You were listed there as commander of  
 4 reserve and support forces.  
 5 GENERAL NAIDOO: That's correct, Chair.  
 6 CHAIRPERSON: Doesn't that mean that you  
 7 were ex officio, as it were, a member of the JOCCOM?  
 8 GENERAL NAIDOO: As was the operational  
 9 commander for the operation, Chair.  
 10 CHAIRPERSON: That's another question as  
 11 to why he wasn't there but we won't, you're not being asked  
 12 that at the moment. You're simply being asked about your  
 13 absence, your failure to attend for the reasons you've  
 14 explained.  
 15 GENERAL NAIDOO: I was not informed of  
 16 the convening of the meeting and I was at the post where I  
 17 was posted, Chair.  
 18 MR CHASKALSON SC: Right, well, let's  
 19 move on then to the briefing at forward holding area 1 and  
 20 you dealt with that in your evidence-in-chief and in your  
 21 statement. It's addressed in paragraph 55 of your  
 22 statement. Can we call up paragraph 55.4? I can read the  
 23 relevant passage it's not controversial. You say, "The  
 24 briefing was done using a laptop computer where he" and  
 25 that's Colonel Scott, Lieutenant-Colonel Scott then,

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1 "showed us slides which outlined the different positions  
 2 and conveyed to each commander of each unit at the  
 3 briefing, including commanders of my group at FHA1, what  
 4 was expected of them." You recall that passage in your  
 5 statement?  
 6 GENERAL NAIDOO: That is correct, Chair.  
 7 MR CHASKALSON SC: Now, if we can just  
 8 all up the slide 181 from exhibit L, because this is the  
 9 slide which Colonel Scott indicated was the only slide he  
 10 showed at his briefing. And the evidence of Colonel Scott  
 11 was that this was the only slide that was shown at the  
 12 briefing and it was shown in this form, save for the fact  
 13 that the boxes with text in white were not there at the  
 14 briefing, those he put in later. Do you recall that that  
 15 was the case?  
 16 GENERAL NAIDOO: Looks like it was the  
 17 slide, Chair.  
 18 MR CHASKALSON SC: Now, this slide says  
 19 nothing about forward holding area 1 or its  
 20 responsibilities or movements. You accept that?  
 21 GENERAL NAIDOO: That is correct, Chair.  
 22 MR CHASKALSON SC: So you got no written  
 23 or electronic briefing from Lieutenant-Colonel Scott of  
 24 what was expected of you, you only got an oral briefing?  
 25 GENERAL NAIDOO: An oral briefing based

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1 on the electronic map that was shown to us, correct, Chair.  
 2 MR CHASKALSON SC: Being slide 181 that  
 3 we see now?  
 4 GENERAL NAIDOO: Chair, I'm not sure if  
 5 that's exactly the same slide but it seems like, to be  
 6 similar.  
 7 CHAIRPERSON: That was his evidence.  
 8 GENERAL NAIDOO: Yes.  
 9 CHAIRPERSON: His evidence is he showed  
 10 that and only that, minus the white boxes.  
 11 GENERAL NAIDOO: Then I would accept  
 12 that, yes.  
 13 MR CHASKALSON SC: You indicate what you  
 14 were told at the briefing in paragraph 55 of your  
 15 statement. You say, "I was expected to provide support in  
 16 this action which I anticipated would entail releasing fire  
 17 trucks, medics or other support functions to wherever they  
 18 would be required. It is usual during dispersal action  
 19 people tend to injure, whether by running and falling,  
 20 rubber bullets or the use of Colonel Scott gas. The canine  
 21 unit was to conduct a sweep of the area after dispersal to  
 22 find any weapons, especially firearms which may have been  
 23 discarded in the bushes and rocks as well as to ensure no  
 24 strikers were hidden in the area, whilst also providing an  
 25 escort service for the emergency service personnel deployed

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1 with us. Similarly, the mounted unit was to be utilised to  
 2 identify any persons or weapons that were lying hidden in  
 3 the area, using their height as an advantage." And now  
 4 does that accurately describe what Lieutenant-Colonel Scott  
 5 told you would be your function at the briefing?  
 6 GENERAL NAIDOO: Chair, he indicated to  
 7 us the different roles and he indicated that forward  
 8 holding area 1 would continue with their support role and  
 9 the units remaining would be deployed as briefed that  
 10 morning in terms of the canine, in terms of the mounted  
 11 unit, yes.  
 12 MR CHASKALSON SC: When you say the units  
 13 remaining, you mean the units remaining at forward holding  
 14 area 1?  
 15 GENERAL NAIDOO: That is correct, Chair.  
 16 MR CHASKALSON SC: And that would be  
 17 canine, mounted unit, the reserve forces had already been  
 18 released to the front by then?  
 19 GENERAL NAIDOO: That's correct, Chair.  
 20 MR CHASKALSON SC: Apart from canine and  
 21 mounted were there any other units that were actually  
 22 remaining at forward holding area 1?  
 23 GENERAL NAIDOO: Crime scene –  
 24 MR CHASKALSON SC: Crime scene and  
 25 detectives.

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1 GENERAL NAIDOO: And detectives, as well  
 2 as the fire and medical.  
 3 MR CHASKALSON SC: But those weren't  
 4 units so much as support services from outside.  
 5 GENERAL NAIDOO: As I indicated them,  
 6 yes.  
 7 MR CHASKALSON SC: And so the brief, if I  
 8 understand your evidence, was that you were briefed in the  
 9 morning on what your function was, forward holding area 1,  
 10 you still had the same function save in respect of the  
 11 reserve forces that had been released and to have been  
 12 briefed separately, is that correct?  
 13 GENERAL NAIDOO: That's correct, Chair.  
 14 [09:40] MR CHASKALSON SC: Now in the morning had  
 15 you been instructed to take the support services, the  
 16 medics and the fire personnel, to immediate reaction area  
 17 1?  
 18 GENERAL NAIDOO: Chair, in the  
 19 deployment, we were indicated that when we get into  
 20 operational mode the forces that will be deployed must be  
 21 moved into the immediate reaction area 1. That morning the  
 22 special task force and the national intervention unit were  
 23 the two forces that were deployed to immediate reaction  
 24 area 1 in anticipation that the strikers would lay down  
 25 their weapons, their responsibility was to secure the scene

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1 so that the weapons could be recovered. So based on that  
 2 indication at the briefing, yes. Prior to deployment our  
 3 standing point would be at the immediate reaction area to  
 4 reduce the reaction time.  
 5 MR CHASKALSON SC: So you knew from that  
 6 briefing that following that briefing you were to move your  
 7 troops to immediate reaction area 1, that was your tasking.  
 8 GENERAL NAIDOO: Police officials, yes.  
 9 MR CHASKALSON SC: And medics and fire  
 10 support services?  
 11 GENERAL NAIDOO: As well.  
 12 MR CHASKALSON SC: Were you present  
 13 through the whole of the briefing of Lieutenant-Colonel  
 14 Scott?  
 15 GENERAL NAIDOO: No Chair, I was – I  
 16 arrived a little late but I was there, yes.  
 17 CHAIRPERSON: Where did you arrive from  
 18 because the briefing was at forward holding area 1?  
 19 GENERAL NAIDOO: I arrived from  
 20 Potchefstroom.  
 21 CHAIRPERSON: Oh, so when you got the  
 22 telephone call, the mobile phone call from Brigadier  
 23 Pretorius which we referred to earlier, were you not at  
 24 forward holding area 1?  
 25 GENERAL NAIDOO: No Chair, I was at

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1 forward holding area 1. The reference I think here is to  
 2 the 6 o'clock briefing, if I am –  
 3 MR CHASKALSON SC: We're at cross-  
 4 purposes -  
 5 GENERAL NAIDOO: Okay.  
 6 MR CHASKALSON SC: - Major-General, I was  
 7 talking about the 1:30 briefing, were you present for the  
 8 whole of that briefing?  
 9 GENERAL NAIDOO: At the 2:30 briefing I  
 10 was present for the entire briefing, yes.  
 11 MR CHASKALSON SC: Sorry, 2:30, you're  
 12 correct. So you were aware of the details of the plan that  
 13 Lieutenant-Colonel Scott disclosed at that briefing?  
 14 GENERAL NAIDOO: All that he communicated  
 15 to the commanders, yes.  
 16 MR CHASKALSON SC: In particular, you  
 17 knew where the barbed wire was going to be laid out?  
 18 GENERAL NAIDOO: He did indicate to us,  
 19 yes.  
 20 MR CHASKALSON SC: It's on the slide, you  
 21 can see it.  
 22 GENERAL NAIDOO: Yes.  
 23 MR CHASKALSON SC: You knew that the plan  
 24 was to disperse the miners to the area to the west.  
 25 GENERAL NAIDOO: That is correct, Chair.

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1 MR CHASKALSON SC: And in particular, if  
 2 one looks at the movement of the tactical forces in blue,  
 3 it was to the area to the west, to the south of koppie 3.  
 4 GENERAL NAIDOO: Koppie 3 – Chair, rather  
 5 say koppie 3 lies to the south of the dispersal area.  
 6 MR CHASKALSON SC: [Microphone off,  
 7 inaudible] down here.  
 8 GENERAL NAIDOO: That's correct.  
 9 MR CHASKALSON SC: I'm marking, I'm  
 10 pointing to the north mark in the top right-hand corner of  
 11 the slide and I'm suggesting, did he indicate that the  
 12 tactical forces were to move along the blue lines which  
 13 appear on slide 181?  
 14 GENERAL NAIDOO: That's correct, Chair.  
 15 MR CHASKALSON SC: That the strikers from  
 16 the koppies were to be dispersed to the west, west-cum-  
 17 south-west.  
 18 GENERAL NAIDOO: West, Chair, the  
 19 direction he used was west.  
 20 MR CHASKALSON SC: And what did you  
 21 understand that from the slide? Did you understand that  
 22 the strikers would be dispersed into koppie 3, underneath  
 23 koppie 3 or above koppie 3 or all three of those  
 24 possibilities?  
 25 GENERAL NAIDOO: Chair, in our briefing

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1 there was no mention made of koppie 3. What was indicated,  
 2 that the strikers would be dispersed west into the veld in  
 3 the open veld in the direction of the mine hostel and the  
 4 other end.  
 5 MR CHASKALSON SC: The Karee hostel?  
 6 GENERAL NAIDOO: I would take it Karee  
 7 hostel, Chair.  
 8 MR CHASKALSON SC: And if we look at this  
 9 diagram, where do we see open veld on this diagram to the  
 10 west of koppies 1 and 2?  
 11 GENERAL NAIDOO: Chair, the picture does  
 12 not depict the entire geographical layout. It's zoomed in.  
 13 MR CHASKALSON SC: Well, where did you  
 14 understand the miners were going to go, if you can mark on  
 15 this picture or indicate on this picture?  
 16 GENERAL NAIDOO: Chair, west, as far as I  
 17 understood, being the white block that says phase 2, the  
 18 right-hand corner at the top, in that direction – based on  
 19 the indication of where north is.  
 20 MR CHASKALSON SC: So if I can just mark  
 21 the top right-hand corner of the block that starts phase 2,  
 22 which I'm marking now.  
 23 GENERAL NAIDOO: That's correct, Chair.  
 24 MR CHASKALSON SC: So you understood that  
 25 the strikers were going to be dispersed in a direction

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1 which, if they were on koppie 1, would take them straight  
 2 through koppie 3?  
 3 GENERAL NAIDOO: That's correct, Chair.  
 4 CHAIRPERSON: He didn't say that. He  
 5 simply said west.  
 6 GENERAL NAIDOO: He said west in the  
 7 direction of the mine, yes.  
 8 CHAIRPERSON: Oh, I see. Because I must  
 9 say it looks to me as if koppie 3 is really north-west of  
 10 koppie 1 but it may be an impression that others may not  
 11 agree with.  
 12 MR CHASKALSON SC: But let's go back to  
 13 the details of the briefing that you were aware of.  
 14 GENERAL NAIDOO: Chair?  
 15 MR CHASKALSON SC: You were aware that  
 16 the dispersal would, in the first instance, be executed by  
 17 POPS who were going to use public order policing methods.  
 18 GENERAL NAIDOO: That is correct, Chair.  
 19 MR CHASKALSON SC: And you were aware  
 20 also that there would be a TRT line to support them if they  
 21 needed protection.  
 22 GENERAL NAIDOO: That is correct, Chair.  
 23 MR CHASKALSON SC: You would presumably  
 24 have known that the TRT line would be armed with R5s.  
 25 GENERAL NAIDOO: That is correct, Chair.

<p style="text-align: right;">Page 23010</p> <p>1 MR CHASKALSON SC: And you would have 2 known from the briefing as well that if at any stage there 3 was a need to protect the POPS unit after the dispersion 4 action or to make high risk arrests of armed miners who'd 5 entrenched themselves in difficult terrain, the tactical 6 units would be brought in and the STF and the NIU in 7 particular would be brought in to perform that function. 8 GENERAL NAIDOO: That was part of the 9 plan, Chair. 10 MR CHASKALSON SC: And all of this you 11 were aware of from that briefing? 12 GENERAL NAIDOO: Yes, Chair. 13 MR CHASKALSON SC: You then proceed to 14 describe in your statement at paragraph 57 that you moved 15 from the briefing at forward holding area 1 to brief the 16 SAPS personnel under your control and you say, "I briefed 17 all my commanders as well as canine personnel on the 18 decision which was to be executed in terms of the morning 19 briefing and placed them on a state of readiness to support 20 the negotiating team which would initiate the dispersal 21 process." 22 GENERAL NAIDOO: That is correct, Chair. 23 MR CHASKALSON SC: And when you refer to 24 negotiation team you're referring to the POPS team in 25 armoured vehicles under the control of Brigadier Calitz.</p>	<p style="text-align: right;">Page 23012</p> <p>1 GENERAL NAIDOO: I can't precisely say 2 but it could be. 3 MR CHASKALSON SC: If we look at your 4 cell phone records, we see that from 3 o'clock until 5 roughly 3:07, which would be the end of that call to 6 Brigadier Nkabinde, you were on your cell phone. 7 GENERAL NAIDOO: Correct, Chair. 8 MR CHASKALSON SC: Now presumably that 9 was before you conducted your briefing. 10 GENERAL NAIDOO: Possibly, Chair. 11 MR CHASKALSON SC: Well, if you – 12 GENERAL NAIDOO: I can't specifically 13 remember. 14 MR CHASKALSON SC: I we look at that 15 period there's very little space between cell phone calls 16 for you to do anything. You presumably weren't on the cell 17 phone to other people while you were doing your briefing to 18 the personnel under your control. 19 GENERAL NAIDOO: Chair, it also could be 20 that my, one of the members who could have possibly been 21 talking on my phone. We were communicating with the JOC, 22 confirming our vehicle details, number of personnel, et 23 cetera, before deployment. I know I asked my driver to 24 assist me with the count, et cetera, so it could possibly 25 be my driver also speaking and giving through particulars.</p>
<p style="text-align: right;">Page 23011</p> <p>1 GENERAL NAIDOO: That is correct, Chair. 2 MR CHASKALSON SC: Now, this briefing to 3 the personnel under your control, where did it take place? 4 GENERAL NAIDOO: At forward holding area 5 1. 6 MR CHASKALSON SC: And how long did it 7 last? 8 GENERAL NAIDOO: A few minutes, Chair. 9 MR CHASKALSON SC: Can you be a bit more 10 precise than that? Well, not necessarily more precise than 11 that but are we talking two or three minutes, five or 10 12 minutes, a rough estimate? 13 GENERAL NAIDOO: Approximately five or 10 14 minutes, Chair. 15 MR CHASKALSON SC: When did it take 16 place? 17 GENERAL NAIDOO: Immediately after the 18 14:30 briefing. 19 MR CHASKALSON SC: Can we just look at 20 that, at MMM4 again just to look at your cell phone records 21 again to try to place in the sequence of those cell phone 22 records when it would have taken place? Can we call up 23 MMM4, the cell phone records and if we can go to 15:01. 24 We've been told that the briefing ended at approximately 3 25 o'clock, does that square with your recollection?</p>	<p style="text-align: right;">Page 23013</p> <p>1 MR CHASKALSON SC: Well, you see, if we 2 look at those calls, the only one that could conceivably 3 have related to Marikana seems to be Major-General, a call 4 from Major-General Mpembe which lasts 83 seconds because 5 the others are, seem to be police matters unrelated to 6 Marikana. I don't know the rank of officer Alexander but 7 we're told that his or her function is supply chain 8 management. 9 GENERAL NAIDOO: That's correct, Chair. 10 MR CHASKALSON SC: And Brigadier Molefe 11 we're told is in the North-West training unit. 12 GENERAL NAIDOO: She is the deputy 13 Provincial Commissioner for human resource management, 14 Chair. 15 MR CHASKALSON SC: Okay. Brigadier 16 Nkabinde we're told is in human resources as well. 17 GENERAL NAIDOO: The provincial head of 18 human resources, yes. 19 MR CHASKALSON SC: So would any of those 20 calls to – sorry, what is the rank of officer Alexander? 21 GENERAL NAIDOO: Brigadier. 22 MR CHASKALSON SC: Brigadier Alexander. 23 Any of the calls to Brigadier Alexander, Brigadier Molefe 24 or Brigadier Nkabinde have to do with Marikana business? 25 GENERAL NAIDOO: Yes, Chair, we were at</p>

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1 that stage also busy with the funeral arrangements of the  
 2 personnel that were killed on Monday.  
 3 MR CHASKALSON SC: Would that have been a  
 4 matter that you might have delegated to your driver?  
 5 GENERAL NAIDOO: No.  
 6 MR CHASKALSON SC: So those calls would  
 7 have had to have been calls you made?  
 8 GENERAL NAIDOO: Yes, Chair.  
 9 MR CHASKALSON SC: So it seems to me, I'm  
 10 just trying to get the timing right here because if we look  
 11 at these cell phone records it seems to me that when you  
 12 would've conducted this briefing is sometime between 15:09  
 13 and 15:19:36 because that's the only gap that we see of a  
 14 sustained period between 3 o'clock and the point at which  
 15 the operation began. Would that square with your  
 16 recollection or inference?  
 17 GENERAL NAIDOO: Chair, no, I think it  
 18 would be more, closer to 15:30 or even a few minutes after  
 19 15:30 because we, immediately after the briefing, took up  
 20 our position at immediate response area 1.  
 21 MR CHASKALSON SC: So immediately after  
 22 the briefing you moved to IRA 1?  
 23 GENERAL NAIDOO: That's correct, Chair.  
 24 COMMISSIONER HEMRAJ: General, you said  
 25 immediately after 15:30.

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1 GENERAL NAIDOO: No, I said in the  
 2 vicinity of 15:30. We were informed that the operation  
 3 would commence at 15:30 so the idea was that personnel  
 4 would be in a state of readiness from 15:30 onwards.  
 5 MR CHASKALSON SC: So at 15:31 you've got  
 6 a three and a half minute call which is a number that we've  
 7 removed because it doesn't seem to be a police number,  
 8 which would've taken you up to 15:35, I think. Before that  
 9 there was a call from supply chain management again for 39  
 10 seconds, which would've ended at 15:27. Is it possible,  
 11 are you suggesting that the briefing would've taken place  
 12 between 15:27 and 15:31, a kind of –  
 13 GENERAL NAIDOO: Chair, as I indicated, I  
 14 estimated the time of the briefing between five and 10  
 15 minutes, so it could be five or less or up to 10. I don't  
 16 think it exceeded that, I approximate it.  
 17 MR CHASKALSON SC: Or could it have been  
 18 less than five?  
 19 GENERAL NAIDOO: Approximately five, yes.  
 20 MR CHASKALSON SC: Or could it have been  
 21 less than five is my question?  
 22 GENERAL NAIDOO: I'm not sure Chair.  
 23 MR CHASKALSON SC: Because unless it  
 24 could be less than five, we're talking it couldn't have  
 25 happened at 15:26:31 because the gap, there isn't a five

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1 minute gap between the end of that call and the start of  
 2 the next one.  
 3 GENERAL NAIDOO: Chair, as I indicated,  
 4 the briefing was the detailed briefing that we had that  
 5 morning, it was merely to affirm what was happening and  
 6 what was expected of us, you know, so as I indicated I  
 7 estimated the time. I cannot say for sure exactly how many  
 8 minutes it took.  
 9 MR CHASKALSON SC: Let's try and pin  
 10 down. The times are very important, Major-General, in this  
 11 exercise so I would like to try to pin down where this  
 12 briefing took place.  
 13 GENERAL NAIDOO: Okay.  
 14 MR CHASKALSON SC: Sorry, not where,  
 15 you've told us where it was, FHA1, when it took place and  
 16 for how long. You had to brief the dogs, the dog squad,  
 17 you had to brief the mounted unit, you had to brief the  
 18 detectives and the LCRC. Did you have a briefing for the  
 19 medical and fire personnel?  
 20 GENERAL NAIDOO: They were there, Chair.  
 21 MR CHASKALSON SC: And – no, no, but did  
 22 you have a separate briefing for them?  
 23 GENERAL NAIDOO: No.  
 24 MR CHASKALSON SC: In the course of your  
 25 briefing did you give any explanation of what the operation

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1 that was about to unfold, entailed?  
 2 GENERAL NAIDOO: Chair, maybe to go past,  
 3 to address the particular issue, my briefing entailed the  
 4 following. It was not separate briefings to separate  
 5 units. As I indicated, the commanders of the other units  
 6 plus the canine unit commander and members were present. I  
 7 indicated to them, number 1, that there had been a decision  
 8 to go to stage 3 to disperse, number 2, our role in the  
 9 supporting function as they had been briefed by their  
 10 commanders this morning would now come into play in terms  
 11 of the support role being the sweeping and searching for  
 12 suspects, weapons, et cetera and providing support in terms  
 13 of medical and fire, the crime scene management. We would  
 14 be going into immediate response area 1 with the medical,  
 15 fire and the canine. The detectives as well as the crime  
 16 scene people would be remaining at forward holding area 1  
 17 and the mounted people would take their insertion area  
 18 which was discussed on Friday and then I cautioned them on  
 19 the use of firearms, which we normally do at such things  
 20 when we're going into an operation, to remember the rules  
 21 regarding the use of firearms and I wished them well and we  
 22 departed. I think I summarise basically what we discussed  
 23 at that briefing, other than asking them if there's any  
 24 problems or anything that I should know about before the  
 25 deployment.



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1 MR CHASKALSON SC: When you say what we  
 2 discussed at that briefing, would that be the briefing that  
 3 Colonel Scott had just given you?  
 4 GENERAL NAIDOO: Chair, no. The briefing  
 5 on the roles and responsibilities of the different units  
 6 was given by Colonel Scott at the 6 o'clock briefing and  
 7 after the 6 o'clock briefing the various commanders of the  
 8 units went back and briefed their members as to what is the  
 9 status for the day and what was expected. So it was not  
 10 for me to repeat in detail what Colonel Scott had  
 11 communicated to commanders, that we done by the commanders.  
 12 It was just to affirm that that briefing would now become  
 13 valid.  
 14 MR CHASKALSON SC: But did you not give  
 15 your personnel any indication of what phase 3 was now going  
 16 to entail because this was the first two that phase 2 had  
 17 been detailed – sorry, phase 3.  
 18 GENERAL NAIDOO: Chair, as I indicated, I  
 19 indicated specifically to the commanders what our role was.  
 20 It was a supporting role and, on instruction, what was  
 21 expected of them and that was not a, not necessary for a  
 22 detailed briefing as I was the overall co-ordinator of the  
 23 various different units. They had their specific  
 24 commanders in charge of specific disciplines, who had  
 25 already communicated with them what the expectation was.

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1 So I was not going to repeat but I did make provision for  
 2 if there was no clarity, that it could be sought.  
 3 [09:59] MR CHASKALSON SC: But surely the  
 4 commanders and the personnel needed to have even a vague  
 5 sense of what the stage 3 was going to entail so that they  
 6 could understand how their support function was going to  
 7 fit in. But at the very simplest they needed to know in  
 8 which direction the miners were going to be dispersed.  
 9 GENERAL NAIDOO: Chair, yes but as I  
 10 indicated, Colonel Scott had already briefed all the  
 11 commanders. I was not going to repeat Colonel Scott's  
 12 briefing because this briefing was given to us all and this  
 13 was in turn communicated by the various commanders to their  
 14 specific disciplines.  
 15 MR CHASKALSON SC: Major-General, are you  
 16 talking now about what Colonel Scott had done at the 6:00am  
 17 JOCCOM?  
 18 GENERAL NAIDOO: Well both the 6:00am as  
 19 well as the 2:30.  
 20 MR CHASKALSON SC: Let's leave the 2:30  
 21 for the meantime, aside for the meantime. At 6:30  
 22 Lieutenant Colonel Scott couldn't have briefed you on the  
 23 details of phase 3 because those hadn't been decided by the  
 24 6:30 JOCCOM.  
 25 GENERAL NAIDOO: That's correct.

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1 MR CHASKALSON SC: So no one could have  
 2 got a briefing, none of your personnel could have been  
 3 briefed on the details of phase 3 previously. Did you not  
 4 give them any briefing on the details of phase 3 following  
 5 the 2:30 JOCCOM?  
 6 GENERAL NAIDOO: Chair, as I indicated,  
 7 the chain of command and the briefing worked in a  
 8 particular fashion, in a cascading fashion. So Colonel  
 9 Scott briefed us, all commanders. The commanders in turn  
 10 went to their members and ensured that they were briefed.  
 11 That was the chain of command or the operation methodology  
 12 we followed from Tuesday.  
 13 MR CHASKALSON SC: But you had to brief  
 14 people after the 2:30 JOCCOM, people who – throughout the  
 15 2:30 briefing, people who didn't know what had been decided  
 16 and briefed at the 2:30 briefing. Did you not give those  
 17 people any indication of what phase 3 was not going to  
 18 entail?  
 19 GENERAL NAIDOO: Chair, I think I've  
 20 already indicated I communicated to the effected personnel  
 21 that a decision had been taken to go to stage 3. I  
 22 summarised the expectations because the detailed brief,  
 23 there were various disciplines there. I was not going to  
 24 try and usurp the responsibilities of the line commanders  
 25 because each discipline had their specific responsibility.

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1 So when I summarised, I have indicated because the  
 2 responsibility from people like the crime scene managers  
 3 deferred from the mounted units to the K9. And they had  
 4 their specialist commanders who was at the briefing and  
 5 went back to ensure that their personnel were ready.  
 6 MR CHASKALSON SC: So you're saying that  
 7 the people, the commanders who you briefed at forward  
 8 holding area 2 had already been at – forwarding holding  
 9 area 1, sorry, had already been at Lieutenant-Colonel  
 10 Scott's briefing?  
 11 GENERAL NAIDOO: That is correct, Chair.  
 12 The 14:30 meeting was attended by all commanders, from the  
 13 negotiating group, forward holding area 1 as well as  
 14 forward holding area 2. So I was not attending the  
 15 briefing on my own. Each K9, the Special Task Force, the  
 16 National Intervention Unit, the mounted unit, I ensured  
 17 that all the commanders that fall under my command were  
 18 there so that we cut the chain of communication down as  
 19 short as possible.  
 20 MR CHASKALSON SC: So the only people who  
 21 attended your briefing hadn't already been briefed on what  
 22 their – sorry Commissioner. I'm sorry, was I talking over  
 23 you, Commissioner?  
 24 COMMISSIONER HEMRAJ: No, not at all.  
 25 MR CHASKALSON SC: Major-General, are you

<p style="text-align: right;">Page 23022</p> <p>1 saying that the only people who attended your briefings who 2 hadn't already been briefed at the Lieutenant-Colonel Scott 3 briefing were the K9 personnel? 4 GENERAL NAIDOO: That is correct, Chair. 5 As well as possibly the emergency service personnel. 6 COMMISSIONER HEMRAJ: May I just 7 understand, General, that those briefings done by the 8 individual commanders would have been prior to the briefing 9 you gave all of them. 10 GENERAL NAIDOO: Chair, that's the 11 purpose why I called them, to ensure from all the other 12 commanders whether they were in place and reiterated the 13 fact that there had been a decision and obviously 14 emphasised the use in terms of the use of firearms and 15 ensure that everybody was fine. That would be role I would 16 typically play. 17 MR CHASKALSON: You say you gave a 18 special briefing on the use of firearms, do you recall what 19 that briefing entailed? 20 GENERAL NAIDOO: Chair, I would not call 21 it a special briefing, I would say I made mention, as 22 normally is the case when we have such deployment, that we 23 remind the members on the instructions pertaining to the 24 use of firearms because as you know, the police is often in 25 the spotlight for the excessive use of force, etcetera. So</p>	<p style="text-align: right;">Page 23024</p> <p>1 COMMISSIONER HEMRAJ: But is any protocol 2 laid down that you are required in a briefing to include 3 this, this aspect of firearms? 4 GENERAL NAIDOO: Chair, no what is 5 required is we have to ensure firstly that all people are 6 present, they are correctly equipped, they have got no 7 injuries and we should raise pertinent issues which they 8 should be aware of before deployment. And one of the 9 pertinent issues in this particular deployment for example, 10 as in most, we must always remind them in terms of the use 11 of firearms as well as not to break away from the group. 12 There are various things that I can't at this stage, tell 13 you, but we normally before deployment members raise 14 certain issues so that they are aware and sensitised on 15 certain things. They have already had the training, they 16 have the skills, they have the knowledge. But as 17 commanders we should raise issues which are commonly coming 18 up, that's our responsibility, as we would tell them on 19 modus operandi of wherever we're going to go and apprehend 20 or whatever the operation entails. These are the general 21 factors which we must raise when we are briefing personnel 22 before deployment. 23 MR CHASKALSON SC: Now you say after your 24 briefing, immediately after your briefing you took your 25 personnel, with the exception of the mounted unit, to IRA</p>
<p style="text-align: right;">Page 23023</p> <p>1 I reminded them we have existing instructions that they 2 should keep that in mind when using firearms. And 3 obviously nobody says that they can't protect themselves or 4 protect other people, but they should keep the bigger 5 picture in mind when doing so. 6 MR CHASKALSON SC: So you specifically 7 mentioned their right to use firearms in self defence. 8 GENERAL NAIDOO: Chair, that's correct. 9 MR CHASKALSON SC: Do you normally do 10 that? 11 GENERAL NAIDOO: That is a normal, 12 general briefing that's given to members to sensitise them 13 about the use of force which is done on most, or supposed 14 to be done at all briefings and deployment of personnel. 15 MR CHASKALSON SC: I don't recall that 16 being the evidence of Brigadier Calitz. Brigadier Calitz, 17 if I recall his testimony correctly, indicated that it 18 wasn't usual to specifically remind people about their 19 right to use firearms in self defence. 20 MR SEMENYA SC: No, that is not the 21 evidence. Mr Chaskalson may want to refer us to the 22 transcript – 23 MR CHASKALSON SC: I'll come back to that 24 after tea time, I don't want to waste time now, it's not a 25 particularly important issue.</p>	<p style="text-align: right;">Page 23025</p> <p>1 1, Immediate Response Area 1. 2 GENERAL NAIDOO: That's correct, on the 3 road alongside the power station. 4 MR CHASKALSON SC: I'd just like to 5 clarify your starting and ending position because you moved 6 from forwarding holding area 1 to an ending position at 7 immediate response area 1. If we can start with the 8 starting position at forward holding area 1. When Colonel 9 Scott was presenting exhibit L to this Commission he 10 identified your starting position with reference to one of 11 the photographs on slide 270 of exhibit L. Now 270 is a 12 video compilation, I'm not sure if we can play it, but I 13 can – the slide that he referred to is in fact a photograph 14 that appears at JJJ10, point 4534. So if we can just call 15 that one up. JJJ10, point 4534. Now that is what 16 Lieutenant-Colonel Scott identified and for record, if 17 anyone want to check the reference it's on the 14th of 18 November at page 1335. With reference to that photograph 19 Lieutenant-Colonel Scott said – in view now is forward 20 holding area 1 where General Naidoo has lined up the 21 vehicles. Was that your starting point? 22 GENERAL NAIDOO: Chair, no what we have 23 there is a view of both forward holding area 1 as well as 24 immediate response area 1. Forward holding area 1 is to 25 the bottom of the picture, the intersection with the little</p>

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1 building just off the intersection. That road was used as  
 2 forward holding area 1 and visible there at the  
 3 intersection is the vehicles of the mounted unit. And  
 4 further down, under the trees, along the road is the  
 5 vehicles of the crime scene managers as well as the  
 6 detectives. What we have with the convoy of vehicles –  
 7 CHAIRPERSON: There you're referring to  
 8 the extreme right-hand side of the screen are you?  
 9 GENERAL NAIDOO: That is correct, Chair.  
 10 On the left-hand side to the centre of the photograph the  
 11 column of vehicles that you see there is vehicles that are  
 12 deploying to immediate response area 1. We formed up there  
 13 and then we moved slowly until we came in line with the  
 14 power station.  
 15 SPEAKER: Chair, can I get to know  
 16 whether the General doesn't have a pointer so that, you  
 17 know, the areas he's indicating on picture can be pointed  
 18 out, just for us.  
 19 CHAIRPERSON: I'm sure Mr Pretorius can –  
 20 SPEAKER: Whatever it's called –  
 21 MR CHASKALSON SC: Major-General, I'm  
 22 reluctant to surrender my pointer, but maybe I can assist  
 23 if you guide me where to point. Let's start at the  
 24 crossroads which you say is forward holding area 1. I'm  
 25 marking it now, it's the crossroads just to the right of

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1 centre of the bottom of the picture. Is that the  
 2 crossroads that you say is forward holding area 1?  
 3 GENERAL NAIDOO: Chair, that's the start  
 4 of forwarding holding area 1. The area behind the  
 5 intersection was where the vehicles were normally parked  
 6 and the members were on standby.  
 7 MR CHASKALSON SC: Now when you say  
 8 behind do you mean down to the bottom of the photograph as  
 9 I'm marking now, to the bottom left or to the bottom right?  
 10 GENERAL NAIDOO: Chair, no to the centre  
 11 there's a little structure there, along the road, a little  
 12 way down the road on the other side. Ja, it was along that  
 13 road we had a deployment which was known as forward holding  
 14 area 1. We were not using the structure, that was a  
 15 private business.  
 16 MR CHASKALSON SC: So you parked the –  
 17 the usual parking position of the vehicles was on the  
 18 branch of the crossroads that heads off to the right-hand  
 19 side of the photograph.  
 20 GENERAL NAIDOO: And the field to the  
 21 right of that road as well.  
 22 MR CHASKALSON SC: And the field to the  
 23 right of the road that I'm marking now that has a sort of  
 24 white colouring to it.  
 25 GENERAL NAIDOO: No that's not the field,

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1 the field is up there.  
 2 MR CHASKALSON SC: Higher up where  
 3 vehicles are parked.  
 4 GENERAL NAIDOO: That's correct, Chair.  
 5 MR CHASKALSON SC: Where vehicles are  
 6 parked roughly between a half – a third of the way down the  
 7 right-hand side of the photograph.  
 8 GENERAL NAIDOO: That is correct, Chair.  
 9 CHAIRPERSON: Sorry, you referred earlier  
 10 to some trees and they are, as I understand it, on the  
 11 extreme right-hand side of the photograph. Again just  
 12 under halfway, or just over halfway down from the top of  
 13 the page, is that right?  
 14 GENERAL NAIDOO: Chair, yes opposite the  
 15 field where we have the three or so vehicles there is a few  
 16 trees there and that's where the detectives were located,  
 17 just across the road.  
 18 MR CHASKALSON SC: Chairperson, I have a  
 19 different difficulty which is that the Marikana Commission  
 20 of Inquiry banner prevents me from marking certain points  
 21 on the – Mr Pretorius shows us another screen in his –  
 22 CHAIRPERSON: The versatile Mr Pretorius  
 23 is showing different aspects of his versatility every day.  
 24 Thank you, Mr Pretorius, you've now cleared the way for Mr  
 25 Chaskalson to show us the trees.

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1 GENERAL NAIDOO: No, Chair, those are the  
 2 trees, yes.  
 3 MR CHASKALSON SC: I'm now marking the  
 4 trees roughly halfway up the right-hand side of the  
 5 photograph just to the left of the road. Now we've seen in  
 6 various statements in Afrikaans, reference to Die Groot  
 7 Kruis in relation to forwarding holding area 1. I presume  
 8 that would be a reference to this cross-roads at the base  
 9 of forward holding area 1.  
 10 GENERAL NAIDOO: Possibly, I'm not sure.  
 11 MR CHASKALSON SC: You didn't know that  
 12 term Groot Kruis in relation to forward holding area 1.  
 13 GENERAL NAIDOO: No, Chair, I'm English  
 14 speaking.  
 15 MR CHASKALSON SC: Now, if I understood  
 16 your evidence correctly you had suggested that this is the  
 17 line of vehicles that was on route from forward holding  
 18 area 1 to immediate reaction area 1.  
 19 GENERAL NAIDOO: That is correct, Chair.  
 20 MR CHASKALSON SC: Were they stationary  
 21 or moving, do you know if this is where they lined up  
 22 before they set off or whether this would have to be a  
 23 photograph of vehicles that are already moving?  
 24 GENERAL NAIDOO: Chair, we first lined up  
 25 and we ensured that everybody was in and then we proceeded

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1 a little more forward so that we were closer to the  
 2 proximity of the power station.  
 3 MR CHASKALSON SC: Now you were to go to  
 4 – sorry if I can just clarify your answer to the last  
 5 question. So what see now is this the position in which  
 6 you lined up?  
 7 GENERAL NAIDOO: Possibly, yes, Chair.  
 8 MR CHASKALSON SC: What do you mean by  
 9 possibly? Why would it not be the position in which you  
 10 lined up?  
 11 GENERAL NAIDOO: Chair, it was indicated  
 12 that this was a video, so it could have been whilst in  
 13 movement as well, I'm not sure. But as I indicated, this  
 14 is we started, we lined up and then moved forward a little  
 15 bit more until we were closer to the power station.  
 16 MR CHASKALSON SC: And you lined up after  
 17 you had given your briefing.  
 18 GENERAL NAIDOO: That is correct, Chair.  
 19 MR CHASKALSON SC: Okay so now we've  
 20 clarified the starting position. If we can go to the end  
 21 position, immediate reaction area 1 and for that if we can  
 22 keep this slide to hand because we'll mark it in due  
 23 course. But if I can first ask that MMM1 be called up.  
 24 This is MMM1, the gridded map that you spoke to on Friday  
 25 and you'll see there's a green box straddling squares B7

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1 and C7.  
 2 GENERAL NAIDOO: That's correct, Chair.  
 3 MR CHASKALSON SC: Now if we look at  
 4 other slides from the time that is the box, that is the  
 5 area that is designated immediate reaction area 1. For  
 6 instance if we go to slide 148 it's labelled immediate  
 7 response area 1.  
 8 GENERAL NAIDOO: Correct, Chair.  
 9 MR CHASKALSON SC: Can we call up slide  
 10 148?  
 11 CHAIRPERSON: This is exhibit L.  
 12 MR CHASKALSON SC: Of exhibit L. So  
 13 immediate response area 1 is right below the sub-station.  
 14 GENERAL NAIDOO: Opposite the sub-  
 15 station, correct, Chair.  
 16 CHAIRPERSON: Below on the slide.  
 17 GENERAL NAIDOO: Okay, Chair, that's  
 18 correct.  
 19 MR CHASKALSON SC: Is that what you  
 20 understood, the location of immediate response area 1 to  
 21 be?  
 22 GENERAL NAIDOO: That is correct, Chair.  
 23 MR CHASKALSON SC: And if we can then go  
 24 back to the previous photograph which I think was JJJ10  
 25 4534. So if you were moving, we're not going to, it's a

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1 bad one too.  
 2 [10:19] You're not going to see the substation clearly  
 3 enough on this one, I take that back. Let's go back to  
 4 slide 148, I'm sorry. So if you were moving from forward  
 5 holding area 1 which I'm marking now with the pointer just  
 6 to the left of the little truck icon that says FHA1, to  
 7 immediate response area 1, the green box is where you  
 8 would've taken your convoy to.  
 9 GENERAL NAIDOO: Approximately, yes,  
 10 Chair.  
 11 MR CHASKALSON SC: And you knew that  
 12 position and that is the position to which you intended to  
 13 take your convoy.  
 14 GENERAL NAIDOO: That is correct, Chair.  
 15 MR CHASKALSON SC: And when in your  
 16 statement you describe the point at which you brought your  
 17 convoy to a halt at immediate response area 1, is that  
 18 broadly in the area of the green box?  
 19 GENERAL NAIDOO: Chair, just before the  
 20 green box. As I indicated in my evidence that there's a  
 21 little road running before the power station so I used that  
 22 as a marker as to where the convoy started.  
 23 MR CHASKALSON SC: Started or stopped?  
 24 GENERAL NAIDOO: Started, Chair.  
 25 MR CHASKALSON SC: Started at what point?

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1 They originally started at forward holding area 1.  
 2 GENERAL NAIDOO: Chair, when I say  
 3 started I mean the first vehicle of the convoy was just  
 4 opposite that road.  
 5 MR CHASKALSON SC: But at what point? If  
 6 we can now go back to JJJ, if we can go back to that  
 7 preceding photograph. Now, here is your convoy. At this  
 8 point the first vehicle is being marked now. It's probably  
 9 a full kilometre away from the point that you marked as the  
 10 road around, the road in front of the power station which  
 11 is broadly in the area which I'm marking now, up at the top  
 12 left-hand corner of the photograph. So when you say the  
 13 front of the convoy started there, was that before or after  
 14 you had moved it from forward holding area 1?  
 15 GENERAL NAIDOO: Chair, I'm not sure,  
 16 Chair, whether we're talking about the same power station.  
 17 If my recollection is correct the power station is just  
 18 opposite the smelter. What we have in the distance there  
 19 is the informal settlement.  
 20 MR CHASKALSON SC: Chair, if we can go  
 21 back to slide 148 you'll see, Major-General, that you're  
 22 slightly confused. Here is where your starting position  
 23 was.  
 24 GENERAL NAIDOO: That's correct.  
 25 MR CHASKALSON SC: There is a very small

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1 substation here.

2 GENERAL NAIDOO: That's correct.

3 MR CHASKALSON SC: Which is the one that

4 we can see clearly in the photograph we've just been

5 looking at.

6 GENERAL NAIDOO: Yes.

7 MR CHASKALSON SC: When I say - for the

8 purposes of the record, I'm now marking a grid which is

9 approximately 40% of the way across from the left hand side

10 of the page towards the bottom of the page but above the

11 road.

12 GENERAL NAIDOO: Chair, correct. Now -

13 MR CHASKALSON SC: So the immediate

14 response area is right underneath the big power station -

15 GENERAL NAIDOO: The second one, that's

16 correct.

17 MR CHASKALSON SC: The second one.

18 GENERAL NAIDOO: That's correct.

19 MR CHASKALSON SC: And so where, when you

20 indicate the green box - sorry, not when you indicate the

21 green box, when I indicate the green box immediate response

22 area, is that where you took your convoy to and the road

23 that would go round it I'm marking now, which is just to

24 the right of the green box, is that where you parked the

25 front of your convoy?

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1 GENERAL NAIDOO: That is correct, Chair.

2 CHAIRPERSON: May I make a suggestion,

3 that we take the tea adjournment now. If it's necessary

4 for the witness during the tea adjournment to look at the

5 video, because you'll remember he was shown one section of

6 the video, one clip really, frame I suppose from the video,

7 if it's necessary for him to look at it to orient himself

8 or to elaborate, he can do so. It won't hold up the

9 proceedings as we, the rest of us will be having tea. Is

10 that convenient, Mr -

11 MR CHASKALSON SC: Mr Chairperson, I

12 think I've been misunderstood. It's a video compilation

13 but the photograph that I show is not part of the video.

14 It's a discreet photograph which is spliced into a

15 succession of photographs so the witness will see no more

16 than what we've seen already.

17 CHAIRPERSON: Presumably on the other

18 ones into which it's been spliced, you'll see the column in

19 other positions, will you?

20 MR CHASKALSON SC: Unfortunately not. I

21 looked very hard for this purpose.

22 CHAIRPERSON: I see. Anyway, we'll take

23 the tea adjournment now. If there's anything the witness

24 wants to look at in order to elaborate on his evidence so

25 far, he's at liberty to do so. Quarter of an hour.

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1 [COMMISSION ADJOURNS COMMISSION RESUMES]

2 [11:10] CHAIRPERSON: The commission resumes.

3 Last week we indicated that applications for leave to

4 cross-examine this witness have to be made by the end of

5 Friday. We've received only two applications. It's

6 possible that other parties intend to reply and haven't

7 done so because for some reason or other they hadn't

8 realised that the applications had to be made by the end of

9 Friday. In the circumstances I'm prepared to extend the

10 period until tomorrow morning first thing. But I want to

11 make it clear that in future that those time limits will be

12 strictly adhered to. You're still under oath, General.

13 GENERAL NAIDOO: Still under oath, Chair.

14 CHAIRPERSON: Mr Chaskalson?

15 MR CHASKALSON SC: General, just to pick

16 up where we left off and if we can call up slide, just call

17 up MMM1 and just to confirm that the green box represents

18 immediate response area, you were taking your convoy to the

19 road just to the right of the green box which is roughly in

20 the middle of block C7.

21 GENERAL NAIDOO: That is correct, Chair.

22 MR CHASKALSON SC: And you reached that

23 destination from immediate reaction area 1 which I'm

24 marking at the intersection, on the line between I7 and J7.

25 GENERAL NAIDOO: Chair, forward holding

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1 area 1.

2 MR CHASKALSON SC: Sorry forward holding

3 area 1, I apologise for the imprecision. But you confirm

4 you confirm that that is correct, you moved from forward

5 holding area 1 to immediate reaction area 1 where I've

6 marked it?

7 GENERAL NAIDOO: That's correct, Chair.

8 MR CHASKALSON SC: Now this movement of

9 the convoy was it a direct movements, did you have any

10 stops on route or did you move continuously?

11 GENERAL NAIDOO: Chair, as I indicated we

12 first had to form up and the vehicles moved forward until

13 everybody was in place and then we moved forward slowly

14 until we came to the point I indicated as immediate

15 response area 1 and that's where we stopped. So it's

16 possible that we would have slowed down and stopped to make

17 sure that everybody was accommodated.

18 MR CHASKALSON SC: When you were forming

19 up or in the course of the movement itself?

20 GENERAL NAIDOO: Forming up, Chair.

21 MR CHASKALSON SC: But once you formed up

22 and started moving, once the convoy was moving it moved

23 continuously to the end point that you've marked at, that

24 you've identified at C7?

25 GENERAL NAIDOO: As far as I can recall,

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1 yes, Chair.

2 MR CHASKALSON SC: And you say you moved

3 slowly, could you estimate the speed for us?

4 GENERAL NAIDOO: Under 40 ks, possibly 20

5 plus ks.

6 MR CHASKALSON SC: Did you say under 40?

7 GENERAL NAIDOO: Yes, Chair.

8 MR CHASKALSON SC: And you're clear you

9 were under 40?

10 GENERAL NAIDOO: I would, I would

11 estimate it, I was not driving, Chair, I was a passenger.

12 MR CHASKALSON SC: Now the purpose of

13 moving the convoy to immediate response area 1 was to be

14 able to provide assistance quicker, because it was closer

15 to where the action would be, is that correct?

16 GENERAL NAIDOO: That is correct, Chair.

17 MR CHASKALSON SC: And in your evidence

18 on Friday you indicated that least in relation to the

19 medical services in that convoy you had very specific

20 obligations in that regard. If I can take you to what you

21 said at page 22977 of the record, when you were explaining

22 why you chose to move into koppie 3 without a request from

23 Brigadier Calitz, 22973, sorry 229 double 7, 22977. The

24 easiest way to get there is with a search function. It may

25 be that Friday's transcript hasn't made its way to the

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1 video –

2 CHAIRPERSON: I suspect so because what

3 we were seeing on the screen was passages or consisted of

4 passages, several hundred pages earlier than the passage to

5 which you, the page to which you refer.

6 MR CHASKALSON SC: Brigadier, let me read

7 what you said and if you, if you need it to be called up so

8 that you can see it yourself we can arrange to have a file

9 copied over to the video people. Your counsel had asked

10 you to comment on criticism that you had forward holding

11 area 1, you ought not to have moved to koppie without the

12 command of Brigadier Calitz. I'm reading from 22977 line

13 10. You say "Chair, Mr Semenya says what's your reaction

14 and your answer is, in terms of my responsibility for the

15 deployment of tactical units for a particular thing there

16 would normally be an instruction to engage. However in

17 this instance the deployment that we had was responsible

18 for provision of emergency services, medical and fire and

19 there's an international expectation everywhere where in

20 such situations arise that we would respond as the

21 authorities appropriately to ensure that people receive the

22 treatment and services they require and it was quite

23 clearly, quite clear on the radio conversation that

24 Brigadier Calitz was not aware of this until Colonel

25 Vermaak raised the issue and raised the need for emergency

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1 services to respond". So are you happy, would you like

2 that passage in text in front of you or can I just put to

3 you how I paraphrase, I understand your evidence.

4 GENERAL NAIDOO: Chair, I'd prefer to

5 have the text. I have the transcript in front of me, if I

6 could get the specific page.

7 MR CHASKALSON SC: 22977.

8 GENERAL NAIDOO: Okay, I have it.

9 MR CHASKALSON SC: Your answer is from

10 line 16, that's the answer I'm interested in.

11 GENERAL NAIDOO: That's correct.

12 MR CHASKALSON SC: So if I understand

13 your evidence correctly that you perceived the situation to

14 be that for whatever reason Brigadier Calitz wasn't

15 calling, wasn't taking steps to ensure that the medics

16 could get to scene 1, for whatever reason, let's not

17 speculate as to why. You had an obligation to get the

18 medical services to scene 1 as quickly as possible and a

19 duty to do everything within your power to facilitate that

20 process and that's why you moved into koppie 3?

21 GENERAL NAIDOO: Chair, yes the need for

22 the medical came over the radio via Colonel Vermaak,

23 initially indicating that people were down. I think later

24 he even counted how many people. So that gave me the

25 indication that the medical emergency was required.

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1 MR CHASKALSON SC: And that was the

2 single most important duty that you carried at that time?

3 Everything else that you did, sorry I interrupted you.

4 GENERAL NAIDOO: That's my primary duty

5 at that time, correct.

6 MR CHASKALSON SC: And everything else

7 that you had to do, had to be done with a view to

8 discharging that primary duty?

9 GENERAL NAIDOO: That is correct, Chair.

10 MR CHASKALSON SC: Now I saw in your

11 statement in paragraph 8 that you had some experience in

12 commanding emergency services in multi disciplinary force

13 operations.

14 GENERAL NAIDOO: Chair, yes, the

15 emergency services invariably form part of operations,

16 especially in the visible policing environment.

17 MR CHASKALSON SC: And have you ever had

18 any training yourself in basic emergency treatment or first

19 aid?

20 GENERAL NAIDOO: No, Chair.

21 MR CHASKALSON SC: So those training

22 courses that you list in paragraph 15 of your statement,

23 the list of the training courses you've done through SAPS,

24 do none of them even involve a basic training in emergency

25 services, sorry emergency treatment?

<p style="text-align: right;">Page 23042</p> <p>1 GENERAL NAIDOO: Not to my knowledge.  2 Although I would remember possibly in basic training where  3 we were taught the elementary issues on first aid.  4 MR CHASKALSON SC: That's what I'm  5 talking about. I'm talking about basic training in first  6 aid in an emergency situation.  7 GENERAL NAIDOO: Elementary training,  8 yes. It forms part of police basic training.  9 MR CHASKALSON SC: And what you recall  10 from that training?  11 GENERAL NAIDOO: Chair, it was more than  12 30 years ago. Basically stabilising a person that has been  13 injured with a broken limb, etcetera, using a splint, CPR,  14 just basic indication of what these things were and what  15 could be done by a police official.  16 MR CHASKALSON SC: The use of tourniquets  17 to stop bleeding?  18 GENERAL NAIDOO: It's possible, I can't  19 specifically remember.  20 MR CHASKALSON SC: If you were in an  21 operation with a colleague and the colleague next to you  22 got shot would you be in a position to administer basic  23 first aid to that colleague?  24 GENERAL NAIDOO: I would do what I could,  25 yes. I would have to do what I could.</p>	<p style="text-align: right;">Page 23044</p> <p>1 GENERAL NAIDOO: That's correct, he was  2 one of the people that went for the special, the specific  3 training. We have members like that. So aside from the  4 basic training that's given as part of your training, basic  5 training they are specialised based on the tasks and  6 responsibility of the people which are conducted.  7 MR CHASKALSON SC: And is there any  8 protocol or system within the SAPS to ensure that within  9 tactical units in particular, where the risk of trauma  10 injuries is highest I would imagine either to, the members  11 ought to, people against whom the members are acting, that  12 within those units there is training in emergency  13 treatment?  14 GENERAL NAIDOO: Chair, as I indicated I  15 can't remember specifically when, if or where in policy is  16 contained but I am aware that based on the tasks, the  17 responsibilities of the various units, members are trained  18 and the example I gave was one that I knew, I realised that  19 he was trained from the emblem that he wore, that he was a  20 trained paramedic or first aider, I'm not sure which one.  21 MR CHASKALSON SC: But if NIU section  22 goes into a tactical situation where there's a higher than  23 normal risk of gunshot injury, either to themselves to,  24 people against whom they operate is it not standard  25 practice to have someone with in, to ensure that someone</p>
<p style="text-align: right;">Page 23043</p> <p>1 MR CHASKALSON SC: I know you'd do what  2 you could but would you have any knowledge as to what to  3 do, I mean if I was in that situation I'd like to do what I  4 could but I'm not sure if it would be very helpful. Would  5 you be in a better situation then I would be?  6 GENERAL NAIDOO: I don't think I would be  7 much better than any other layman. As I've indicated the  8 instruction we received was of a very basic nature. I  9 think more sensitising on what could be done rather than  10 training us to do whatever it is.  11 MR CHASKALSON SC: As an aside do you not  12 think that it's appropriate that every police officer ought  13 to receive some basic training in emergency medicine and  14 emergency treatments so that they are confident that they  15 know what to do in a situation where a colleague or a  16 member of the public is shot in front of them?  17 GENERAL NAIDOO: Chair, as I indicated  18 some of these aspects are covered in basic training and  19 this more advanced or more specific knowledge is covered in  20 in service training where people are specially called up  21 for a specific cause and police officials are trained up to  22 level 3. We had for instance one of the officers that was  23 deployed at the incident who was a trained first aider up  24 to level 3, that's Lieutenant Colonel, the negotiator.  25 MR CHASKALSON SC: MacIntosh?</p>	<p style="text-align: right;">Page 23045</p> <p>1 within that unit will be able to take the necessary  2 emergency treatment steps if there is a gunshot injury?  3 GENERAL NAIDOO: I'm sure that would be  4 an advisable thing. However I'm not aware whether it is a  5 written policy as we do work in an integrated fashion with  6 the emergency services in most of our operations. So I'm  7 not sure whether it's a policy but we do as a matter of  8 practice try to train people based on their requirements of  9 the job. So if that was a requirement yes people would be  10 trained.  11 MR CHASKALSON SC: One of the things,  12 this Commission has to consider at the end is  13 recommendations. Do you think a recommendation that  14 tactical units should have within them personnel trained in  15 the, at first level emergency care operative level would be  16 a sensible recommendation?  17 GENERAL NAIDOO: I think it's something  18 all police officials, we normally arrive first at a scene  19 of a crime or a scene of an incident and we're expected to  20 do something and very often, yes not everybody is trained.  21 So however the skill requirements and all the requirements  22 to be such a person would have to be taken into  23 consideration before such a decision but yes it would be  24 desirable that we have more people to assist our own  25 members plus members of the public.</p>

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1 MR CHASKALSON SC: Well moving from the  
 2 hypothetical and the desirable to your personal knowledge.  
 3 You've mentioned the basic training you've received 30  
 4 years or so ago. Either from that training or from your  
 5 experience of commanding emergency services in the context  
 6 of operations have you ever heard of the term the golden  
 7 hour in the context of emergency treatment? The golden  
 8 hour.  
 9 GENERAL NAIDOO: It's possible I can't  
 10 indicate whether I specifically remember no.  
 11 MR CHASKALSON SC: So if I were to ask  
 12 you what the golden hour is you wouldn't be able to answer  
 13 me?  
 14 GENERAL NAIDOO: I would it it's got  
 15 something to do with time.  
 16 MR CHASKALSON SC: Can't fault you there,  
 17 Major-General.  
 18 CHAIRPERSON: That sounds a safe  
 19 assumption, General.  
 20 GENERAL NAIDOO: Yes.  
 21 MR CHASKALSON SC: Well let me put the  
 22 question to you differently. Have you ever been informed  
 23 or briefed about the need of getting emergency services to  
 24 victims of gunshot injuries and other trauma victims as  
 25 quickly as possible, about how time is absolutely of the

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1 essence in that situation?  
 2 GENERAL NAIDOO: I think from my lay  
 3 perspective it's necessary for any medical emergency to get  
 4 the relevant personnel there as soon as possible. That's  
 5 how I perceive it, yes.  
 6 MR CHASKALSON SC: If we continue then to  
 7 your movements on the day. Your evidence on Friday was  
 8 that you had reached immediate reaction area 1 before the  
 9 shootings, do you recall that?  
 10 GENERAL NAIDOO: That's correct.  
 11 MR CHASKALSON SC: And I now, you've said  
 12 earlier that you estimated that the movement of the convoy  
 13 would have been round about 3:30 shortly after 3:30 in the  
 14 context of when we discussed the briefing. I'd like go to  
 15 your cell phone calls to see if we can pin it down a little  
 16 bit more specifically with reference to some of the  
 17 possibly more easily rememberable calls that you made and  
 18 if we can go to MMM4 on page 6 at 15:46 and you'll see that  
 19 at 15:46:27 you made a 36 second call to Major-General  
 20 Mpmembe.  
 21 GENERAL NAIDOO: That's correct, Chair.  
 22 MR CHASKALSON SC: Do you have any  
 23 recollection of what that call was about?  
 24 GENERAL NAIDOO: Chair, I can recall that  
 25 I didn't get him because he's phone went into voicemail. I

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1 can recall that much.  
 2 MR CHASKALSON SC: Can you recall why you  
 3 wanted to get him?  
 4 GENERAL NAIDOO: Chair, as I indicated I  
 5 was busy parallel to this facilitating the memorial service  
 6 and the funeral of the members that had been killed on  
 7 Monday. So it's possibly linked to that.  
 8 MR CHASKALSON SC: So you think that this  
 9 is a, if you were to, well you don't think that was a call  
 10 about Marikana itself?  
 11 [11:29] GENERAL NAIDOO: Chair, I know didn't  
 12 speak to him and the reason that I was communicating at  
 13 that stage with so many people from the HR environment was  
 14 to facilitate, and supply chain, was to facilitate the  
 15 arrangements.  
 16 MR CHASKALSON SC: Now would you be able  
 17 to place that call relative to when you arrived at  
 18 immediate reaction area 1?  
 19 GENERAL NAIDOO: Not specifically, Chair.  
 20 MR CHASKALSON SC: Presumably you  
 21 wouldn't have made that call after the shootings.  
 22 GENERAL NAIDOO: No, possibly yes – no, I  
 23 would have remembered that.  
 24 MR CHASKALSON SC: Okay.  
 25 CHAIRPERSON: I think it goes further

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1 than that. I mean I understand the funeral arrangements  
 2 had to be made but surely once the shootings had taken  
 3 place there were more urgent matters that you had to deal  
 4 with, as a matter of priority.  
 5 GENERAL NAIDOO: That's my assumption as  
 6 well, Chair.  
 7 MR CHASKALSON SC: Let's go a little  
 8 lower down.  
 9 GENERAL NAIDOO: Chair.  
 10 MR CHASKALSON SC: 15:49:54.  
 11 GENERAL NAIDOO: Yes, Chair.  
 12 MR CHASKALSON SC: There's a call of  
 13 essentially two minutes, 119 seconds, to Brigadier Calitz  
 14 that you make.  
 15 GENERAL NAIDOO: That's correct, Chair.  
 16 MR CHASKALSON SC: Do you recall that  
 17 call?  
 18 GENERAL NAIDOO: Chair, similarly, like  
 19 General Mpmembe, I called and people were not answering  
 20 their phones, it was ringing. General Mpmembe specifically  
 21 went into voicemail. Brigadier Calitz's initial call rang  
 22 for some time and then went into voicemail and I could not  
 23 get him in the end as well.  
 24 MR CHASKALSON SC: Major-General, I think  
 25 you may be confusing two calls there because there is a



<p style="text-align: right;">Page 23050</p> <p>1 call at 15:53:31 that went to Brigadier Calitz's voicemail.  2 GENERAL NAIDOO: Yes.  3 MR CHASKALSON SC: But if I understand  4 Brigadier Calitz's cell phone records correctly, the 119  5 second call did not go to voicemail. Indeed if it did go  6 to voicemail you would have had to have left a message for  7 two minutes for it to be 119 seconds.  8 GENERAL NAIDOO: Possibly, or never cut  9 the call, but as I indicated I specifically did not speak  10 to Brigadier Calitz on both the occasions that I tried to  11 get him.  12 MR CHASKALSON SC: There's no record of a  13 call going to voicemail on that 15:49:54 call. It didn't  14 go to voicemail, it was answered or it was at least – yes,  15 it was answered, it would have to have been answered if it  16 didn't go to voicemail and it reflected like this.  17 CHAIRPERSON: I take it if one looks at  18 column E on this exhibit in relation to the call at – the  19 following call, the subsequent call, there you see the word  20 "voicemail" appears. So I take it that's an indication,  21 that relates to the call at 15:53:31, 12 seconds.  22 MR CHASKALSON SC: Chairperson, that's  23 just my annotation on the record –  24 CHAIRPERSON: That's your annotation –  25 MR CHASKALSON SC: It doesn't take it</p>	<p style="text-align: right;">Page 23052</p> <p>1 speaking and the second one did it last for 12 seconds  2 before the voicemail kicked in? I'm sorry, I don't  3 understand.  4 GENERAL NAIDOO: Chair, possibly it went  5 straight to voicemail, I'm not sure. I can't at this stage  6 specifically remember but as I indicated, at both occasions  7 when I tried to get hold of him I could not get him.  8 MR CHASKALSON SC: Major-General, the  9 Vodacom cell records distinguish between a call which is  10 received and a call which goes to voicemail and is then  11 forwarded to voicemail.  12 GENERAL NAIDOO: Okay.  13 MR CHASKALSON SC: A call that is  14 received has the indication MTC. So where it has MTC on  15 your records, that's a call that you received. Calls that  16 go to voicemail have CF on them. I notice that your  17 records don't have any CFs on them which suggests to me  18 that you didn't have your voicemail activated on the period  19 14 to 16 August, but Brigadier Calitz did and the 12 second  20 call at 15:53:31 is a CF call when we look at his records,  21 it was forwarded to voicemail. The two minute call at  22 15:49:54 is an MTC call which means it was received by him.  23 How do you explain that?  24 GENERAL NAIDOO: Chair, I'm not familiar  25 with the technical jargon. What I can indicate is I did</p>
<p style="text-align: right;">Page 23051</p> <p>1 further than the records, than my –  2 GENERAL NAIDOO: I was going to say,  3 Chair, that twice that I tried to get hold of General  4 Mpembe the voice went, the telephone went into voicemail  5 and it's not indicated there either.  6 MR CHASKALSON SC: I haven't done an  7 exhaustive check of the voicemails to see which ones did go  8 to voicemail and which ones didn't but I know that the –  9 but I have looked at 15:49:54 and 15:53:31 and the one is  10 reflected as going to voicemail, the other is not.  11 CHAIRPERSON: You see if the second call,  12 the one at 15:53:31 went to voicemail, there we see that  13 the conversation or the call, there wasn't a conversation,  14 the call took 12 seconds. Now the previous one at 15:49:54  15 was 119 seconds. Now are you saying that you dictated a  16 message into his voicemail for two minutes?  17 GENERAL NAIDOO: No, Chair. As I  18 indicated, it rang. As in the case of General Mpembe I did  19 not leave a message. It rang for some time and then I cut  20 the call. I did not speak to anybody at that particular  21 time.  22 CHAIRPERSON: I still don't understand  23 why, in the case of the following call, it's reflected as  24 only lasting 12, 12 seconds. Now in the one case did it  25 ring for two minutes and then you terminate it without</p>	<p style="text-align: right;">Page 23053</p> <p>1 try to call him on two occasions and I did not get him on  2 both occasions.  3 MR CHASKALSON SC: But Major-General,  4 there's a difference. When it goes to his voicemail it  5 will say something like, this is Brigadier Calitz, please  6 leave a message for me over the tone.  7 GENERAL NAIDOO: That's correct.  8 MR CHASKALSON SC: When it doesn't go to  9 his voicemail it won't say that. So if you make a call  10 that is reflected on the Vodacom records as MTC, you'll  11 know that it hasn't gone to voicemail.  12 GENERAL NAIDOO: Chair, as I indicated,  13 the first call rang for a long time, that is what I can  14 remember.  15 CHAIRPERSON: Sorry, I don't understand  16 that either. Four minutes later when there was a call his  17 voicemail kicked in, if that's the correct word.  18 GENERAL NAIDOO: Immediately, yes Chair.  19 CHAIRPERSON: It didn't four minutes  20 earlier at 15:49?  21 GENERAL NAIDOO: It rang.  22 CHAIRPERSON: I don't understand that.  23 GENERAL NAIDOO: I don't know the  24 technical aspects, Chair, but that's what happened.  25 MR CHASKALSON SC: You see, Major-</p>

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1 General, what would've happened on these calls if you  
 2 didn't speak to Brigadier Calitz, would've been that you  
 3 would have called and for this to have happened he would  
 4 have to have pressed the receive button on his cell phone.  
 5 So even if you didn't speak to him, you would've heard a  
 6 loud noise or whatever was going on inside the Nyala, you  
 7 would have heard that the call had gone through.  
 8 MR SEMENYA SC: Chair, I don't know  
 9 whether this is expert opinion correct. It seems to move  
 10 from a premise of logic, logic.  
 11 CHAIRPERSON: Yes. Well, of course if  
 12 necessary we'll have to have an affidavit I suppose from  
 13 Vodacom, explaining how these things work. At the moment  
 14 Mr Chaskalson is putting what he understands to be the  
 15 position. If it's challenged by the SAPS, only if it's  
 16 challenged by the SAPS will it be necessary to have an  
 17 affidavit from Vodacom explaining it.  
 18 MR CHASKALSON SC: I stand by my  
 19 proposition to you, Major-General, which is for the call to  
 20 reflect on Brigadier Calitz's cell phone as an MTC call as  
 21 opposed to a CF call, a call forwarding call, it would have  
 22 to have been answered by Brigadier Calitz, whether  
 23 deliberately or unintentionally, which means you on the  
 24 other side would have had to have heard something for 119  
 25 seconds that wasn't voicemail.

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1 GENERAL NAIDOO: Chair, I'm not in a  
 2 position to address what the advocate is indicating but I  
 3 can say yes, I did call Brigadier Calitz, however I did not  
 4 get him.  
 5 CHAIRPERSON: We've heard your evidence  
 6 on the point. If there's an affidavit from Vodacom along  
 7 the lines that supports what Mr Chaskalson has put to you,  
 8 then certain inferences may be drawn. If there isn't such  
 9 an affidavit, they won't be.  
 10 COMMISSIONER HEMRAJ: Mr Chaskalson, if  
 11 the recipient is busy on a call and a second point is put  
 12 on hold or waiting, is it shown as an incoming call on the  
 13 record?  
 14 MR CHASKALSON SC: The call has to be  
 15 completed. In other words, it has to be answered at the  
 16 second side to be reflected as an MTC call.  
 17 COMMISSIONER HEMRAJ: Even if it's put on  
 18 hold? If that second call is -  
 19 MR CHASKALSON SC: Well, if it's answered  
 20 and immediately put on hold then it would but then you  
 21 would have the cell phone message, "Your call has been  
 22 placed on hold, your call has been placed on hold" playing  
 23 through. The call has to be completed to the phone as  
 24 opposed to voicemail for this message, for this  
 25 classification to present itself.

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1 CHAIRPERSON: As I've said, this is a  
 2 matter that presumably can be cleared up by an affidavit  
 3 from Vodacom unless the police, after they've investigated  
 4 the matter, are satisfied with what Mr Chaskalson is  
 5 putting, in which case there can be some kind of agreement  
 6 but if there isn't such an agreement and Vodacom don't come  
 7 up with an affidavit along the lines that Mr Chaskalson has  
 8 put to you, well, then the point will fall away but if they  
 9 do then other considerations may operate.  
 10 GENERAL NAIDOO: Thank you, Chair.  
 11 MR CHASKALSON SC: I'm still interested  
 12 in why you were trying to contact Brigadier Calitz. Do you  
 13 recall that?  
 14 GENERAL NAIDOO: Chair, I think at that  
 15 particular time we probably heard on the radio, I  
 16 specifically remember, can't specifically remember but at  
 17 that time we were hearing about dispersal, et cetera. I  
 18 was trying to establish what was the situation because  
 19 initially there was - no, initially there was an indication  
 20 that dispersal would take place at 15:30, which did not  
 21 happen, and I could have - two things, I can't specifically  
 22 remember, one possibly would have been to check what is the  
 23 delay and the second one was probably once the tactical  
 24 intervention took place there were on the radio  
 25 conversations that the police were under attack, et cetera.

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1 I'm not sure, I won't say which is which but ja, that was  
 2 the things that probably led to my conversation or my  
 3 attempted conversation with Brigadier Calitz.  
 4 MR CHASKALSON SC: You see, Major-  
 5 General, that's what I had inferred as well but I'd  
 6 actually inferred it slightly differently. It struck me  
 7 that the call to Major-General Mpembe at 15:46 may well  
 8 have been to find out from the overall commander why the  
 9 operation hadn't started. Is that a possibility?  
 10 GENERAL NAIDOO: Possibility, but I can't  
 11 specifically remember that. As I indicated, I was also at  
 12 the same time engaged in some parallel activities, yes.  
 13 CHAIRPERSON: I take it you - I mean  
 14 you're expecting something to happen at 15:30 and you  
 15 presumably knew that you had to be ready to do what you  
 16 were supposed to do at some stage thereafter. I can  
 17 understand you were busy arranging the funeral as well but  
 18 still, 15:30 was the time when you expected that those  
 19 arrangements would have to stop. I would have, I must say  
 20 I would've expected you to have been on the lookout, shall  
 21 we say, for some development after 15:30. I'm not saying  
 22 it doesn't mean you wouldn't have gone on arranging the  
 23 funeral but you would've been on the lookout for something.  
 24 When you get to 15:49 you say, I would imagine you would've  
 25 thought this is a bit funny now, this is something like 20

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1 minutes, nothing has happened, what's going on? And I  
 2 would have, I must tell you I would have expected you to  
 3 have made some enquiry but it's just a prima facie view.  
 4 It may be incorrect, perhaps you can help me to deal with  
 5 that aspect of the matter.  
 6 GENERAL NAIDOO: Yes, Chair, could I – as  
 7 I indicated, or what we have not actually put into,  
 8 factored in here, there was a continuous stream of radio  
 9 conversation which was indicated that, you know, the union  
 10 leaders were still at the koppie, et cetera. So the delay  
 11 would have been known to everybody because there was an  
 12 indication that the union leaders were at that koppie but  
 13 after they've departed obviously yes, we would want to –  
 14 CHAIRPERSON: You see there was,  
 15 according to the occurrence book there was a report by  
 16 Brigadier Calitz to the effect that – reporting effectively  
 17 what had happened in relation to Mr Mathunjwa and saying  
 18 that he left, I think. Now Mr Chaskalson will presumably  
 19 be able to tell us what time that report was but it was on  
 20 the radio, and heard by the people in the JOC and recorded  
 21 in the OBB, you would have heard it as well.  
 22 GENERAL NAIDOO: That's correct, Chair.  
 23 MR CHASKALSON SC: You see what struck me  
 24 as interesting about your two minute call to Brigadier  
 25 Calitz, is that call ends at just about the time that

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1 Brigadier Calitz starts moving his Nyala from its position  
 2 where it was next to the mast in front of the koppie. So I  
 3 was very interested to find out what you'd been talking  
 4 about. You say you hadn't been talking at all.  
 5 GENERAL NAIDOO: That's correct, Chair.  
 6 MR CHASKALSON SC: Let's go to the next  
 7 one. At 15:53:31, which roughly corresponds to the time of  
 8 the shootings, there's another call to Brigadier Calitz.  
 9 This one goes to voicemail.  
 10 GENERAL NAIDOO: Correct, Chair.  
 11 MR CHASKALSON SC: After 12 seconds. Is  
 12 it not – can you remember what that call was about?  
 13 GENERAL NAIDOO: It's possibly in  
 14 response to the shooting, I cannot specifically remember.  
 15 MR CHASKALSON SC: It seems to me a very  
 16 logical response that if you had heard shootings and you  
 17 had heard shootings, would you not have wanted to phone the  
 18 operational commander to get a report on what had happened?  
 19 GENERAL NAIDOO: That would be the  
 20 logical conclusion.  
 21 MR CHASKALSON SC: Now the calls to  
 22 Brigadier Calitz, are you able to recall whether you made  
 23 them from the position where you had stopped at immediate  
 24 reaction area 1 or before that or after that?  
 25 GENERAL NAIDOO: I would say, yes, on

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1 that road, we were on that road.  
 2 MR CHASKALSON SC: Well, at – on, not  
 3 just on the road but where you had stopped at just in front  
 4 of the power station at immediate reaction area 1.  
 5 GENERAL NAIDOO: Chair, I would not be  
 6 able to say exactly where I was in terms of [inaudible] but  
 7 I can say yes, we were at that stage either at or almost at  
 8 the immediate response area 1, probably at.  
 9 MR CHASKALSON SC: And you know that you  
 10 were at immediate response area 1 when you heard the  
 11 shootings.  
 12 GENERAL NAIDOO: That's correct.  
 13 MR CHASKALSON SC: Now, you deal – sorry,  
 14 before we get there. Can you describe to me where you were  
 15 in this convoy? It's a particularly large convoy. I think  
 16 it's 25 or 26 vehicles. Were you at the front, the back,  
 17 the middle?  
 18 GENERAL NAIDOO: Chair, I was in the  
 19 front. I did go down the convoy once or twice just to make  
 20 sure that everybody was fine but yes, we were at the front  
 21 of the convoy.  
 22 MR CHASKALSON SC: No, when you say you  
 23 went down the convoy once or twice to see that everyone was  
 24 fine, was that before the convoy left or while the convoy  
 25 was moving?

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1 GENERAL NAIDOO: Chair, I would say while  
 2 the convoy was moving and after we came to a halt I did  
 3 alight from the vehicle, I was on foot.  
 4 MR CHASKALSON SC: So while the convoy  
 5 was moving you took your car as it were to let it be passed  
 6 by the convoy, just to check that the convoy was in order.  
 7 GENERAL NAIDOO: Yes, Chair.  
 8 MR CHASKALSON SC: And then after the  
 9 convoy had stopped at immediate reaction area 1, you got  
 10 out on foot to check that everything was in order.  
 11 GENERAL NAIDOO: Well, Chair, I was – as  
 12 you could see, I was on my phone and yes, listening to the  
 13 radio, but I was outside the vehicle.  
 14 MR CHASKALSON SC: When you say you were  
 15 listening to the radio, was that a radio inside the vehicle  
 16 or was it a hand-held radio?  
 17 GENERAL NAIDOO: A hand-held radio which  
 18 I had with me.  
 19 MR CHASKALSON SC: And did you have that  
 20 hand-held radio for the whole operation on the day, or  
 21 going forward at any rate?  
 22 GENERAL NAIDOO: That's correct.  
 23 MR CHASKALSON SC: And I just want to get  
 24 clarity on what you mean when you say you alighted from the  
 25 vehicle and on foot checked that the convoy was in order.

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1 Did you physically walk down the full length of the convoy  
 2 or did you just get out of the vehicle and take a look?  
 3 GENERAL NAIDOO: No, Chair, I just got  
 4 out of the vehicle, took a look, I think I walked to the  
 5 first two or three vehicles and spoke to the members. One  
 6 of the vehicles was the commander of the canine.  
 7 MR CHASKALSON SC: Would that be Colonel  
 8 Mopedi?  
 9 GENERAL NAIDOO: That is correct.  
 10 MR CHASKALSON SC: Can you recall whether  
 11 you were in the vehicle or out of the vehicle when you  
 12 heard the shooting?  
 13 GENERAL NAIDOO: I think I was outside  
 14 the vehicle, Chair.  
 15 MR CHASKALSON SC: You say you think you  
 16 were outside the vehicle?  
 17 GENERAL NAIDOO: I – yes, as far as I can  
 18 recall.  
 19 [11:49] MR CHASKALSON SC: Now, in your evidence-  
 20 in-chief you described the gunshots as “quite loud to us.”  
 21 Let me actually read your evidence, it’s page 22909, if you  
 22 can go to 22909 and if I can just pick it up at the end of  
 23 the first line, “We heard a few stun grenades and we heard  
 24 activity of vehicles moving. Obviously we’d not have heard  
 25 the firing of rubber because it does not make a loud

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1 detonation and a little after the conversation,” you’re  
 2 talking about the conversation where the negotiation group  
 3 is saying it’s coming under attack, “a little after the  
 4 conversation whilst the conversation was on, we heard a  
 5 shot volley of live ammunition and that’s the unexpected  
 6 gunfire which we heard.” “How loud was that?” You say,  
 7 “It was quite loud because as the crow flies we’re not too  
 8 far away from where these things happened so it was quite  
 9 loud.” “And lasting how long?” “A few seconds. It was  
 10 not a continuous thing, it’s just a few seconds. There  
 11 were a volley and a few stuttered shots after that as  
 12 well.”  
 13 CHAIRPERSON: Yes, I think there are two points  
 14 about the transcript. The reference to the shot volley  
 15 earlier is presumably short and the “stuttered” I think  
 16 should be staccato, just a few seconds there, a volley and  
 17 a few staccato shots after that as well, I think that’s  
 18 what the witness said.  
 19 GENERAL NAIDOO: Sporadic.  
 20 CHAIRPERSON: Sporadic. Not staccato,  
 21 sporadic.  
 22 GENERAL NAIDOO: I said sporadic, Chair.  
 23 CHAIRPERSON: Well, you’ll remember  
 24 better than I would. I was right on the other one, you  
 25 talked about a short volley and not a shot volley?

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1 GENERAL NAIDOO: That’s right.  
 2 CHAIRPERSON: I get 50% on that one.  
 3 MR CHASKALSON SC: Now, Major-General,  
 4 elsewhere in your testimony you spoke about hearing  
 5 automatic gunfire. I’m not interested in – did this sound,  
 6 did the volley sound like automatic gunfire to you?  
 7 GENERAL NAIDOO: Chair, yes, there was  
 8 some automatic gunfire in the volley. That’s where the  
 9 sporadic comes from because there was a main lot of shots  
 10 and then there were a few that went over the main volley as  
 11 well.  
 12 MR CHASKALSON SC: And are you able to  
 13 distinguish between the sound that a 9 millimetre makes and  
 14 an R5 makes?  
 15 GENERAL NAIDOO: Chair, other than to say  
 16 that the volume, noise volume is much louder on an R5 than  
 17 a 9 mill, I can’t scientifically tell you that this is an  
 18 R5 and that’s a 9 millimetre.  
 19 MR CHASKALSON SC: When you heard these  
 20 shots did you think it was 9 mills or R5?  
 21 GENERAL NAIDOO: Chair, there were shots,  
 22 they could have been a combination. As far as I could hear  
 23 it was loud. My assumption, that there were rifles in the  
 24 shooting but I cannot exclude that there were 9 millimetre  
 25 used as well.

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1 MR CHASKALSON SC: I’m generally  
 2 interested in your state of mind at this, at this – so you  
 3 say your assumption was that there were R5 shots in the  
 4 shooting?  
 5 GENERAL NAIDOO: Due to the volume,  
 6 Chair, yes.  
 7 MR CHASKALSON SC: Could you identify  
 8 where the gunshots came from?  
 9 GENERAL NAIDOO: Chair, yes, it came from  
 10 the direction where we knew that the negotiation group was  
 11 deployed. As I indicated in my statement, as the crow  
 12 flies we were not too far from there.  
 13 MR CHASKALSON SC: Now, at the same time  
 14 as the gunshots there were stun grenades and teargas  
 15 released, do you recall that?  
 16 GENERAL NAIDOO: Chair, I think I  
 17 indicated specifically there was before the shooting, the  
 18 stun grenades, et cetera which we heard before the  
 19 shooting.  
 20 MR CHASKALSON SC: Now, did you look in  
 21 the direction of where the gunshots came from?  
 22 GENERAL NAIDOO: That’s the normal  
 23 reaction, Chair, one would immediately look in the  
 24 direction of the shots, yes.  
 25 MR CHASKALSON SC: Now because there’d

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1 been stun grenades and teargas fired, you'd have seen a  
2 cloud of smoke roughly in that direction.

3 GENERAL NAIDOO: Chair, no. From where  
4 we were, where I was, I could not have a view of where the  
5 incident was occurring. The power station was directly in  
6 front of me.

7 MR CHASKALSON SC: But the power station  
8 has a mesh fence. You can see through the power station,  
9 can you not, or not?

10 GENERAL NAIDOO: Chair, it does have a  
11 mesh fence with a lot of substation equipment within the  
12 mesh fence, which obstructed my view.

13 MR CHASKALSON SC: But earlier you said  
14 you'd parked at the road in front of the substation. Can  
15 we get JJJ – sorry, can we get 148, slide 148 back up? I'm  
16 marking the points on the road where the round around the  
17 substation starts, I'm now marking the road around the  
18 substation. You say that this was the front point of your  
19 convoy?

20 GENERAL NAIDOO: That's correct, Chair.

21 MR CHASKALSON SC: Are you suggesting to  
22 us –

23 CHAIRPERSON: For those who have to read  
24 the record later without the benefit of having been here  
25 today, you're pointing to a spot to the right of the green

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1 block as the spot where the witness said he stopped. I  
2 think he had said it earlier but I'm just making the point,  
3 that's what you're pointing out.

4 MR CHASKALSON SC: And are you suggesting  
5 that from this point, which was the front of the convoy, it  
6 wasn't possible to get a line of sight through to the  
7 kraal, marking the line through to the kraal?

8 GENERAL NAIDOO: Chair, that is correct  
9 because if you look onto the right side of the substation,  
10 that is not a wire mesh fence. As far as I recall it was a  
11 brick wall of some sort, I'm not sure what it was.

12 MR CHASKALSON SC: Am I now marking the  
13 area that you say was a brick wall?

14 GENERAL NAIDOO: I think more towards the  
15 road, lower, yes. If I can recall I think that was a wall  
16 of some sort.

17 MR CHASKALSON SC: But your convoy –  
18 sorry, Chair, if you can describe the wall that the witness  
19 is referring to, or should I try?

20 CHAIRPERSON: Well, it's a wall that  
21 starts, as one looks at the slide it's a wall that starts  
22 somewhere, if one takes the top right corner of the green  
23 block and moves diagonally towards the top right-hand  
24 corner of the slide, the wall begins a short distance from  
25 the top right-hand corner of the yellow block and continues

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1 up for some distance. I think that would be visible to  
2 anybody who looks at the slide in years to come.

3 MR CHASKALSON SC: And you're saying that  
4 that was a wall and that obscured your vision.

5 GENERAL NAIDOO: Chair, what I'm saying  
6 is that we did not have a view from the position that I was  
7 at, at immediate response area 1, of the negotiation group.

8 MR CHASKALSON SC: The negotiation group  
9 at which point?

10 GENERAL NAIDOO: The negotiation group  
11 led by Brigadier Calitz.

12 MR CHASKALSON SC: No, I know it was led  
13 by Brigadier Calitz but I'm asking at which point in time  
14 because the group moved, so what couldn't you see?

15 GENERAL NAIDOO: Chair, I had no idea  
16 that the group had moved. As I indicated, I had an  
17 approximate idea as to where the negotiation group was.  
18 From my line of sight I had no view of them at the time  
19 when I was at immediate response area 1.

20 MR CHASKALSON SC: Well, I've measured  
21 the length of your convoy at its starting point. The  
22 convoy on Google maps at its starting point was over 100  
23 metres, would you accept that some members of your convoy  
24 would have had a clear view through to the scene where the  
25 shootings had taken place, people towards the back of your

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1 convoy?

2 GENERAL NAIDOO: Chair, I am not aware if  
3 anybody had a view. Nobody mentioned it to me specifically  
4 that they had a view.

5 CHAIRPERSON: May I say when we have an  
6 inspection in loco, as we're going to have to have in due  
7 course, we'll be able to check these things out, won't we?  
8 We'll be able to understand, the witness will show us where  
9 he was, we'll get someone to fire off a CS gas canister at  
10 the scene of the shooting and we will then be able to see  
11 from this road immediately to the right of the immediate  
12 response area on the slide what we can see.

13 COMMISSIONER HEMRAJ: May I just ask a  
14 question to clarify? General, as you proceeded from  
15 forward holding area 1 to immediate response area 1 along  
16 that road at any stage would you have sight of the  
17 deployment as it was, the deployment of vehicles close to  
18 the koppie?

19 GENERAL NAIDOO: Chair, I did not  
20 specifically. As you know, we were travelling along that  
21 road. On the right hand side there were some shrubs, there  
22 was traffic, there was a truck that was also travelling  
23 alongside us for a little of the way, so I personally did  
24 not have sight of – I would have liked to have had sight of  
25 where the operation was taking place. It would have helped

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1 me to orientate myself here.

2 MR CHASKALSON SC: We'll sort this out at

3 an inspection in loco but before we get there I have to put

4 to you what my concerns with your answer are and to do that

5 I'd like us to see the footage of the stun grenades and the

6 teargas canisters that were fired within 20 seconds of the

7 shooting that appears on the Roland headgear camera clock

8 at, which is exhibit KKK9. So if we can call up KKK9 and

9 go to Roland headgear clock time 16:15:55. Are we having

10 difficulties with KKK9? Maybe I can use another exhibit

11 while we try and sort out KKK9. If KKK9 is taking a while

12 to load, maybe we can go to JJJ10, 4533. JJJ10 4533 and if

13 we could zoom in on the area of the substation which is in

14 the top right-hand corner of this photograph. Come back

15 because it's the fence that is important. Now, Major-

16 General, can you identify on this photograph the fence that

17 you say obscured your view?

18 GENERAL NAIDOO: Chair, no, not

19 specifically.

20 COMMISSIONER HEMRAJ: He said a wall -

21 CHAIRPERSON: The witness did -

22 MR CHASKALSON SC: Sorry, a wall.

23 GENERAL NAIDOO: Chair, yes. I said some

24 sort of wall, yes.

25 MR CHASKALSON SC: Well, if I can mark

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1 the wall on the right hand side or the barrier on the right

2 hand side that you identified as the wall, that is not an

3 impermeable barrier for vision. Do you accept that?

4 GENERAL NAIDOO: Chair, I think that

5 would have to be seen because depending on the angle that

6 you are, you can't see.

7 MR CHASKALSON SC: Major-General, are you

8 suggesting that you positioned yourself, you were

9 positioned at an angle where a mesh fence obscured your

10 vision and it didn't occur to you to move 10 yards in

11 either direction so you could change the angle and see

12 through the mesh?

13 GENERAL NAIDOO: Chair, what I indicated

14 is that I could not see the operational area where the

15 negotiation team was deployed.

16 MR CHASKALSON SC: And I'm still

17 interested in why you couldn't see that. Are you saying

18 that this mesh fence is what obscured your vision?

19 GENERAL NAIDOO: Chair, as I indicated,

20 from my position, no, I could not see. I know that the

21 substation was between us. If I go back to the scene

22 possibly I would remember because at this stage my

23 recollection was that I had no vision of the area where the

24 dispersal was taking place or I would have then, would have

25 gone towards the dispersal taking place.

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1 MR CHASKALSON SC: So Major-General, you

2 would like to go back to the scene before you have to

3 answer this question so that you can refresh your memory on

4 what's there and what isn't?

5 GENERAL NAIDOO: Chair, what I'm saying

6 is yes, I was not in the position to see the dispersal

7 taking place because of where I was and if necessary, yes,

8 I could go and refresh my memory.

9 MR CHASKALSON SC: Well, it may be

10 necessary for us then to ask for your recall after an

11 inspection in loco at which you've had the opportunity but

12 while we're here and while we have you here I'd like just

13 to take up a few other issues in relation to this

14 photograph. Can we just run the photograph a little to the

15 left? No, to the left so that we get the road and zoom out

16 a little bit and now move a little bit back to the right so

17 that the road is visible on the left hand side of the

18 photograph. Okay, stop. Now Major-General, I'm marking

19 the turnoff to the east side of the power station which you

20 say is where your vehicle was, just before that turnoff.

21 You stand by that?

22 GENERAL NAIDOO: Plus-minus, yes.

23 MR CHASKALSON SC: And you stand by your

24 evidence that from that position your vision to scene 1 was

25 impaired by the substation? You stand by your evidence

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1 that your vision to scene 1 was impaired by the substation

2 from that position?

3 GENERAL NAIDOO: Chair, what I said was I

4 had no vision of the operational area. It was not only the

5 substation as you can see, there is also some trees there

6 but yes, I could not see from the position I was to the

7 operational area.

8 CHAIRPERSON: Just to be clear, the

9 turnoff that you've indicated is, I suppose, more or less

10 between a third and halfway -

11 MR CHASKALSON SC: Sorry to interrupt,

12 Chair, but this is a zoomed in section of the photograph.

13 I think we need to zoom all the way back out.

14 CHAIRPERSON: Perhaps you can then

15 describe it for us.

16 MR CHASKALSON SC: It is the turnoff that

17 goes, it goes to the right of the road just at the end of

18 the slimes dam that is visible on the left hand side of the

19 road. That slimes dam is a broadly rectangular structure.

20 CHAIRPERSON: That's below the slimes

21 dam, is it, as we see it on the slide, is that correct?

22 MR CHASKALSON SC: It's past the slimes

23 dam, it's at the far right-hand corner of the slimes dam,

24 the turnoff.

25 CHAIRPERSON: I see. No, no, I see now,

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1 yes, alright. So those who in years to come will have to  
 2 look at this will now be able to understand what's going  
 3 on.  
 4 MR CHASKALSON SC: Do we have KKK9 ready  
 5 yet?  
 6 CHAIRPERSON: While it's being looked  
 7 for, it's been suggested to me that it might be sensible to  
 8 take the comfort break now and then we can run on to 1  
 9 o'clock. We're adjourning at 1 and we're resuming at 2  
 10 because of something that one of the Commissioners has to  
 11 attend to during the lunch adjournment. So let's take the  
 12 comfort break now. In the meanwhile find the relevant  
 13 slide and we will then resume and look at it immediately.  
 14 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 15 [12:17] CHAIRPERSON: The commission resumes. I  
 16 understand the video has been found. So Major-General,  
 17 you're still under oath.  
 18 GENERAL NAIDOO: Still under oath.  
 19 CHAIRPERSON: Mr Chaskalson.  
 20 MR CHASKALSON SC: If we can then call up  
 21 KKK9, the Roland headgear video and start it from 16:15:45  
 22 and just to orientate ourselves, that is 15:53:16 ETV time  
 23 which is 34 seconds before the shooting. So we're 34  
 24 seconds before the shooting and if we can run the video  
 25 now.

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1 [VIDEO SHOWN]  
 2 If we can just pause at this point.  
 3 CHAIRPERSON: Put on record the point at  
 4 which you paused.  
 5 MR CHASKALSON SC: 16:16:02 which in ETV  
 6 time is going to be 15:53:33 and if I can just mark the  
 7 beginnings of a tear gas cloud emerging on the left hand  
 8 side of the screen. It's the smoke on the left hand side  
 9 of the screen. If we can keep playing.  
 10 [VIDEO SHOWN]  
 11 Stop.  
 12 CHAIRPERSON: Where have you stopped?  
 13 MR CHASKALSON SC: 16:16:10.  
 14 CHAIRPERSON: Thank you. About three  
 15 times the smoke, you see that?  
 16 MR CHASKALSON SC: Two stun grenades  
 17 which have just exploded and the teargas spreading out. If  
 18 we can keep running.  
 19 [VIDEO SHOWN]  
 20 Can we stop at this point.  
 21 CHAIRPERSON: This is 16:16:18.  
 22 MR CHASKALSON SC: And maybe if we can go  
 23 back a couple of frames because unfortunately the camera is  
 24 going to pan right at this point and we're going to lose  
 25 the smoke clouds that are rising.

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1 CHAIRPERSON: After scene 16:14 on the  
 2 screen.  
 3 MR CHASKALSON SC: And scroll it forward  
 4 to about 16:16:17. Stop. We're losing the smoke to the  
 5 left of our screen but I'm marking the top point of the  
 6 smoke with my marker, if we play it backwards which we can  
 7 do on the reserve play. It may be a little bit clearer.  
 8 Can we just, and now play forwards.  
 9 [VIDEO SHOWN]  
 10 And the stun grenade smoke is still, stop now.  
 11 CHAIRPERSON: Time stopped at 16:16:22.  
 12 MR CHASKALSON SC: Now 16:16:22 is three  
 13 seconds after the shootings. Now Major-General you're  
 14 suggesting to us that this cloud that we see in the centre  
 15 of the picture at 16:16:22 was not visible from your  
 16 position?  
 17 GENERAL NAIDOO: Chair, what I said was I  
 18 did not see it yes.  
 19 MR CHASKALSON SC: Well you said you did  
 20 turn to look in the direction of where you thought the  
 21 shootings had come from, if it was -  
 22 GENERAL NAIDOO: That's correct.  
 23 MR CHASKALSON SC: So you looked in that  
 24 direction but didn't see that cloud, is what you're saying?  
 25 GENERAL NAIDOO: That is correct, Chair.

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1 MR CHASKALSON SC: I must put it to you  
 2 Major-General, that I find it very difficult to accept that  
 3 evidence, but I will move on.  
 4 CHAIRPERSON: Can you think of any  
 5 explanations as to why you wouldn't have seen that smoke if  
 6 you looked in that direction at the relevant time?  
 7 GENERAL NAIDOO: Chair, none comes to  
 8 mind at the moment. I said I'm not aware if anybody else  
 9 in the convoy saw it. But me specifically -  
 10 CHAIRPERSON: You -  
 11 GENERAL NAIDOO: Yes, I -  
 12 CHAIRPERSON: Giving hearsay about other  
 13 people.  
 14 GENERAL NAIDOO: Yes. I just indicate I  
 15 did not see this smoke.  
 16 MR CHASKALSON SC: Well, Major-General,  
 17 you say you're not aware that anybody else in the convoy  
 18 saw it. Surely if you hadn't seen it, let's assume that  
 19 your memory is faulty and you hadn't looked, you had heard  
 20 but you hadn't looked. Surely if you hadn't looked and you  
 21 hadn't seen or even if you had looked and you hadn't seen  
 22 you had a real interest in trying to establish where the  
 23 shootings had taken place, would you accept that?  
 24 GENERAL NAIDOO: Chair, yes but I think  
 25 here we're talking about the stun grenades and the tear gas

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1 which I indicated I did hear them but I did not see them.

2 MR CHASKALSON SC: Major-General, you may

3 be misunderstanding us. What we see now is smoke from

4 teargas and stun grenades three seconds after the

5 shootings. So why didn't you ask somebody else in the

6 convoy has anybody, does anybody have a sense of where

7 that, where those shootings happened?

8 GENERAL NAIDOO: Chair, I'm sure if

9 somebody had seen something they would have reported to us

10 as I indicated there were members in their vehicles.

11 Nobody did report anything to me and I was following the

12 conversation on the radio at that stage, yes.

13 MR CHASKALSON SC: You see, Major-

14 General, the only explanation I can imagine for people not

15 reporting to you where the shootings were is that it was so

16 obvious where the smoke was coming from that they didn't

17 think it was necessary to report to you. What's your

18 comment on that?

19 GENERAL NAIDOO: That is possible, Chair,

20 because a dispersion was expected.

21 MR CHASKALSON SC: I'm not sure I

22 understand that answer. A dispersion was expected, do you

23 accept that this smoke cloud should have been obvious to

24 many people in your convoy if they looked in that

25 direction?

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1 GENERAL NAIDOO: If they had, yes.

2 MR CHASKALSON SC: But you did look in

3 that direction, you say you didn't see it.

4 GENERAL NAIDOO: Chair, when I heard the

5 shots I did look, I did not see it.

6 CHAIRPERSON: I just want to understand

7 what you meant when you said that the dispersion was

8 expected, that was in accordance with the briefing you got

9 from –

10 GENERAL NAIDOO: That is correct, Chair.

11 CHAIRPERSON: Now what did you expect

12 would happen at the dispersion, did you expect there would

13 be a short volley of automatic fire for about eight

14 seconds, is that what you expect would happen at the time

15 of the dispersion?

16 GENERAL NAIDOO: No, Chair.

17 CHAIRPERSON: So what did you expect?

18 GENERAL NAIDOO: Dispersions normally you

19 would have an announcement and they would probably use

20 teargas and stun grenades. Those are the, the stun

21 grenades is what we would hear and we did hear. I did

22 indicate that the volley of shots was unexpected.

23 Obviously we had not expected any live ammunition to be

24 fired.

25 CHAIRPERSON: But you had your radio on

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1 did you?

2 GENERAL NAIDOO: That is correct, Chair.

3 CHAIRPERSON: Now according to the

4 occurrence book which is exhibit before us, FFF25, page 25

5 entry 1017 what is recorded is as follows which I take it

6 you would have heard. It says "situation report, this is

7 15:55, that's the time that's recorded by the scribes in

8 the JOC, Papa1 the evidence is that must be a mistake, it

9 should be Chopper 1.

10 GENERAL NAIDOO: That's correct.

11 CHAIRPERSON: "Chopper 1 reporting the

12 group are moving," the group is obviously the strikers.

13 "The group are moving to TRT members and they tried to

14 attack them. Chopper 1, it says Papa, but it should be

15 chopper, Chopper 1 reporting that the people are moving

16 around and some are down". Now did you hear that?

17 GENERAL NAIDOO: Chair, that's true. I

18 did hear that, I did indicate in my statement.

19 CHAIRPERSON: Yes, I know you did. Now

20 when the, you heard that the group were moving to the TRT

21 members, in other words no longer to the POP members but

22 the TRT members and they tried to attack them what did you

23 think the TRT members would do in order to repel the attack

24 which is being made upon them?

25 GENERAL NAIDOO: Chair, the TRT members

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1 are obviously not armed with the teargas rubber bullets

2 etcetera. They were armed with sharp point ammunition and

3 I suppose if they were attacked they would use their

4 firearms.

5 CHAIRPERSON: So when you heard this

6 over the radio did you expect that the TRT members would

7 respond to the attempt to attack them on the part of the

8 strikers by firing back with their R5s?

9 GENERAL NAIDOO: Chair, that is why I

10 indicated that was unexpected number 1 and number 2 they

11 could have also fired warning shots if, that volley could

12 have been a warning shots volley.

13 CHAIRPERSON: But then you heard Chopper

14 1 reporting that the people are moving around and some are

15 down. So what did you think that indicated had happened?

16 GENERAL NAIDOO: Chair, that's where I

17 assume that people were injured. I did not assume that

18 they were shot at that stage because obviously there was a

19 dispersion, a start of a dispersion action before the

20 volley of shots. However I can't rule that out, that

21 people could have possibly been shot.

22 CHAIRPERSON: I take it it was very at

23 least a possibility which passed through your mind but that

24 may have happened.

25 GENERAL NAIDOO: Yes, a possibility.



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1 MR CHASKALSON SC: Brigadier, you've just  
 2 heard a volley of -  
 3 CHAIRPERSON: Not Brigadier.  
 4 MR CHASKALSON SC: Sorry, Major-General.  
 5 CHAIRPERSON: A Major-General.  
 6 MR CHASKALSON SC: Major-General I'm  
 7 sorry. You just heard a volley of gunfire which we now  
 8 know was more than 350 shots.  
 9 GENERAL NAIDOO: Yes, Chair.  
 10 MR CHASKALSON SC: Did you not think it  
 11 was more than a possibility but an overwhelming likelihood  
 12 that if people were down after hearing that volley someone  
 13 was going to have been suffering from a gunshot injury.  
 14 GENERAL NAIDOO: Chair, the Chopper that  
 15 was giving us report did not indicate that these people had  
 16 been shot. He just said people had been down. I at that  
 17 stage as I indicated was not aware of, they were down due  
 18 to what. However I did respond.  
 19 MR CHASKALSON SC: I must say, Major-  
 20 General, I do find it hard to accept that you didn't  
 21 contemplate it as a strong possibility that you were going  
 22 to be responding to deal with gunshot injuries, but you say  
 23 that didn't cross your mind, you thought this was an  
 24 ordinary dispersal operation, you're dealing with people  
 25 with sprained ankles.

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1 GENERAL NAIDOO: Chair, no. I said I was  
 2 not aware of the nature of the injuries.  
 3 CHAIRPERSON: There was a distinct  
 4 possibility was it not?  
 5 GENERAL NAIDOO: It was a possibility,  
 6 Chair.  
 7 CHAIRPERSON: I mean there was a  
 8 possibility of a fusillade of warning shots but that wasn't  
 9 very likely was it? I can understand one or two warnings  
 10 but you wouldn't have a fuselage of warning shots would  
 11 you, normally?  
 12 GENERAL NAIDOO: Normally, Chair, there  
 13 has been an incident before this which was reported to us  
 14 where members fired warning shots, a fusillade of warning  
 15 shots as well in an earlier strike in the Rustenburg area  
 16 and obviously I can't rule that out. I had seen that  
 17 report.  
 18 CHAIRPERSON: To be fair, I think you've  
 19 conceded that you realised there was a distinct possibility  
 20 that people had been injured.  
 21 GENERAL NAIDOO: Yes, Chair, which is why  
 22 I responded.  
 23 MR CHASKALSON SC: But the nature of the  
 24 injuries is important because your evidence-in-chief at  
 25 page 22901 in response to Mr Semenya. Mr Semenya says

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1 "what did you understand to mean that there were people  
 2 down and you say people down, Chair, as I indicated  
 3 yesterday this does occur during dispersal actions when  
 4 people are stampeding and fleeing that they fall, that they  
 5 injure themselves etcetera and Mr Semenya says there's a  
 6 mental picture that you had and you say that's correct,  
 7 Chair". So you told this Commission that the mental  
 8 picture that you had was that you were dealing with  
 9 injuries from falls in a stampede. Do you stand by that  
 10 evidence?  
 11 GENERAL NAIDOO: Chair, I don't think we  
 12 ever conceived that there would ever be a shooting of that  
 13 scale. We did plan for a dispersal and my response was to  
 14 deal with a possibility that people were injured in the  
 15 dispersal. The magnitude at that stage that's not the  
 16 picture I had in my mind.  
 17 CHAIRPERSON: What do you mean by the  
 18 magnitude, you mean, you're referring to the magnitude of  
 19 the injuries or the number of people? I could understand  
 20 you didn't expect 18 people, did you expect possibly five?  
 21 GENERAL NAIDOO: There could possibly be  
 22 people injured in shooting, a number obviously was  
 23 something that we did not have.  
 24 CHAIRPERSON: Even if there were five  
 25 injured by gunshot that's something that was, somewhat of

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1 an emergency, it had importance even if you never heard of  
 2 the golden hour, to get people there as quickly as possible  
 3 to deal with it and in case some of them had not been  
 4 killed but were in urgent need of medical attention.  
 5 GENERAL NAIDOO: Chair, yes. As I  
 6 indicated I did not, I was not familiar with the term the  
 7 golden hour. But I was aware that even if one person was  
 8 injured that I had to ensure that the medical services were  
 9 rendered.  
 10 MR CHASKALSON SC: But it's also the  
 11 nature of the injuries. If you were aware that there was a  
 12 possibility of gunshot injuries from R5s the need to get  
 13 medical treatment there quickly was all the greater. Would  
 14 you accept that as a proposition.  
 15 GENERAL NAIDOO: Chair, I think I've  
 16 indicated an injury, the expectation was to get medical  
 17 attention to the injured irrespective of the injuries. I  
 18 was not in a position to make that assessment of a critical  
 19 injury and a non critical injury. That would be the people  
 20 that I would get onto the scene as soon as possible to  
 21 respond to that.  
 22 CHAIRPERSON: And you had to assume that  
 23 it might be a critical injury or might be critically  
 24 injured.  
 25 GENERAL NAIDOO: I had to work on the

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1 worst case scenario.

2 CHAIRPERSON: Yes, yes.

3 MR CHASKALSON SC: And were you working

4 on the worst case scenario?

5 GENERAL NAIDOO: I think I outlined,

6 Chair, my worst case scenario in terms of that incident.

7 MR CHASKALSON SC: Sorry are you

8 referring to the passage in the evidence that I just read

9 to you?

10 GENERAL NAIDOO: That's affirmative,

11 Chair, correct, Chair.

12 MR CHASKALSON SC: So you still stand by

13 evidence that you thought that the worst case scenario with

14 which you were dealing was a sprain or a stampede injury?

15 GENERAL NAIDOO: Chair, I think I

16 indicated the nature of the injury I was not sure. I just

17 did not expect the scale of the injuries that we had

18 encountered at scene 1.

19 MR CHASKALSON SC: But are you suggesting

20 to this Commission that you didn't anticipate that, from

21 that volley of gunfire that you had heard someone may have

22 been hit?

23 GENERAL NAIDOO: I did not exclude it but

24 I did not hope that it was so.

25 MR CHASKALSON SC: Yes, but then the

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1 worst case scenario with which you had to deal, not the

2 scenario that you were hoping for, but the worst case

3 scenario wouldn't have been sprains and stampede injuries

4 it would have been R5 bullet wounds. Would you accept

5 that?

6 GENERAL NAIDOO: Chair, as I indicated

7 the scenario I anticipated that people will be injured.

8 Whilst I did not specifically indicate gunshot wounds my

9 expectation was that we will not be dealing with gunshot

10 wounds in terms of the briefing we had received and in

11 terms of the planning.

12 CHAIRPERSON: Ja but briefing related to

13 dispersion by POP people.

14 GENERAL NAIDOO: That's correct.

15 CHAIRPERSON: What you heard over the

16 radio was the POP people were no longer there, no longer in

17 the frame. The TRT people were lined behind, the people

18 there to protect them they had been attacked or attempts

19 was being made to attack them. So that changed the

20 situation slightly from the expectations arrived by the

21 briefing that there was simply going to be a dispersion

22 operation.

23 GENERAL NAIDOO: Chair, hence my comment

24 that it was an unexpected volley of gunfire, I did not

25 anticipate that as well.

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1 MR CHASKALSON SC: Major-General I don't

2 for a minute suggest that you or indeed anybody else

3 anticipated this volley of gunfire. It's a truly horrific

4 episode and I don't think anybody anticipated it. But

5 after you had heard it what then did you contemplate,

6 that's the question. Surely you contemplated that there

7 may have been people hit by R5 bullets.

8 GENERAL NAIDOO: Chair, as I indicated at

9 that stage I did not exclude the possibility. I have

10 conceded that, Chair. But what we were responding to was

11 an incident that people were down. There was no

12 description of whether they were shot or injured. So I

13 can't indicate to this Commission, you know what I

14 perceived when I didn't know.

15 CHAIRPERSON: I don't think you're doing

16 yourself justice, Major-General. You've said you treated

17 it as a worse case. Possibly worse case. So therefore you

18 were responding to a situation. You didn't know precisely

19 what happened.

20 GENERAL NAIDOO: No.

21 CHAIRPERSON: You thought people might

22 have been injured by R5 fire I take it and you had to treat

23 it as if that were so because you had to treat it as a

24 worst case scenario, is that fair?

25 GENERAL NAIDOO: That's fair, Chair.

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1 CHAIRPERSON: Ja.

2 MR CHASKALSON SC: And you get this call

3 from Colonel Vermaak to bring medics to the scene and you

4 then move off from your position where you had stopped at

5 immediate reaction area 1.

6 [12:36] GENERAL NAIDOO: That is correct, Chair.

7 MR CHASKALSON SC: And you say that you

8 had to use a gravel road around the power station. If we

9 can back JJJ – let's go back to MMM1 so that we can mark it

10 on MMM1 because it's got grids. Can we call up MMM1? Now

11 in your statement – we're back at MMM1 and I'm marking your

12 position at C7 where your convoy had stopped. Was this the

13 position from which you moved off when you got the call

14 from Lieutenant-Colonel Vermaak?

15 GENERAL NAIDOO: More or less yes, Chair.

16 MR CHASKALSON SC: Now in your statement

17 you say you had to use the gravel road around the power

18 station because that was the only road that the soft skin

19 vehicles within your convoy could use. Now I understand

20 that to refer to a road which I'm marking now and which

21 then picks up on a more substantial gravel road running

22 through to the koppie. I'll describe it for the record in

23 a minute, but I just want to first understand, clarify that

24 I understood your original evidence, your evidence

25 correctly before I start giving block numbers and so on.

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1 GENERAL NAIDOO: Chair, what I indicated  
 2 in my evidenced in chief was I first turned immediately  
 3 right and went down a little road, this is indicated in  
 4 there, that's D6 approximately. And we came to the point  
 5 where there was not road, it was then a ditch. Our  
 6 vehicles which were light motor vehicles, sedans, there  
 7 were two sedans and bakkies, could not proceed any further.  
 8 The convoy then turned around on that road that's indicated  
 9 in D6 and went back to the main road and proceeded down to  
 10 a road that's in A7 and went left around the power station.  
 11 MR CHASKALSON SC: All right, Major-  
 12 General, am I marking with my marker correctly as we go  
 13 along?  
 14 GENERAL NAIDOO: Yes more or less, more  
 15 or less.  
 16 MR CHASKALSON SC: And in your statement  
 17 -  
 18 CHAIRPERSON: Sorry, what you're marking  
 19 is it goes from A7 to A6 and then goes to A5 and then goes  
 20 into what looks like B5? Is that what you say about it?  
 21 MR CHASKALSON SC: That's correct,  
 22 Chairperson. In paragraph 62 of your statement you say  
 23 that "Due to the fact that my group had soft skin sedans  
 24 and bakkies I had to use the road around the electricity  
 25 sub-station to pass what is now known as koppie 3 to move

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1 towards koppie 1." Now you've described getting up to the  
 2 point at the top of the block B5 on that gravel road.  
 3 There is a, I hesitate to say major road, but by the  
 4 standards of gravel roads around Wonderkop this road that  
 5 I'm marking now that runs from A5 up into B4 and then turns  
 6 down again in the middle of B4 and then runs across sort of  
 7 C4, D4, E4 is one of the more prominent roads. Is that how  
 8 you planned to get to koppie 1?  
 9 GENERAL NAIDOO: That is correct, Chair,  
 10 however, I just want to indicate that we made it as far as  
 11 A5, that was where the bulk of the vehicles congregated.  
 12 To the right of that block there's a little pylon, the  
 13 pylon was to our right.  
 14 MR CHASKALSON SC: So you took these  
 15 vehicles around the gravel road to A5 and then congregated  
 16 there.  
 17 GENERAL NAIDOO: That's correct, Chair.  
 18 MR CHASKALSON SC: If we can get back to  
 19 your evidence which wasn't in the statement, but which was  
 20 in your evidence in chief and which you've just repeated,  
 21 about the attempt to pass to the east of the power station  
 22 first.  
 23 GENERAL NAIDOO: That's correct, Chair.  
 24 MR CHASKALSON SC: Do you have a very  
 25 clear memory of trying that road?

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1 GENERAL NAIDOO: Chair, I was not  
 2 driving. My driver was responsible for that, but I know  
 3 that we came to a point, yes I have some memory of that.  
 4 MR CHASKALSON SC: So you're clear in  
 5 your own mind that you did make that attempt to pass on the  
 6 east side and had to turn back?  
 7 GENERAL NAIDOO: Chair, yes I think our  
 8 vehicle location device will indicate where we made that  
 9 attempt and turned around. We have a tracking device on  
 10 each vehicle.  
 11 MR CHASKALSON SC: So that would be  
 12 particularly helpful. I wonder if we could access to that  
 13 tracking device. Can the SAPS legal team assist us in that  
 14 regard?  
 15 CHAIRPERSON: You turned around somewhere  
 16 in D6, is that right?  
 17 GENERAL NAIDOO: I would say ja.  
 18 CHAIRPERSON: Is that right?  
 19 GENERAL NAIDOO: As far as my  
 20 recollection of the map is, yes.  
 21 CHAIRPERSON: I understand it's difficult  
 22 to be precise, but that's your impression as well?  
 23 GENERAL NAIDOO: Yes we went down, Chair,  
 24 down the dirt road to a point where the vehicles couldn't  
 25 go further because the idea was to go directly to what we

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1 now know as scene 1 and obviously the road ran out and then  
 2 we had to do a U-turn and the whole convoy almost did that  
 3 U-turn.  
 4 MR CHASKALSON SC: So the whole convoy  
 5 you say had to do a U-turn at that point.  
 6 GENERAL NAIDOO: That is correct, Chair.  
 7 MR CHASKALSON SC: 25 vehicles?  
 8 GENERAL NAIDOO: Plus, minus, I said  
 9 almost. Yes, those that were not on the dirt road  
 10 obviously waited.  
 11 MR CHASKALSON SC: So about how many of  
 12 you went down that route?  
 13 GENERAL NAIDOO: Most of the vehicles,  
 14 Chair.  
 15 MR CHASKALSON SC: So up to 20?  
 16 GENERAL NAIDOO: I would not rule that  
 17 out.  
 18 MR CHASKALSON SC: And about how long did  
 19 this detour take?  
 20 GENERAL NAIDOO: A couple of minutes,  
 21 Chair, it was a bit difficult to turn and obviously there  
 22 were vehicles one behind the other. So we had to make  
 23 provision for the vehicles to turn and then reform the  
 24 convoy.  
 25 MR CHASKALSON SC: I thought it would be

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1 more than a couple of minutes if you're trying to turn  
 2 around a convoy of 20 odd vehicles in impassable dirt  
 3 roads.  
 4 CHAIRPERSON: Sorry, Mr Chaskalson, I  
 5 would imagine the wouldn't all have got there yet. If you  
 6 remember the length of the convoy and you assume the front  
 7 vehicles had moved from the road to D6 it's unlikely that  
 8 the whole convoy would already be in D6. Am I right?  
 9 MR CHASKALSON SC: The whole convoy,  
 10 Chair, is 26 vehicles, that's I asked the Major-General if  
 11 he estimated 20.  
 12 CHAIRPERSON: Hear my question. Was the  
 13 whole convoy already in D6 or I suppose we could say D6 and  
 14 D7, was the whole convoy already off the road in the  
 15 direction of koppie 1 or were some of the vehicles still on  
 16 the road at the time you encountered a ditch and realised  
 17 you had to do a U-turn?  
 18 GENERAL NAIDOO: Chair, there were still  
 19 some vehicles on the road, as indicated it was a long  
 20 convoy and the road ran out quite quickly. It was not far  
 21 down when we ran and we had to do a U-turn.  
 22 MR CHASKALSON SC: If you were to  
 23 estimate how long that whole exercise took in minutes?  
 24 GENERAL NAIDOO: Chair, a couple of  
 25 minutes. Chair, I don't if five minutes would be

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1 reasonable, I'm not sure, but yes a couple of minutes to  
 2 reorganise ourselves.  
 3 MR CHASKALSON SC: I'm going to pick this  
 4 up with you a bit later, but before I do that I want to  
 5 discuss with you possible routes to scene 1 that your  
 6 convoy might have taken if the shootings had happened  
 7 before you moved from your first position at forwarding  
 8 holding area 1. So let's assume your convoy is at  
 9 forwarding holding area 1 for present purposes and I want  
 10 to discuss with you a range of possible routes that you may  
 11 have taken.  
 12 COMMISSIONER HEMRAJ: Just before you go  
 13 there. General, it was not part of your plan to use this  
 14 particular road that starts on D6.  
 15 GENERAL NAIDOO: Chair, what was  
 16 indicated was that the immediate response area would be a  
 17 forward staging area from where we would be able to access  
 18 the koppie 1 at a shorter time. So when I got to this  
 19 place, it was the first time that I had got there and based  
 20 on the maps that we had obviously that would make logical  
 21 sense for us to take the first turn. As I indicated as the  
 22 crow flies directly to where we know koppie 1 was. So this  
 23 particular point was used by other groups before us, such  
 24 as the task force, the TRT, the NIU. They had been at  
 25 immediate response area in the morning and even in

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1 preceding days when we were assisting. So the assumption  
 2 was yes it was a clear road to where we had to go.  
 3 MR CHASKALSON SC: In fairness to you,  
 4 General, that is in fact is the route that the barbed wire  
 5 Nyalas took on the morning of the 16th, up that road that  
 6 you say you went up. So when the barbed wire Nyalas  
 7 deployed in the morning, and we can show you a photograph,  
 8 I don't think it's necessary, but they took that road, the  
 9 road that goes from, what is it, C7 up to D6. And then  
 10 around – they got round the point where you say you had to  
 11 turn back at D6 and then deployed straight up into the line  
 12 that we see them broadly described on this grid.  
 13 GENERAL NAIDOO: Chair, yes the Nyala  
 14 versus a standard bakkie I think we can't really compare.  
 15 Nyala is a 4X4 altering vehicle, the bakkie obviously has  
 16 limitations.  
 17 MR CHASKALSON SC: No I'm not suggesting  
 18 that they are the same sorts of vehicles, but let's go and  
 19 look at the range of possible routes for getting to scene 1  
 20 from forward holding area 1. We'll discuss later whether  
 21 it's fair to use forwarding holding area 1 as a starting  
 22 point for our routes. If we can stay on this grid and the  
 23 first route to scene 1 from forwarding holding area 1 is a  
 24 route along the main road at the crossroads. It starts on  
 25 the main road at the crossroads. So I'm marking the line

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1 between, what is it, between I7 and J7 where it says  
 2 forwarding holding area 1. And going up the road to where  
 3 we see an intersection going to the right at I5. And a  
 4 lesser quality road running to the left at I5, all the way  
 5 up to G4 where it runs along the perimeter of Nkaneng  
 6 picking up the road or turning in at F4 to the road that  
 7 was ultimately the road by which you wanted to reach the  
 8 koppie in the opposite direction. Do you accept that?  
 9 MR SEMENYA SC: Chair, I object. I'm  
 10 raising an objection against this, Chair. I think what Mr  
 11 Chaskalson is having us do is to plot possible routes to  
 12 get to koppie 1, but he's not moving from a premise where  
 13 we were stationed when the movement became necessary.  
 14 There's no point in going to FHY at all. As a possible  
 15 route of moving from a particular position.  
 16 CHAIRPERSON: - as I understand it, at  
 17 the time he was at immediate reaction area 1.  
 18 MR CHASKALSON SC: No, Chairperson, in  
 19 fact he wasn't. That evidence is false. I will show that  
 20 he was still at forwarding holding area 1.  
 21 CHAIRPERSON: He will endeavoured to show  
 22 that his starting point is correct, so on the assumption  
 23 that he succeeded in showing that, we'll let him carry on  
 24 for the time being.  
 25 MR CHASKALSON SC: So if we can chart

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1 these routes then. The first route is in fact is the route  
 2 the Commission took to get to the scene which is the route  
 3 up the crossroads at forward holding area 1 across to the  
 4 outskirts of Nkaneng which it reaches at G4. And then  
 5 cutting across row 4 till it reaches where the TRT icons  
 6 will be at E4. And in fact this road is the same road that  
 7 you wanted to pick up from the opposite direction at B5.  
 8 Do you accept that that is a possible and possibly the most  
 9 obvious route to take to the koppie from forward holding  
 10 area 1?  
 11 GENERAL NAIDOO: Chair, from the position  
 12 that I was, that was the immediate response area, it was  
 13 not the most feasible route. I deployed in terms of the  
 14 planning and the immediate response area was the identified  
 15 from where we would have been deployed.  
 16 MR CHASKALSON SC: Major-General, that  
 17 wasn't my question. My question was assume that you were  
 18 at forward holding area 1, would that be a possible route?  
 19 GENERAL NAIDOO: If I had been at  
 20 forwarding holding area 1, yes.  
 21 MR CHASKALSON SC: Let's take the second  
 22 possible route.  
 23 CHAIRPERSON: Please proceed, Mr  
 24 Chaskalson. You moved from the assumed starting point,  
 25 forwarding holding area 1.

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1 MR CHASKALSON SC: Yes.  
 2 CHAIRPERSON: The witness has conceded  
 3 that if that assumption is correct that that would be the  
 4 starting point that would have been a possible route.  
 5 You're now moving to the second assumed starting point,  
 6 what's that?  
 7 MR CHASKALSON SC: Now let's assume that  
 8 the witness's convoy was where we saw it in Lieutenant-  
 9 Colonel Vermaak's photograph that was in slide 270 which  
 10 I'm marking broadly now, which was between I – let me just  
 11 get my positions exactly right. The back of the convoy on  
 12 that slide was at the point I'm marking here which is  
 13 around about the middle of I7 and the front ran towards H7.  
 14 So let's assume your convoy was there would you accept that  
 15 from that position you could have taken the route that I  
 16 had just described?  
 17 GENERAL NAIDOO: Chair, no that was in  
 18 the opposite direction from the direction that the convoy  
 19 was pointing.  
 20 MR CHASKALSON SC: You were on a wide  
 21 gravel road. You could have just turned your convoy around  
 22 and taken it up the other route surely.  
 23 GENERAL NAIDOO: Chair, as I indicated,  
 24 in terms of where I was my assumption was the shortest  
 25 possible route was the one that we took first. When we

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1 failed to get across we turned around and we then went  
 2 around what we know as the power station.  
 3 CHAIRPERSON: But you through – turned  
 4 right at D6 roughly and you thought that that was the  
 5 shortest way. You didn't know at that time that there was  
 6 a ditch, that you'd have to make the U-turn. Is that –  
 7 GENERAL NAIDOO: Chair, as I indicated,  
 8 it was my first time to get to the immediate response area.  
 9 MR CHASKALSON SC: Major-General, I must  
 10 ask you to accept my hypotheses for this cross-examination.  
 11 We'll address whether the hypotheses is good or bad at a  
 12 later stage, but I must be able to structure my cross-  
 13 examination as I see fit. I want to put to you that there  
 14 are various aspects of your evidence that are manifestly  
 15 false.  
 16 CHAIRPERSON: Well we'll get to those  
 17 later, Mr Chaskalson –  
 18 MR CHASKALSON SC: But another one is the  
 19 suggestion of a detour around the koppie. I can't be  
 20 forced to – sorry a detour around the right-hand side of  
 21 the power station.  
 22 CHAIRPERSON: He's not forcing you to do  
 23 anything. What he's saying is – you say, you're now  
 24 dealing with the situation as to where the back of the  
 25 convoy was and where the front of the convoy was. And

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1 you're saying to him if he had turned around at that point  
 2 and gone back to forwarding holding area A then the first  
 3 point, scenario you dealt with would have applied. I  
 4 didn't understand him to quarrel with you on that. What he  
 5 says is he didn't know at the time that there was a ditch  
 6 in D6 which would necessitate a U-turn where he's already  
 7 going over the veld. So that's why he went that way and  
 8 having gone that way, instead of taking the U-turn you  
 9 suggest he should have done, having gone that way when he  
 10 discovered the ditch he had turn around. That's his  
 11 evidence, he's not forcing you to cross-examine in any way,  
 12 he's simply giving an explanation as to why he didn't take  
 13 up what one would call your second assumption, your second  
 14 suggestion he's giving his evidence on that. I don't think  
 15 you can quarrel with that.  
 16 [12:54] MR CHASKALSON SC: Alright, well, let me  
 17 take the second possible route that you could have got to  
 18 the koppie by and that involves turning right at the road  
 19 that crosses the gravel road at F7 and coming up the left  
 20 hand side of the small substation going up the following,  
 21 going straight up row, sorry, column F and picking up what  
 22 we've called the main dirt road that you would have picked  
 23 up from the other direction at block F4. Do you accept  
 24 that that was an alternative route that you may have taken  
 25 if your starting point was where I've asked you to assume

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1 it was?

2 GENERAL NAIDOO: If my starting point

3 was, possibly. As I said, it was the first time I was on

4 that scene or in that road so I was not familiar with that,

5 sir, but if it was my –

6 MR CHASKALSON SC: Sorry –

7 CHAIRPERSON: I didn't hear his answer.

8 What's your answer, Major-General?

9 GENERAL NAIDOO: Chair, I said if my

10 starting point would have been where the evidence leader is

11 indicating, that would possibly have been a possible route.

12 I did indicate I was not familiar with that terrain. I had

13 an officer who was driving me who comes from that

14 particular area so I was obviously dependent on, as he

15 drove.

16 CHAIRPERSON: Mr Chaskalson, when you get

17 to an appropriate stage, tell me and we can take the lunch

18 adjournment. I'm not necessarily stopping you now, I'm

19 just saying when it's convenient please let me know.

20 MR CHASKALSON SC: Chairperson, just in

21 relation to that I'll just put one photograph to the

22 witness in relation to the second route at F7 to show that

23 that was a route used by an entire convoy of SAPS vehicles

24 around the time that he says he was moving to immediate

25 reaction area 1.

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1 CHAIRPERSON: Show us that but you

2 remember his evidence is that he wasn't driving, he had a

3 driver from the area. He assumed the driver from the area

4 knew the best routes and he more or less accepted his

5 judgment on the point but still, I understand what you're

6 going to show us, that a convoy driven obviously by

7 somebody else used this other route. So perhaps we can

8 look at that and then take the lunch adjournment.

9 MR CHASKALSON SC: Can we go to JJJ10

10 4533 and if we can orient ourselves, I'm marking the

11 substation here, it's in the top right-hand corner of this

12 photograph. Again I'm marking the road which the Major-

13 General says he took as his first attempt, which crosses

14 the main road at the top right-hand corner of the slimes

15 dam. I'm now marking the convoy of vehicles that one sees

16 running down the middle of the road and one can see that

17 these vehicles are turning up at the point that I have

18 marked on the grid as in block – sorry, F8. If needs be we

19 can show further pictures to show that the full convoy

20 turns up on that road. This photograph is taken at ETV

21 time 15:36:24, 15:36:24. Maybe we should take the

22 adjournment at this point, Chairperson.

23 CHAIRPERSON: Do you see that, Major-

24 General?

25 GENERAL NAIDOO: I see that, Chair.

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1 CHAIRPERSON: Anyway, you can deal with

2 it when we resume.

3 GENERAL NAIDOO: When we resume we will –

4 CHAIRPERSON: In an hour's time. We're

5 taking an hour lunch adjournment today.

6 GENERAL NAIDOO: Okay, Chair.

7 CHAIRPERSON: We will now adjourn.

8 [COMMISSION ADJOURNS COMMISSION RESUMES]

9 [14:06] CHAIRPERSON: The Commission resumes.

10 Major-General, you're still under oath.

11 GENERAL NAIDOO: Still under oath, Chair.

12 CHAIRPERSON: Mr Chaskalson?

13 GENERAL NAIDOO: s.u.o.

14 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):

15 Thank you, Chairperson. When we left before lunch we were

16 looking at JJJ10 4533 which showed a convoy turning up at a

17 point equivalent to F8 on the grid on MMM1 on the road that

18 will take that convoy past the small substation and, Major-

19 General, I understood you to accept that this was a

20 possible route to scene 1 from the hypothetical starting

21 point that I've asked you to assume. Were you aware of

22 that route on the day?

23 GENERAL NAIDOO: Chairperson, no, I

24 wasn't aware.

25 MR CHASKALSON SC: I'd like to show you

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1 two or three photographs around JJJ10 4533 if we can start

2 first with JJJ10 4532, it's the preceding photograph.

3 That's a photograph of your convoy at its starting point

4 next to forward holding area 1, would you accept that?

5 GENERAL NAIDOO: Correct, Chair.

6 MR CHASKALSON SC: Now, the time of that

7 photograph is 15, ETV time 15:35:06 which is 12 seconds

8 before we saw the next photograph which we have just looked

9 at, 4533, of the convoy turning off the road a couple of

10 hundred metres ahead of you. If we can –

11 CHAIRPERSON: Oh, I see, let me just be

12 clear. The convoy we saw in the previous slide, that was

13 not the witness's convoy, it was another convoy.

14 MR CHASKALSON SC: Not the Major-

15 General's convoy, it was a separate convoy.

16 CHAIRPERSON: But this photograph

17 indicates, you say, that his convoy was not very far away

18 from that convoy at the time it turned into the road that

19 we saw.

20 MR CHASKALSON SC: Indeed and it was

21 facing in the direction of the convoy that turned into the

22 road. Would you accept that?

23 GENERAL NAIDOO: Chair, I'm not sure what

24 should I accept?

25 MR CHASKALSON SC: That your convoy was a

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1 relatively short distance away from the other convoy that  
 2 we just saw turning off at F8 and was facing that convoy?  
 3 GENERAL NAIDOO: Chair, no, I did not see  
 4 an oncoming convoy although there was traffic coming in  
 5 front. I don't remember seeing an oncoming convoy of  
 6 police vehicles.  
 7 MR CHASKALSON SC: Well, then let's go  
 8 forward to 4533 again so that we can get the full sequence  
 9 of the time line.  
 10 CHAIRPERSON: Mr Chaskalson, are you  
 11 suggesting that the convoy we see turning into this road  
 12 and moving across from left to right on the slide was a  
 13 convoy of police vehicles or other vehicles?  
 14 MR CHASKALSON SC: Yes, Chairperson, I'm  
 15 suggesting that it was a convoy of police vehicles and we  
 16 can follow it a little later. Maybe if we zoom in it will  
 17 be evident that we're dealing with police vehicles. Were  
 18 you aware of any convoys of these sorts of vehicles other  
 19 than police vehicles operating on the day?  
 20 GENERAL NAIDOO: Chair, there was normal  
 21 traffic, police vehicles as well as private vehicles and  
 22 trucks on the road, yes. In fact the traffic was quite  
 23 constant.  
 24 CHAIRPERSON: The vehicle we see which is  
 25 the, it looks like the head of the convoy which has already

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1 turned and is proceeding from left to right on the slide,  
 2 can you identify that as a police vehicle from the  
 3 markings? It's not very clear to me but you would look  
 4 with the eyes of a policeman, I look with the eyes of a  
 5 retired legal man.  
 6 GENERAL NAIDOO: Chair, no, I would not  
 7 be able to specifically say that that is a police vehicle  
 8 because normally the police vehicles will have police  
 9 markings on it but I can't say strictly that it is not a  
 10 police vehicle as there were a few police vehicles that  
 11 were not marked.  
 12 MR CHASKALSON SC: Well, let's go to the  
 13 next photograph which is your, we've been to your 4533  
 14 which is –  
 15 CHAIRPERSON: 4533 is the one we've just  
 16 looked at, so we're now going to look at the next one?  
 17 MR CHASKALSON SC: Sorry, then 4534 –  
 18 CHAIRPERSON: Yes, alright, let's look at  
 19 that.  
 20 MR CHASKALSON SC: Which is 12 seconds  
 21 later, shows your convoy still in the same position and if  
 22 we zoom in, in the area above the small substation which is  
 23 roughly 15% of the way down the screen, one can see that  
 24 the convoy that we previously saw has now proceeded up that  
 25 road at F8. Do you accept that?

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1 GENERAL NAIDOO: I accept that there's  
 2 vehicles there but in terms of the line of sight, no, we  
 3 did not see that convoy going in, Chair.  
 4 MR CHASKALSON SC: You didn't see that.  
 5 GENERAL NAIDOO: That's correct, Chair, I  
 6 didn't see that convoy going in.  
 7 MR SEMENYA SC: Chair, can I get clarity  
 8 on what basis Mr Chaskalson says it's the same convoy.  
 9 MR CHASKALSON SC: Chairperson, it's a  
 10 minute later on this photograph and there's no other –  
 11 CHAIRPERSON: I thought you said 12  
 12 seconds.  
 13 MR CHASKALSON SC: Sorry, 12 seconds. It  
 14 was a minute, the minute was the gap between the previous  
 15 photograph and this one.  
 16 CHAIRPERSON: That sounds like a  
 17 satisfactory basis if you say it's 12 seconds, I'm not sure  
 18 about a minute but 12 seconds would be okay.  
 19 MR CHASKALSON SC: The ETV time of this  
 20 convoy, of this photograph 4534 is 15:36:18. And if we can  
 21 just follow the route of that convoy on 4535 which will be  
 22 ETV 15:36:24, another six seconds later, we'll see them  
 23 picking up. Is this 4535? I think it's –  
 24 CHAIRPERSON: - what the computer says.  
 25 MR CHASKALSON SC: Yes, it is. Sorry,

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1 can one zoom out and zoom back a bit? And one sees the  
 2 main road running past Nkaneng, which I'm marking now in  
 3 the top right-hand corner. In fact let's zoom out the  
 4 whole way so that we can describe it with reference to the  
 5 picture as it will be seen on the record. That that I'm  
 6 marking now in the top right-hand, well, just left of  
 7 centre at the top of the screen moving all the way down to  
 8 the right hand side of the screen is the main road running  
 9 alongside Nkaneng. The convoy which I'm marking now, which  
 10 is just below the top of the screen on a road, gosh, maybe  
 11 5% down the photograph, is heading towards that road which  
 12 in turn will head to the koppie if one were to follow the  
 13 trajectory of that road through the edge of the photograph.  
 14 Can we go to the next photograph which is 4537 and that,  
 15 will you accept, is your convoy still in its starting  
 16 position next to forward holding area 1.  
 17 GENERAL NAIDOO: Chair, it looks like my  
 18 convoy.  
 19 MR CHASKALSON SC: And for the record,  
 20 the time of that is 15:36:50, that's 26 seconds after we  
 21 saw the last photograph.  
 22 CHAIRPERSON: Do I understand the  
 23 vehicles in your convoy are stationary? Is that suggested?  
 24 GENERAL NAIDOO: Chair, as I indicated,  
 25 we initially formed up, we were stationary, we moved

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1 forward until everybody was in and then we slowly moved  
 2 forward until what was the immediate response area where we  
 3 waited.  
 4 CHAIRPERSON: Yes, I understand. What I  
 5 want to know is on this slide, is this a slide of your  
 6 vehicles stationary or is this a slide of them moving  
 7 forward or can't you –  
 8 GENERAL NAIDOO: I am not sure. It could  
 9 be moving forward because I see there's a gap between some  
 10 of the vehicles as well, but I could not say.  
 11 MR CHASKALSON SC: Maybe the easiest way  
 12 of comparing it, Chairperson, is to look at the start and  
 13 end point of the convoy and we'll see that there's no  
 14 material difference between the convoy in this position at  
 15 15:36:50 and in its starting position at 15:35:06. So if  
 16 we look at the starting point of the convoy here, I'm  
 17 marking the front white vehicle in the convoy, and we can  
 18 measure it as just past this concrete silo looking, silo-  
 19 like structure, if we go back to 4532 – can we zoom back  
 20 out – we see the silo structure and the front vehicle of  
 21 the convoy in essentially the same position at 15:35:06,  
 22 which was one minute and 44 seconds before the picture that  
 23 we have just seen.  
 24 CHAIRPERSON: So it does seem, Major-  
 25 General, that it is, these vehicles are stationary on the

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1 slide we're looking at.  
 2 GENERAL NAIDOO: It could be, Chair.  
 3 CHAIRPERSON: Ja.  
 4 MR CHASKALSON SC: The next possible  
 5 route to scene 1 from my hypothetical starting point is the  
 6 road, if we can call up MMM1, the road that leads the main  
 7 gravel road in block E8 just close to the line dividing E8  
 8 and F8 and then moves towards the substation and then picks  
 9 up the road that we've already been looking at, which will  
 10 then run through towards Nkaneng at F8 and across towards  
 11 scene 1. Do you accept that that is a route that you could  
 12 have used to get to scene 1 from my hypothetical starting  
 13 point?  
 14 GENERAL NAIDOO: Chair, based on the  
 15 hypothetical, however I must indicate this exhibit MMM1 was  
 16 a map that we had in our possession and is quite – there is  
 17 no clear indication of roads, as you could see, because as  
 18 I already indicated I was not the driver of the vehicle and  
 19 the driver was somebody given to me from Rustenburg who was  
 20 supposed to be familiar with the area and I obviously  
 21 indicated to him this is where we have, want to be, and  
 22 this is how we're going to work. So I would take it, what  
 23 the evidence leader is saying, hypothetically as being a  
 24 possible road. I am not familiar with that.  
 25 MR CHASKALSON SC: Well, I can show you

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1 photographs of other vehicles using that road on the day.  
 2 We'll get to those in a minute but I first want to take you  
 3 up on your previous answer about your not being the driver.  
 4 Would you agree that in terms of your posting at forward  
 5 holding area 1, the most important function that you would  
 6 possibly have to perform in the course of the operation was  
 7 the function of getting medical assistance to injured  
 8 victims or injured parties in the course of the operation.  
 9 GENERAL NAIDOO: Chair, I would say it's  
 10 one of the responsibilities, yes.  
 11 MR CHASKALSON SC: Well, I want you – in  
 12 terms of the range of responsibilities that you might  
 13 possibly have to exercise, I want to put to you that that  
 14 was the most important one.  
 15 GENERAL NAIDOO: Chair, I'm not sure how  
 16 we arrive at which is more important than the others. I am  
 17 indicating it is important, just as it was important to  
 18 deploy members for a particular incident. So I'm conceding  
 19 it is important, I wouldn't say it was most important or  
 20 the least important.  
 21 MR CHASKALSON SC: But Major-General,  
 22 when we went to your evidence earlier about why it was so  
 23 important for you to get the medics to scene 1, you  
 24 conceded that – or you didn't concede, you actively  
 25 testified that because of the particular duties in respect

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1 of medical treatment, everything else had to be  
 2 subordinated and geared towards the need for getting  
 3 medical personnel to scene 1. That's why you sent the dog  
 4 squad in to koppie 3. Do you recall that?  
 5 GENERAL NAIDOO: I recall saying it was  
 6 very, it was crucial that I get the medical personnel to  
 7 the scene of shooting, Chair.  
 8 CHAIRPERSON: That duty was involved with  
 9 the preservation, possible preservation of life. Now other  
 10 duties that you, the other functions you had to perform in  
 11 your capacity as commander of the forward holding area 1,  
 12 did any of those involve preservation of life in the same  
 13 way, possible preservation of life?  
 14 GENERAL NAIDOO: Chair, yes, the  
 15 deployment of the tactical teams, if they were under attack  
 16 or searching for people that could possibly be injured in  
 17 the bushes, the mounted unit, those are also linked to  
 18 preservation of life.  
 19 MR CHASKALSON SC: I can understand your  
 20 answer to a certain degree in respect of the tactical units  
 21 but of course by 1 o'clock on the 16th that was no longer  
 22 your function, they had already been moved away from your  
 23 jurisdiction up to the scene. Do you accept that?  
 24 GENERAL NAIDOO: The other tactical  
 25 units, only the canine and the mounted remained in holding,



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1 yes, Chair.

2 MR CHASKALSON SC: Sorry, do you describe

3 the canine and the mounted as tactical units?

4 GENERAL NAIDOO: They also are tactical

5 units, Chair.

6 MR CHASKALSON SC: And how, in the

7 context of this operation, were the canine or the mounted

8 units going to be involved in the preservation of life?

9 GENERAL NAIDOO: Chair, as I indicated,

10 the canine as well as the mounted units were going to be

11 used to sweep the area to find injured, wounded people that

12 may be lying where, in the bush and in the veld, also to

13 find weapons, et cetera. So the issue of finding people

14 that may be injured or lying in the veld I think also

15 relates to the preservation of life because it's some of

16 the functions that the dog, canine specifically does,

17 search and rescue.

18 CHAIRPERSON: Somewhere here in the

19 audience has got his or her headphones off. They're on the

20 bench. We can hear the voice coming from them, it's a bit

21 disturbing. So I'd be grateful if that person would either

22 turn the headphones off or put them on his or her ears so

23 we can't hear them. We still hear it. It sounds a bit

24 better. Maybe there's nothing to interpret. No, I can

25 still hear it. Please, who is it? Alright, well, carry on

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1 and get it sorted. I think the lady concerned is being

2 assisted to make sure we haven't got a problem. Alright,

3 you can proceed, Mr Chaskalson.

4 MR CHASKALSON SC: Well, whether it was

5 getting the medics to the scene or getting the dog squad to

6 the scene, was it not important for you as the commander

7 who had that responsibility to know which route you were

8 going to take, which was the best route, which route would

9 work, which route wouldn't work, what your range of routes

10 was?

11 GENERAL NAIDOO: Chair, I think I've

12 already testified that personally I was not familiar with

13 the terrain, which is why I had engaged the services of a

14 driver who came from the area. I indicated to the driver

15 where we had to be in terms of the briefing that we had and

16 the driver then took us and led us to the various places.

17 So I worked on the basis that I had somebody who was

18 knowledgeable with the terrain and could take us to where

19 we were required, based on the exhibit MMM1 which each

20 section commander had received at the briefing.

21 MR CHASKALSON SC: So you yourself did no

22 reconnaissance of the area with a view to working out how

23 you were going to get medics or the dog squad to the place

24 that you had to get them to?

25 [14:26] GENERAL NAIDOO: No as far as I know

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1 nobody had the opportunity to do reconnaissance. We were

2 deployed where we were deployed.

3 MR CHASKALSON SC: And from that answer I

4 gather that you didn't task anyone with the job of

5 reconnaissance.

6 GENERAL NAIDOO: Chair, as my driver had

7 indicated he's familiar with the area and he knew what was

8 expected, I did not see the need for further

9 reconnaissance.

10 MR CHASKALSON SC: And did your driver

11 know the details of the operation?

12 GENERAL NAIDOO: Chair, he's a

13 lieutenant-colonel and at 1:30 he was, sorry at 14:30 he

14 was with us when Colonel Scott gave us the briefing and

15 handed these maps over to us.

16 MR CHASKALSON SC: So he knew where the

17 operation was going to take place and you trusted him to

18 pick the best route to get there.

19 GENERAL NAIDOO: That is correct, Chair.

20 MR CHASKALSON SC: Who is the lieutenant-

21 colonel who was your driver?

22 GENERAL NAIDOO: Lieutenant-Colonel

23 Tongwane of the mounted unit of Rustenburg.

24 MR CHASKALSON SC: Let's get back to the

25 hypothetical routes or not the hypothetical routes, the

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1 routes on the basis of my hypotheses. We've already

2 discussed three routes, there is a fourth route that I want

3 to put to you which is a route which takes at starting

4 point, the starting point that you had which is just before

5 the, or that you say that you had which is just before

6 immediate reaction area 1 in block C7. There is also a

7 road and I put it to you it's actually a better quality

8 road than the one that you ultimately chose, that runs

9 diagonally from immediate reaction – from C7 into D6.

10 Sorry from C7 across D7 – I need to look at a better – if I

11 can speak to it from my map which has definite resolution.

12 It goes C7, sorry C8 is where it starts, D7 then through to

13 E7 and then cuts the corner of F7 before going into F8 and

14 joining up with the road that we've just been looking at.

15 So if we run it back from F8, cutting the corner of F where

16 I am marking it now, running it through down to E7 across –

17 sorry I'm struggling with the marker because I don't have

18 resolution. Maybe if I can –

19 CHAIRPERSON: As far as I can see it runs

20 from, am I correct? It runs from the middle of the line

21 between 6 and 5 in the F column. Is that correct? And

22 then it goes across to E6, is that right? And then goes

23 down to D7 and hits the road there?

24 MR CHASKALSON SC: No, Chair, it joins up

25 the other road where you stated in the middle of F6, it

<p style="text-align: right;">Page 23118</p> <p>1 then cuts the corner at the bottom of F6 running into F7.  2 So it cuts the corner of F7, the top corner there at 7. It  3 comes down into E7 –  4 CHAIRPERSON: And then hits the road in  5 E7, is that right?  6 MR CHASKALSON SC: No it carries on  7 across to D7 cutting the corner at the top of D8 before  8 hitting at the road at the same point as the – no, no hang  9 on. I have the wrong grid which might explain –  10 CHAIRPERSON: Everything.  11 MR CHASKALSON SC: It might explain  12 everything which is very disconcerting. Yes, no that would  13 explain why. Let's start again. E7 is where the road  14 turns off the main road, sorry C7, cuts up cutting the  15 corner of D7, goes across E6 and then cuts the corner of F6  16 before joining the road in F5 and carrying on to Nkaneng.  17 COMMISSIONER HEMRAJ: Would it help if  18 someone could plot all these various routes for you in  19 colour on one of these maps, Mr Chaskalson? They'd be so  20 clearer to us then.  21 MR CHASKALSON SC: I have a slide which  22 does that, so maybe what I should do is copy that to – I  23 can copy that right now if the memory stick comes down and  24 we can then show it up and introduce it as an exhibit. Can  25 someone just give me a memory stick to –</p>	<p style="text-align: right;">Page 23120</p> <p>1 that is shorter. Alternative shorter routes to scene 1.  2 MR CHASKALSON SC: Yes.  3 CHAIRPERSON: All right, so MMM5 will be  4 a grid map indicating alternative shorter routes to scene  5 1.  6 COMMISSIONER HEMRAJ: General, was it  7 intended that the convoy should come out on the police side  8 of the barbed wire?  9 GENERAL NAIDOO: That was the intention.  10 COMMISSIONER HEMRAJ: Thank you.  11 MR CHASKALSON SC: That then brings me to  12 my next question. Commissioner Hemraj's question to you  13 brings me to my next question. Could you indicate to me  14 how you proposed to get to the police side of the barbed  15 wire on the route that you were taking? Can you describe  16 it to me and I will point it as we go.  17 GENERAL NAIDOO: Chair, I think as I  18 already indicated, I indicated the driver to get us there.  19 What was in his mind about going around it etcetera I won't  20 be able to testify. I was under the impression he was  21 taking us on the shortest possible route to behind the  22 police barbed wire.  23 CHAIRPERSON: Perhaps a question that  24 flows from that is did you convey to him that you wanted to  25 end up on the police side of the barbed wire? Or did you</p>
<p style="text-align: right;">Page 23119</p> <p>1 CHAIRPERSON: How long is this exercise  2 going to take?  3 MR CHASKALSON SC: It will take a minute.  4 CHAIRPERSON: I see, all right. Anyway I  5 think it's clear where we are. You're showing a number of  6 alternate routes which you say the witness could have taken  7 to have got to scene 1. He says, as I understand him, he  8 doesn't deny that that may well be so, but he put himself  9 in the hands of a local driver who he understand has local  10 knowledge. And therefore he didn't concern himself with  11 the question there were other, quicker, shorter routes to  12 scene 1 than the one he was being taken on. I think that's  13 the summary of his evidence.  14 MR CHASKALSON SC: Thank you, Chair, if I  15 can just quickly save this and then – what is our current  16 exhibit, is it MMM –  17 CHAIRPERSON: MMM4 would be telephone  18 calls taken from the witness's mobile telephone from 14 to  19 16 August. So now we're going to have MMM5 are we? And  20 what would that be, a map indicating – a grid map –  21 MR CHASKALSON SC: A grid map indicating  22 alternative to scene 1. Not necessarily shorter, well  23 shorter than the one that was ultimately chosen. Yes well  24 it can be called shorter, shorter than the one that was –  25 CHAIRPERSON: The whole point is though</p>	<p style="text-align: right;">Page 23121</p> <p>1 say just take me to scene 1, of course you didn't call it  2 that, you would have called it something else, take me to  3 the place where the shooting's happening as quickly as you  4 can?  5 GENERAL NAIDOO: That's correct.  6 CHAIRPERSON: Without saying which side  7 of the barbed are you going to go?  8 GENERAL NAIDOO: Well I indicated, as I  9 indicated, the plan was, or in terms of the original  10 briefing the K9 unit would never have been in any area  11 where there have been large crowds. We do not use the K9  12 unit for crowd management. The K9 unit was supposed to  13 sweep from behind –  14 CHAIRPERSON: Okay, I understand the  15 reasoning for wanting to be on the police side of the  16 barbed wire, I'm busy with a different point. And that is  17 did you communicate to the lieutenant-colonel who was your  18 chauffer that you wanted to be on the police side of the  19 barbed wire?  20 GENERAL NAIDOO: I didn't say  21 specifically the police side, I said let us go to the  22 scene.  23 MR CHASKALSON SC: Because let me tell  24 the difficulty with the route that you chose. If we follow  25 this route you pick up the main road at the point that I'm</p>

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1 marking now which is B5. This is the main dirt road to get  
2 you to Nkaneng. Now if you follow this road you're going  
3 to straight into the police barbed wire. You can't get  
4 around the police barbed wire because it runs – well  
5 firstly it runs straight the road and secondly it runs all  
6 the way down to the power station over there. So how was  
7 your route going to work?

8 GENERAL NAIDOO: Chair, as I indicated,  
9 what my requested to the driver was as to what his thinking  
10 was, I can't testify. I, at that stage, assumed that I was  
11 being taken to where the incident had occurred so that we  
12 can render services that were required. So in going there  
13 he did indicate that there was a better road, in his terms,  
14 that comes along there. So I suppose which is why he took,  
15 but I can't speculate onto that.

16 MR CHASKALSON SC: You see the first  
17 road, or in fact all of the options that we discussed thus  
18 far including the one that you say you tried first, would  
19 get you on the police side of the barbed wire. The one  
20 that you chose would get you on the wrong side of the  
21 barbed wire. It wouldn't take you to the scene. Is that  
22 your driver's mistake, not yours?

23 GENERAL NAIDOO: Chair, it would appear,  
24 as I indicated, I can't testify in terms of what was in his  
25 mind other than indicating he felt there was a better road

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1 –

2 CHAIRPERSON: - but perhaps you should  
3 show it to the witness just to make sure that he agrees  
4 with it and save time in the end. Perhaps he could  
5 describe it to us or you can, I don't know which is better.  
6 That will give us six routes then, so you'll have to think  
7 of another colour indicating his one.

8 MR CHASKALSON SC: Yes, Chairperson,  
9 that's something that we can sort after the Commission  
10 today. Now Major-General, you just trusted your driver on  
11 this one, but I want to put to that in respect of this  
12 particular problem with the route, that was such a basic  
13 problem that even you, with very little knowledge of local  
14 terrain ought to have been alert to it. What's your  
15 response to that?

16 GENERAL NAIDOO: Chair, as I indicated,  
17 our experience of the first attempt at getting to scene 1,  
18 what it was and as we drove back we then obviously took the  
19 route that the driver felt was the best route. I already  
20 indicated I had no, I was not familiar with the terrain and  
21 would be the routes that were indicated.

22 MR CHASKALSON SC: It's not only an issue  
23 of the routes that were indicated, Major-General, you had  
24 the grid map, correct?

25 GENERAL NAIDOO: That is correct.

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1 after our last attempt where we could not go beyond a  
2 particular point.

3 CHAIRPERSON: Sorry to interrupt you, Mr  
4 Chaskalson, need to do a bit of housekeeping. We now have  
5 on the screen what I take it is exhibit MMM5. It's the  
6 slide that we were looking at which is MMM1 but it's now  
7 got some roots on it, it looks five roots, blue arrows,  
8 green arrows, red arrows, purple arrows and yellow arrows.  
9 Is that right?

10 MR CHASKALSON SC: That's correct,  
11 Chairperson. I must emphasise that the grid lines on this  
12 document are not necessarily, in fact I don't think are the  
13 same as the grid lines on the other document because –

14 CHAIRPERSON: I don't think it really  
15 matters, it indicates what the routes are, not the route  
16 which was taken by the witness and he says there's a reason  
17 why he didn't go that route. Now you haven't indicated on  
18 this the route that he did follow, but we can follow it  
19 quite clearly from what you have said and it lands up on,  
20 as you say, the wrong side of the barbed wire, unlike the  
21 five coloured ones to which I've referred. We'll print it  
22 out and we'll get copies of the exhibit in due course. Is  
23 that right?

24 MR CHASKALSON SC: Yes, Chairperson, if  
25 it would assist I can just mark the route actually taken by

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1 MR CHASKALSON SC: You knew where the  
2 barbed wire was going to be thrown.

3 GENERAL NAIDOO: That is correct.

4 MR CHASKALSON SC: Now how did you  
5 propose to get around the barbed into the safe zone by  
6 going around the west side of the power station? How could  
7 you not have seen that that would have been a problem.

8 GENERAL NAIDOO: Chair, I think at that  
9 stage the instruction that I gave and that was being  
10 executed was to get us to the scene. So in terms of the  
11 route yes it would appear that we would be on the wrong  
12 side of the barbed wire and as I indicated my understanding  
13 was we would come behind the koppie which is koppie 1.

14 MR CHASKALSON SC: When you say behind  
15 the koppie, we've discussed this earlier, it's along row 5.  
16 Is that what you're suggesting?

17 GENERAL NAIDOO: That's correct, Chair.

18 MR CHASKALSON SC: If your understanding  
19 was that you were then going to come behind the koppie on  
20 what is row 5 on this exhibit MMM5 how did you think you  
21 would ever get across the barbed wire, or did that not  
22 cross your mind?

23 GENERAL NAIDOO: At that stage no, Chair.

24 MR CHASKALSON SC: So it didn't cross  
25 your mind.

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1 GENERAL NAIDOO: The barbed wire was not  
 2 a factor that I was focusing on at that stage, Chair.  
 3 MR CHASKALSON SC: Why not?  
 4 GENERAL NAIDOO: Chair, after the  
 5 disruption of our first attempt to get to scene 1 obviously  
 6 we were now concerned and trying to get to the scene as  
 7 soon as possible. So we made that a priority and as I said  
 8 that possibly disrupted my thoughts or thinking at that  
 9 time when I asked the driver to please get us there as soon  
 10 as possible.  
 11 MR CHASKALSON SC: But Major-General the  
 12 barbed wire was the centre piece of this plan, it's purpose  
 13 was to divide the terrain into a safe zone where the police  
 14 and support services and civilians would be safe. And an  
 15 action zone where there would be a high risk of conflict.  
 16 Do you accept that?  
 17 GENERAL NAIDOO: That is true.  
 18 MR CHASKALSON SC: And if there was one  
 19 thing that must have been communicated to you at the  
 20 briefing it was what the purpose of the barbed wire was and  
 21 where it was going to be.  
 22 GENERAL NAIDOO: Chair, yes the purpose  
 23 of the barbed wire was given to me as to protect the police  
 24 units if the crowd had decided to run through police lines.  
 25 MR CHASKALSON SC: So in those

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1 circumstances it seems to me a fairly major mistake not to  
 2 account of where the barbed wire is when you're ostensibly  
 3 bringing medical assistance to victims at scene 1.  
 4 GENERAL NAIDOO: Chair, actually based on  
 5 it, we thought we would be able to breach the barbed wire  
 6 at the power station, but as I said it was never something  
 7 that we gave thought to at that stage. But my impression  
 8 was we could pass between the power station and the barbed  
 9 wire where it started.  
 10 MR CHASKALSON SC: Well, Major-General,  
 11 that's at odds with your earlier answer that you didn't  
 12 give any attention to the barbed wire, do you accept that?  
 13 GENERAL NAIDOO: Chair, I did indicate  
 14 that we did not give that priority thought.  
 15 MR CHASKALSON SC: There's another  
 16 problem which is – firstly factually you couldn't breach  
 17 the barbed wire at the power station. On what basis did  
 18 you think that you could?  
 19 GENERAL NAIDOO: Chair, all it would have  
 20 required was the base of the barbed wire plate to be pulled  
 21 out of the way by a vehicle. It was possible to be done by  
 22 hand. The barbed wire plate falls and holds the wire in  
 23 place while it rolls out. It's not something that stands  
 24 and it's not attached to the power station as such.  
 25 MR CHASKALSON SC: I don't understand

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1 that to be the evidence we were giving in relation to the  
 2 roll out of the barbed wire. In fact one of the reasons  
 3 why it takes so long, we were told, is that you have to  
 4 physically attach the barbed wire A frame to the Nyala  
 5 behind it in the case of Nyala and I would assume to the  
 6 power station fence in the case of the power station fence.  
 7 Does that ring true for you?  
 8 GENERAL NAIDOO: Chair, no I was not  
 9 talking about the roll out of the barbed wire. What I  
 10 indicated was the A frame normally dropped backwards and it  
 11 forms an anchor.  
 12 [14:46] I did not, and I still have not seen what the  
 13 status was there. I indicated one of the possible options  
 14 when I was asked did we ever consider the fact that the  
 15 barbed wire was there.  
 16 CHAIRPERSON: Mr Chaskalson, just to get  
 17 a bit of housekeeping out of the way. Am I correct in  
 18 saying that the yellow arrows indicate, what you say is a  
 19 possible route, but what the witness says, if I understand  
 20 him correctly, that is the route he was trying to take.  
 21 But he encountered a ditch somewhere. I think it's in D7  
 22 is it. And that's why he had to do a U turn so that he  
 23 was in fact following that route, if I understand him  
 24 correctly, but he stopped and did a U turn because of this  
 25 ditch which we can't see from the photograph. Is that

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1 correct, Major- General?  
 2 GENERAL NAIDOO: That was my reasons,  
 3 Chair.  
 4 CHAIRPERSON: Alright, so that the  
 5 housekeeping cleared up as far as the yellow route is  
 6 concerned. But in relation to your existing evidence, the  
 7 point you are dealing with at the moment, I mean, the  
 8 trouble was all taking place on the – or thought to be  
 9 taking place on the western side, really, of the barbed  
 10 wire fence, is that right? That's where you thought the  
 11 people would be who would have to be dispersed. That's  
 12 where you thought that the strikers would be, is that  
 13 correct?  
 14 GENERAL NAIDOO: That is correct, Chair.  
 15 CHAIRPERSON: Now, wouldn't it have been  
 16 a bit of a risky business if you didn't know what could  
 17 happen to them, whether they had all moved on and so on.  
 18 If some of them were congregating around the place where  
 19 the barbed wire fence began next to the power station, it  
 20 might have been quite a risky business story to have got  
 21 your men out of the vehicles to move the barbed wire away.  
 22 You were after all in soft vehicles, weren't you?  
 23 GENERAL NAIDOO: Chair, that is correct,  
 24 which is why I indicated in my original evidence that when  
 25 we came around to what is indicated on the map, around A,

1 ja A5 we stopped to make an assessment of what the  
 2 situation was. There were no strikers in sight to our  
 3 right, or in the easterly direction. I did indicate we saw  
 4 dispersing strikers on our left, moving in a westerly  
 5 direction. So on face value before we proceeded we did not  
 6 see any crowds. What we did see, number 1, was a line of  
 7 NIU that was doing a sweep which indicated to us that they  
 8 were at the rear end of the crowd. Because in terms of the  
 9 planning the tactical units would sweep behind the public  
 10 order police line.

11 And number 2, other than that there was no, on  
 12 the terrain there was nothing to suggest that there will be  
 13 crowds there. However I further indicated that one of the  
 14 sources of concern for me was the fact of the gunfire which  
 15 is why I did not deploy. Otherwise we would not have taken  
 16 up a patrol sweeping position along that road, we would  
 17 have proceeded straight with our vehicles to behind koppie  
 18 1. Because it was, the NIU was already passed koppie 1.

19 CHAIRPERSON: I want to ask you a bit  
 20 more about that but I have been asked to take an  
 21 adjournment at ten to 3. We will take the tea adjournment  
 22 now and we resume at five past 3.

23 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 24 [15:13] CHAIRPERSON: The Commission resumes. We  
 25 have from time to time received requests for something to

1 be done about the fact that parts of the transcript is in  
 2 Afrikaans where the witness testified in Afrikaans and  
 3 certain of those taking part who are not able to understand  
 4 Afrikaans have had difficulty. I'm happy to be able to  
 5 report that a service provider has been obtained who is  
 6 responsible for translating the Afrikaans sections of the  
 7 record into English and these translations are already  
 8 being put on the website. So those who have difficulties  
 9 in that regard will I hope, find what they require on the  
 10 website. If there are any suggestions people wish to make  
 11 in regard to the translation then obviously we would be  
 12 very happy to receive them, but I thought I should report  
 13 that because I do know that it has been a source of  
 14 difficulty to some of those who are participating. That's  
 15 not a problem in relation to Major-General, you're still  
 16 under oath to continue with your evidence in English. Mr  
 17 Chaskalson will continue with his cross-examination in the  
 18 same language.

19 GENERAL NAIDOO: Thank you, Chair.

20 MR CHASKALSON SC: Thank you,  
 21 Chairperson. I just briefly want to go back to the route  
 22 that you chose, we discussed the problem with the barbed  
 23 wire. You said that you thought that it would be possible  
 24 to get round the barbed wire by going to the fence of the  
 25 substation and removing the A-frame, if I understood it and

1 creating an opening there. Did I understand you correctly?  
 2 GENERAL NAIDOO: Chair, I think I  
 3 indicated at that stage when we were taking the route the  
 4 consideration of which side of the barbed wire we were  
 5 going to end up with was not something that I talk about, I  
 6 have testified to that. Then there were questions posed as  
 7 to how would I possibly deal with that and I put  
 8 possibilities that we could have moved the barbed wire but  
 9 I think I clearly indicated at the time when we took the  
 10 route, that was not the consideration as to get to the  
 11 scene of the shooting.

12 MR CHASKALSON SC: Sorry, I'm not sure I  
 13 understand that answer, Major-General, are you saying now  
 14 that at the time that you took the route you really hadn't  
 15 given any thought to where the barbed wire was and if you  
 16 had banged into the barbed wire it would have come as a  
 17 surprise to you.

18 MR SEMENYA SC: Chair, that is not what  
 19 the witness is saying now. He said it even earlier.

20 MR CHASKALSON SC: Yes, but then he  
 21 started giving an explanation of how he thought he might  
 22 have got around the barbed wire, I just need to clarify  
 23 what his state of mind was, if it was, he hadn't given any  
 24 thought to the barbed wire at all then we can leave it  
 25 there. If it was, hadn't really thought about the barbed

1 wire but thought that if we had any difficulties with the  
 2 barbed wire, to get around at the power station, then we  
 3 need to explore it further. So, Major-General, which is  
 4 it?

5 GENERAL NAIDOO: Chair, as I indicated  
 6 even earlier that I clearly indicated to the driver where  
 7 we wanted to go. The driver was taking us there. The  
 8 reason that it was not a consideration that I applied my  
 9 mind on at that stage, because my understanding was the  
 10 driver was taking us to the scene, obviously after we came,  
 11 after we did come around that might have been a  
 12 consideration had we got to the barbed wire. We had not  
 13 yet got to the barbed wire, so I was working from the  
 14 premise that the driver was taking us to where possibly the  
 15 shooting, we were not sure exactly where the shooting had  
 16 taken place, possibly where, and that would be obviously  
 17 somewhere at the end of the barbed wire or somewhere in the  
 18 region of the barbed wire. So at that stage when we were  
 19 travelling I did not consider the barbed wire to possibly  
 20 be an impediment because the driver was obviously taking me  
 21 to where we had to go.

22 MR CHASKALSON SC: Sorry, Major-General,  
 23 there is quite a lot in that answer that I just need to  
 24 clarify. You said earlier in response to a question from  
 25 Commissioner Hemraj on which side of the barbed wire you

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1 wanted to be. You said fairly unequivocally that you  
 2 wanted to be on the police side of the barbed wire.  
 3 GENERAL NAIDOO: That is correct, in  
 4 terms of the planning and the briefing that was where we  
 5 should be.  
 6 MR CHASKALSON SC: So you stand by that  
 7 answer, when you set off, however you thought you were  
 8 going to get there, what you hoped the destination of your  
 9 journey was, was the police side of the barbed wire?  
 10 GENERAL NAIDOO: Chair, yes, I think  
 11 before we closed, broke for tea I did also indicate we were  
 12 supposed to be positioned behind the tactical units such as  
 13 the National Intervention Unit, TRT, etcetera, because  
 14 obviously the K9 sweep would have been after those units  
 15 have done their sweep.  
 16 MR CHASKALSON SC: But hang on a minute,  
 17 Brigadier, you weren't, when you were trying to get to the  
 18 koppie interested, when you were trying to get to the scene  
 19 of the –  
 20 CHAIRPERSON: No, you called him, you  
 21 demoted him again, you did it unconsciously.  
 22 MR CHASKALSON SC: Major-General, I  
 23 apologise and if I do it again I apologise in advance, it  
 24 won't be done deliberately. Major-General, when you were  
 25 thinking of getting to the safe side of the barbed wire

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1 your intention had nothing to do with the K9 sweep, if we  
 2 are to believe your earlier evidence, it had to do with  
 3 getting the medics as quickly as possible to the scene of  
 4 the shootings, is that not correct?  
 5 GENERAL NAIDOO: That is true, Chair.  
 6 MR CHASKALSON SC: Well, then why was it  
 7 relevant to know what the position of the NIU was because  
 8 the K9 was only going to have to come in behind the NIU?  
 9 Why did that enter the equation?  
 10 GENERAL NAIDOO: Chair, I could not take  
 11 the K9 into, out of the focus of the original operation in  
 12 executing the request for the emergency services. The K9  
 13 would still have to be in play in terms of the duties that  
 14 they originally had, so in asking or in going to the scene  
 15 where the shooting took place I had to keep that in mind,  
 16 that whilst I had the entire K9 with me I could not take  
 17 them out of play should they be required where there were  
 18 instances that suspects were in the bush or where they were  
 19 required to sweep a particular area if a firearm was shown.  
 20 I had to keep that in mind as well, so the intention was to  
 21 arrive at a particular point where they would have entered  
 22 anywhere had the normal dispersion taken place.  
 23 MR CHASKALSON SC: But sorry, Major-  
 24 General, we've discussed earlier the imperative of getting  
 25 medical assistance to people in need of it.

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1 GENERAL NAIDOO: We agree, yes.  
 2 MR CHASKALSON SC: Now was one of the  
 3 functions of the K9 to escort the medics to the scene where  
 4 they were needed?  
 5 GENERAL NAIDOO: Chair, as I indicated in  
 6 my evidence since Tuesday they had been performing that  
 7 task. The medics were physically in our vehicles, I had  
 8 medics in my vehicle as well, so yes, by implication I'm  
 9 indicating that we had to escort them with K9.  
 10 MR CHASKALSON SC: Now are you suggesting  
 11 to me that until the K9 had performed their other functions  
 12 in terms of the operation, the sweeping and sniffing  
 13 functions, they couldn't be used to escort medical  
 14 personnel and the medical personnel and the victims would  
 15 just have to wait until that point?  
 16 GENERAL NAIDOO: Chair, that is not what  
 17 I indicated. I already indicated that, yes, it was a  
 18 primary focus at that stage to get the medical personnel to  
 19 the scene of the shooting. I also indicated that I should  
 20 also not lose sight of the fact that I could have been  
 21 asked for some part or most of the K9 units to be deployed  
 22 in what they were originally briefed to do during this time  
 23 that we were escorting. Had I arrived where the medical  
 24 attention would have been required, I would have made an  
 25 assessment as to whether I needed any or all of the K9 to

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1 continue guarding the medics and they would have then been  
 2 available for the operation as they were briefed. So I had  
 3 to keep that in mind when I continued with my deployment.  
 4 MR CHASKALSON SC: But how would the  
 5 ordinary operational needs for the K9 affect whether you  
 6 could or couldn't take the medics to scene 1?  
 7 GENERAL NAIDOO: Chair, I nowhere  
 8 indicated that the operational requirements of the K9  
 9 affected the deployment of the medics. In fact I indicated  
 10 that we deployed the medics with the K9 as soon as it  
 11 became apparent that the services of the medics were  
 12 required. I have already testified to this.  
 13 MR CHASKALSON SC: Sorry, Major-General,  
 14 where this cross-examination is going is that it took, I  
 15 don't know if it took you, but it took SAPS an hour to get  
 16 medics to scene 1 while victims were in some cases bleeding  
 17 to death on the ground, at least in one case.  
 18 GENERAL NAIDOO: Chair, is a response  
 19 required from me?  
 20 MR CHASKALSON SC: No, no, -  
 21 CHAIRPERSON: Let him finish, he is  
 22 telling you where his cross-examination, Mr Chaskalson, he  
 23 is taking us to, he is explaining that to you first and  
 24 then he'll give you an opportunity to respond.  
 25 MR CHASKALSON SC: I'm trying to find out

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1 why it took so long? You've given us an answer that  
 2 suggests that in your decision making as to where to move  
 3 the forces under your control, including the medics, you  
 4 were having regard to the position of the NIU line which  
 5 may or may not have been relevant to where the K9 units,  
 6 were of when the K9 unit would perform their ordinary  
 7 operations, do you accept that?  
 8 GENERAL NAIDOO: No, Chair, I do not  
 9 accept that. I indicated in passing that it was a  
 10 consideration that I kept in mind should additional K9,  
 11 should the K9 be requested but what I did indicate is that  
 12 I committed the entire K9 capacity to escort the medics to  
 13 the scene of the shooting or where we thought the scene of  
 14 the shooting was.  
 15 MR CHASKALSON SC: Well, why then was the  
 16 position of the NIU line of any relevance at all to your  
 17 decision making in relation to how to get the medics to the  
 18 scene where they were needed?  
 19 GENERAL NAIDOO: Chair, I think then that  
 20 is an entirely different issue. As I indicated in my  
 21 statement, when I came around to an area approximately, if  
 22 you look at the map on the screen, approximately A5, I  
 23 indicated that on my right hand side I could see the NIU  
 24 sweeping line coming forward. That is significant in the  
 25 light of the question, I'm not sure who asked it then, was

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1 I not concerned of being confronted with the crowd? I  
 2 indicated that the positioning of the NIU gave me an  
 3 indication as to how the dispersion line was running and  
 4 that is all, because in terms of our operational procedure,  
 5 when you arrive at a particular point before going further  
 6 you do a particular assessment, looking at what is the,  
 7 firstly understand our mission was to get the medics to,  
 8 where they were required.  
 9 We had to look at the terrain, the milieu, we had  
 10 to look at what are the possible threats, all these things  
 11 and the means that we had and that is what basically  
 12 happened. We came around the power station, I made an  
 13 assessment, based on the fact that there was shooting I  
 14 decided to hold the medics there a little longer, I went  
 15 forward to the smaller group to assess why the shooting was  
 16 taking place because it would affect the deployment, the  
 17 further deployment of the medics, all this was in my  
 18 evidence. So the relevance of the NIU was merely an  
 19 indication that he told me where the dispersion was at that  
 20 particular point, responding to the fact that, did I not  
 21 foresee that I would probably run into crowds. The NIU was  
 22 one of the tactical units that was deployed to sweep behind  
 23 the public or the police units.  
 24 MR CHASKALSON SC: You see, Major-  
 25 General, my confusion was caused by the fact that you then

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1 started talking about the ordinary functions of the K9 in  
 2 operational terms as a third line behind the NIU. Are you  
 3 now suggesting that that was not at all relevant to your  
 4 decision to, in relation to how to get the medics to scene  
 5 1?  
 6 GENERAL NAIDOO: I used the NIU as an  
 7 indicator to show you in terms of our briefing how I would  
 8 understand where the deployments for the dispersion would  
 9 be. I said that I was aware that the NIU, the TRT lines  
 10 would be sweeping after the dispersion, thus I did not  
 11 foresee the possibility of meeting large volumes of crowds,  
 12 because had there been large volumes of crowds I would have  
 13 still seen the Public Order Police units in front.  
 14 MR CHASKALSON SC: Well, -  
 15 GENERAL NAIDOO: That is an indication as  
 16 to the scenario that I saw in front of me and my  
 17 understanding of how the deployment would be.  
 18 MR CHASKALSON SC: Maybe at this point it  
 19 is important to mark on this map where you were and where  
 20 you saw the NIU, but before we do that I just want to  
 21 emphasise for the record that what we're looking at is MMM5  
 22 and not MMM1 because the gridlines may not be the same, so  
 23 these annotations are on MMM5. So, Major-General, your  
 24 position if I understand you correctly when you say you saw  
 25 the NIU was sort of roughly at this corner between A and B

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1 and 5 and 6, is that correct?  
 2 COMMISSIONER TOKOTA: Sorry, Mr  
 3 Chaskalson, I just want to clarify my mind. The way I  
 4 understood him, I think he must correct me if I'm wrong, he  
 5 mentioned this question of the NIU and so on, in the  
 6 context as, when he was asked as to whether it wouldn't be  
 7 dangerous to come to this side of the barbed wire and then  
 8 he mentioned that, no, there were NIU members there,  
 9 etcetera, so it would have been protected, that's how I  
 10 understood it. He mentioned it in that context, not that  
 11 he saw them when he got there, but I want him to correct me  
 12 if I'm wrong.  
 13 GENERAL NAIDOO: Chair, that's correct as  
 14 the commissioner indicated, it gave me an indication of the  
 15 possible deployment of forces because in terms of the  
 16 planning that would give you an understanding of where the  
 17 crowd would be. The crowd, the NIU would not be deployed  
 18 directly behind the crowd because obviously they were not  
 19 there for crowd control, so as the commissioner has  
 20 indicated it gave me an indication of, in response to the  
 21 question of, was I not afraid that I would bring the K9  
 22 into contact with the crowd and I specifically indicated  
 23 that I was also aware that the K9 is not used in the crowd  
 24 management context.  
 25 MR CHASKALSON SC: But Major-General, am

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1 I misunderstanding your evidence, did you see, did you see  
 2 physically see the NIU line?  
 3 GENERAL NAIDOO: That is correct, Chair,  
 4 and I also testified to that fact.  
 5 MR CHASKALSON SC: Ja, that is what I  
 6 thought, so can we mark where you were and where you saw  
 7 that NIU line?  
 8 GENERAL NAIDOO: Chair, as I indicated  
 9 approximately around A5, the right hand side, approximately  
 10 as I said –  
 11 CHAIRPERSON: Where you were?  
 12 GENERAL NAIDOO: With the contingent of –  
 13 CHAIRPERSON: Yes, you and your  
 14 contingents were there –  
 15 GENERAL NAIDOO: K9 and –  
 16 CHAIRPERSON: A5, right hand side.  
 17 GENERAL NAIDOO: We had just come around  
 18 the power station, yes Chair.  
 19 CHAIRPERSON: Yes, and then the NIU,  
 20 where were they?  
 21 GENERAL NAIDOO: Chair, I testified as  
 22 the evidence leader indicated, the reference is not the  
 23 same, I said they were in between koppie 1 and 3, I would  
 24 say somewhere in the region of B3 on the right hand side of  
 25 that square, somewhere there. The actual distance I would

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1 not be able to swear to, but they were actually coming from  
 2 the direction, it was a long line and then they were coming  
 3 from koppie 1 and 2.  
 4 CHAIRPERSON: May I ask actually, Mr  
 5 Chaskalson, I think you suggested something else but if I  
 6 may say it, I think it would be more sensible for him to  
 7 tell us on MMM1, because when he gave evidence previously  
 8 he used MMM1 to indicate where he was and so on. So it  
 9 helps to look at the same exhibit and presumably the same  
 10 positions, so could we please have MMM1 and then you can  
 11 tell us, maybe the answer will be the same but let us just  
 12 make sure it is the same, and now we've got MMM1 up.  
 13 [15:33] Can you tell us where you were firstly and where  
 14 the NIU were at the time you're talking about?  
 15 GENERAL NAIDOO: Chair, I indicated at  
 16 that stage I was possibly in the region of, I think, B5  
 17 approximately. And then I moved in the direction of B4 to  
 18 B – ja, but I was in the region of B5 when I came around  
 19 the station. The NIU was in the region of B3, B3  
 20 plus/minus but as I indicated it was a long searching line.  
 21 CHAIRPERSON: So the NIU, a long  
 22 searching line in between koppie 1 and koppie 3.  
 23 GENERAL NAIDOO: That's correct.  
 24 CHAIRPERSON: And you'd just come round  
 25 the power station?

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1 GENERAL NAIDOO: That's correct.  
 2 CHAIRPERSON: And you were in the veld  
 3 really. Initially, was it B5, but then B4, is that right?  
 4 GENERAL NAIDOO: Yes, I moved in the  
 5 direction of B3.  
 6 CHAIRPERSON: Yes, yes, B4 and then  
 7 toward B6?  
 8 GENERAL NAIDOO: The three vehicles, yes.  
 9 CHAIRPERSON: Did you actually enter B3?  
 10 GENERAL NAIDOO: Chair, that's correct.  
 11 MR CHASKALSON SC: And Major General,  
 12 just to clarify what I'm interested in, the point at which  
 13 you first saw the NIU, if I understand you correctly, you  
 14 were in B5?  
 15 GENERAL NAIDOO: Sorry, A5 B5 yes.  
 16 MR CHASKALSON SC: A5 B5?  
 17 GENERAL NAIDOO: Somewhere there.  
 18 MR CHASKALSON SC: And the NIU at that  
 19 stage, you say were in B3?  
 20 GENERAL NAIDOO: I would say  
 21 approximately, yes. As I indicated they were in between  
 22 the two koppies, more than halfway past, yes.  
 23 MR CHASKALSON SC: And Major General, you  
 24 speak of an NIU line, can you give us an indication of the  
 25 orientation of the line relative to this grid? Was it

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1 horizontal, in other words running along the row in the  
 2 direction of the rows or was it vertical, running in the  
 3 direction of the columns?  
 4 GENERAL NAIDOO: I would say vertical  
 5 from 4 upwards to 1, that way.  
 6 MR CHASKALSON SC: And this was the NIU  
 7 on foot?  
 8 GENERAL NAIDOO: That is correct, Chair.  
 9 MR CHASKALSON SC: And that's your  
 10 recollection of how they were formed up when you first saw  
 11 them at that point when you were sort of A5 B5?  
 12 GENERAL NAIDOO: That's correct, Chair.  
 13 MR CHASKALSON SC: Now Major General,  
 14 when you saw the NIU in this vertical line were there  
 15 vehicles from the POPs dispersion action visible, I was  
 16 going to say ahead of them but let's, to the west of them,  
 17 to the left of the grid as we look at it?  
 18 GENERAL NAIDOO: Chair, as I originally  
 19 testified what I did see in front of me was a special task  
 20 force Casspir, I saw a water canon being accompanied by one  
 21 Nyala, escorted by one Nyala.  
 22 CHAIRPERSON: Where did you see them?  
 23 Can you point them out to us? I think you may done it  
 24 already but just to refresh our memories if we've done it  
 25 already? Where did you see the Casspir and the water



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1 cannon and the Nyala?  
 2 GENERAL NAIDOO: Chair, I used the other,  
 3 the photograph and –  
 4 CHAIRPERSON: Ja, but can you show us on  
 5 MMM1?  
 6 GENERAL NAIDOO: They were in B3, Chair  
 7 but some were in front of the bushes, that's why I  
 8 indicated I can't tell you specifically from this distance,  
 9 but they were in B3 at the bottom end of what we now know  
 10 as koppie 3.  
 11 CHAIRPERSON: And I'm reminded that the  
 12 actual positions is made much clearer if one looks at MMM2.  
 13 GENERAL NAIDOO: Yes.  
 14 CHAIRPERSON: Alright. Still in the same  
 15 position where they on MMM2 as they were when you saw them  
 16 first?  
 17 GENERAL NAIDOO: That's correct, Chair.  
 18 The Casspir didn't move, it was just the water cannon and  
 19 the Nyala that moved.  
 20 MR CHASKALSON SC: And the water cannon  
 21 and the Nyala were broadly in the same position as we see  
 22 the Casspir at the end of, in MMM3 or in a different  
 23 position?  
 24 GENERAL NAIDOO: Chair, as I indicated  
 25 they were moving into position and then the Casspir stopped

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1 and the Nyala and the water canon –  
 2 CHAIRPERSON: So it's MMM2.  
 3 MR CHASKALSON SC: It's MMM2, sorry  
 4 Chairperson.  
 5 CHAIRPERSON: - book.  
 6 MR CHASKALSON SC: Maybe if we can just  
 7 call up MMM2 it would be the easiest way of dealing with  
 8 this. So the Casspir is at the intersection at 4 ENF and  
 9 the, that's the SDF Casspir, and the water cannon and the  
 10 Nyala were where?  
 11 GENERAL NAIDOO: The water cannon and the  
 12 Nyala were in front of the STF Casspir. They were moving  
 13 in a westerly direction to the right of the picture.  
 14 MR CHASKALSON SC: So sort of column D-  
 15 ish, or still column E?  
 16 GENERAL NAIDOO: Chair, as I said they  
 17 were moving, even the special task force Casspir, it did  
 18 move a little before it got to that point where it stopped.  
 19 So I would just say that there were a little before, I  
 20 would not be able to say the distance at this stage.  
 21 MR CHASKALSON SC: And all of this is  
 22 what you saw before you took a decision to take your troops  
 23 or your personnel into koppie 3?  
 24 GENERAL NAIDOO: That is correct, Chair.  
 25 MR CHASKALSON SC: At the point at which

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1 you just came round the, it was the scene that confronted  
 2 you when you came round the power station?  
 3 GENERAL NAIDOO: That's correct, Chair.  
 4 MR CHASKALSON SC: Now there's another  
 5 aspect of this scene that you spent some time on in  
 6 evidence-in-chief and that was that you say you heard  
 7 automatic gunfire at this point.  
 8 GENERAL NAIDOO: That is correct, Chair.  
 9 MR CHASKALSON SC: And again I want to  
 10 just clarify time. You hear, did you hear the automatic  
 11 gunfire at or shortly after the time at which you came  
 12 round the power station?  
 13 GENERAL NAIDOO: That is correct, Chair.  
 14 CHAIRPERSON: Where was the automatic  
 15 gunfire coming from, as far as you could hear?  
 16 GENERAL NAIDOO: Chair, as I indicated it  
 17 was from my right, that's more or less in the area where I  
 18 noticed the NIU were doing their sweep.  
 19 MR CHASKALSON SC: Sorry, Major General,  
 20 so the automatic gunfire that you heard was coming from  
 21 where you saw the NIU doing their sweep which was possibly  
 22 column J, maybe even outside this MMM2?  
 23 GENERAL NAIDOO: Chair, as I indicated in  
 24 my evidence, it was on the right hand extremes of koppie 3,  
 25 or –

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1 CHAIRPERSON: It was on your right hand  
 2 side ahead of you?  
 3 GENERAL NAIDOO: Right hand side, yes.  
 4 CHAIRPERSON: Your right hand side ahead  
 5 of you?  
 6 GENERAL NAIDOO: That's right.  
 7 CHAIRPERSON: I think you indicated to us  
 8 once that on exhibit MMM2 –  
 9 GENERAL NAIDOO: That's correct.  
 10 CHAIRPERSON: We can see the remains of  
 11 the NIU line.  
 12 GENERAL NAIDOO: They were still there.  
 13 CHAIRPERSON: That's on the line between  
 14 H and I near the top?  
 15 GENERAL NAIDOO: That's correct, Chair.  
 16 CHAIRPERSON: So they were on your right  
 17 but ahead of you, is that correct?  
 18 GENERAL NAIDOO: Chair –  
 19 CHAIRPERSON: You said that. They were  
 20 on your right, ahead of you.  
 21 GENERAL NAIDOO: That's correct.  
 22 CHAIRPERSON: Ja.  
 23 GENERAL NAIDOO: Approaching koppie 3,  
 24 Chair.  
 25 MR CHASKALSON SC: But again, I just need

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1 to clarify. Maybe you can just point it out, if it is  
 2 possible to point out on this diagram, MMM2. Where did you  
 3 think the automatic gunfire was coming from?  
 4 GENERAL NAIDOO: Chair, it came from the  
 5 direction of koppie 3, the bushes on the right. As I  
 6 indicated I did observe the NIU there as well, hence I  
 7 indicated that in the direction of the NIU line.  
 8 MR CHASKALSON SC: So you feared that it  
 9 was gunfire directed in the direction of the NIU line, you  
 10 didn't think it was coming from the NIU line?  
 11 GENERAL NAIDOO: Chair, I was not sure at  
 12 that stage whether it was coming from the SAPS or it was  
 13 coming from anybody else, but logically the SAPS had R5s  
 14 and miners also were in possession of an automatic firearm,  
 15 so I could not exclude the possibility of either people  
 16 shooting.  
 17 MR CHASKALSON SC: Okay, so you weren't  
 18 sure whether it was SAPS or miners who was responsible for  
 19 the automatic gunfire?  
 20 GENERAL NAIDOO: That is correct, Chair.  
 21 CHAIRPERSON: As I understand you to say  
 22 that you knew the miners were in possession of an automatic  
 23 firearm or did you –  
 24 GENERAL NAIDOO: The R5 –  
 25 CHAIRPERSON: But singular, the one that

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1 had been seized on the Monday?  
 2 GENERAL NAIDOO: That's correct, Chair.  
 3 CHAIRPERSON: So it was essentially one  
 4 miner that was, may well have been in possession of one R5?  
 5 GENERAL NAIDOO: Chair, that's correct.  
 6 CHAIRPERSON: Ja.  
 7 MR CHASKALSON SC: I notice that you  
 8 didn't mention automatic gunfire in either your first  
 9 statement or your second statement, you just mentioned  
 10 gunfire, is there a reason for that?  
 11 GENERAL NAIDOO: That's correct, Chair, I  
 12 didn't mention it. As I said I heard heavy gunfire,  
 13 automatic is something I said now. It could have been  
 14 several firearms shooting at the same time but my  
 15 assumption, or my presumption was it was, there was at  
 16 least one automatic weapon shooting.  
 17 MR CHASKALSON SC: And that was an  
 18 assumption that you had at the time?  
 19 GENERAL NAIDOO: That is correct, Chair.  
 20 MR CHASKALSON SC: Why did you not  
 21 mention it in your statements then?  
 22 GENERAL NAIDOO: Chair, sometime heavy  
 23 gunfire could also mean automatic gunfire but there was no  
 24 specific reason why I didn't mention automatic as opposed  
 25 to heavy.

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1 MR CHASKALSON SC: You see it does seem  
 2 to me to be quite a significant distinction because if you  
 3 or the SAPS perceived that you were coming under automatic  
 4 gunfire from the miners, that seems to me to be a different  
 5 situation from perceiving yourselves to becoming under  
 6 possibly one or two shots with a handgun.  
 7 GENERAL NAIDOO: Chair, I think a threat  
 8 with a firearm is a threat with a firearm. The capacity to  
 9 fire may vary but the threat remains what it is because the  
 10 response obviously would be in terms of that.  
 11 MR CHASKALSON SC: Major General, I have  
 12 to take issue with that answer because if you go back to  
 13 where we started, which is why you diverted from your plan  
 14 to take the medics to scene 1, if you thought that there  
 15 was someone with a pistol 300 metres away from you,  
 16 possibly hostile to you, why would that have interfered  
 17 with continuing to escort the medics to scene 1?  
 18 GENERAL NAIDOO: True Chair, it is why I  
 19 indicated it was heavy gunfire in the sense that it was not  
 20 a sporadic shot which would have, could have diverted me  
 21 from my original path. It was quite a large volume of  
 22 gunfire. I would at this stage not be able to say yes, it  
 23 was all automatic or it was just 9 mil. I have indicated  
 24 as such and that is what I heard.  
 25 MR CHASKALSON SC: So if you had thought

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1 that it was just 9 mil gunfire, there wouldn't have been a  
 2 need for you to divert from your planned route to take the  
 3 medics to scene 1, would you accept that?  
 4 GENERAL NAIDOO: It would have  
 5 significantly been less audible to us, yes, and obviously  
 6 would have not been seen to be a threat as much as the  
 7 heavy gunfire that I heard, yes.  
 8 MR CHASKALSON SC: Well it's not just an  
 9 issue of, the road that you were planning to take, we can  
 10 do a brief measurement on Google earth to see what the  
 11 closest distance to the koppie from that road is, at the  
 12 closest point. And it's, I did it but I've lost my note so  
 13 I will do it again. It's roughly 350 metres. Now a  
 14 handgun at that range surely wouldn't pose a cognisable  
 15 risk when you were thinking about getting medics to scene  
 16 1?  
 17 GENERAL NAIDOO: Chair, I don't think I  
 18 am going to be able to debate the issue of ballistics or  
 19 their range of fire, etcetera. As I indicated, based on my  
 20 assessment of the situation, I heard heavy gunfire which  
 21 could possibly have threatened the passage of our vehicles  
 22 to the scene and that concerned me, not necessarily because  
 23 they could have been shooting only at us but also a stray  
 24 bullet could have struck one of the civilians we had in our  
 25 care and based on that I made my decision.

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1 MR CHASKALSON SC: But Major General, if  
 2 a stray bullet could have struck the civilians if you  
 3 proceeded to scene 1, why couldn't it have struck the  
 4 civilians if they sort of stayed at the point where you  
 5 were which is on MMM1, if we can just go back to MMM1? At  
 6 this point, somewhere along row 5 of MMM1.  
 7 GENERAL NAIDOO: Chair, as I indicated  
 8 that the front line of the vehicles escorting the medics  
 9 were all police vehicles, they had formed a line there.  
 10 The idea was to obviously turn right and go along the road  
 11 to the scene. So possibility if it would have happened, I  
 12 don't know but we did not want to take the risk of them  
 13 actually going onto the road and then encountering such  
 14 fire.  
 15 CHAIRPERSON: What counsel's putting to  
 16 you is wasn't there equally risk if they stayed where they  
 17 were? Stray bullets you're talking about.  
 18 GENERAL NAIDOO: Not from my assessment  
 19 as I indicated that the front row of vehicles that, when we  
 20 came around were all police vehicles, in a protection line  
 21 and just like that the first five vehicles moved forward in  
 22 a similar protection line. So I'm not saying it's not  
 23 possible but I'm saying in the way we were escorting them,  
 24 I feel that they were, we protected them as best as we  
 25 could with the means available.

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1 CHAIRPERSON: You're not actually  
 2 answering the question. I take it what you're talking  
 3 about is two columns of vehicles parallel to each other,  
 4 police vehicles being on the one side as a protection and  
 5 the other vehicles on which the civilians were being  
 6 conveyed were on the right hand side, being protected, is  
 7 that right?  
 8 GENERAL NAIDOO: Escorted and protected,  
 9 Chair. Yes, what I indicated, Chair was there were police  
 10 vehicles lined in the front, more than two and then these  
 11 vehicles were behind the police vehicles. So yes, it would  
 12 have been a real long stray bullet that would have missed  
 13 all these other vehicles and then went right to the back.  
 14 I can't rule it out but I think with the means available we  
 15 tried to do what we were supposed to do.  
 16 CHAIRPERSON: What counsel's suggesting  
 17 to you is that if you people had proceeded going right,  
 18 past the bottom as it were, of koppie 1, into admittedly  
 19 into the area on the left hand side of the barbed wire but  
 20 still there wasn't danger there, I think you said? If you  
 21 continued in that way you wouldn't have materially  
 22 increased the risk, I think that's what's being suggested  
 23 to you.  
 24 MR CHASKALSON SC: Chairperson, I must  
 25 qualify, that is my proposition that I'm putting to the

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1 witness.  
 2 CHAIRPERSON: Well you put your position  
 3 as you wish, I was just trying to help the witness  
 4 understand. Perhaps I'm making it more difficult.  
 5 MR CHASKALSON SC: I've made an error in  
 6 something that I put to the witness. The distance that I  
 7 get on Google earth from your position, your front line of  
 8 vehicle position to the koppie was roughly 360 metres, call  
 9 it 360 metres. The distance that I get from the closest  
 10 point on the road, because I took the wrong point is 269  
 11 metres. So there is a material difference, I will grant  
 12 you that. It's 269 metres versus 360 metres, but what I am  
 13 putting to you is really two propositions. The first is  
 14 unless you perceive yourselves to be under attack from  
 15 rifle fire, taking a convoy to within 270 metres or 266  
 16 metres to a place where you might be receiving fire with  
 17 handguns is not a material risk if those vehicles are  
 18 needed to get to people who are in need of medical  
 19 treatment.  
 20 [15:53] And if it is the material and insofar as it is a  
 21 material risk it is not that much more of a material risk  
 22 than leaving those vehicles in a position, 360 metres away  
 23 from the same risk, those are the two propositions I'm  
 24 putting to you.  
 25 GENERAL NAIDOO: Chair, as I indicated

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1 already, based on the assessment that was in front of me I  
 2 instructed them to hold where they were and obviously,  
 3 approximately to the power station was seen as a possible  
 4 shelter area if the situation got difficult, I did not do  
 5 that particular - as it was suggested. What I focussed on  
 6 was, the scenario in front of me, if we did move right what  
 7 would be the possible implications whilst the shooting was  
 8 taking place. At that stage there was no indication that  
 9 the shooting was in our direction and based on that I made  
 10 the decision they should wait until I go and assess whether  
 11 it was safe for them to go through, and that's how the  
 12 decision went.  
 13 COMMISSIONER HEMRAJ: That formation,  
 14 General, of five police vehicles in front of the civilians,  
 15 you would not have been able to retain that if you  
 16 proceeded along the road?  
 17 GENERAL NAIDOO: Chair, no, we would then  
 18 have to go in the column, possibly put the vehicles in  
 19 between police vehicles, but I'm not sure at this stage  
 20 whether we would have been able to put two, three vehicles  
 21 in a row. I think more one, possibly one and a half. As I  
 22 indicated we did not have off-road vehicles, so we would  
 23 not be able to travel on the grass as well on the road  
 24 leaving the ambulance on the road, so the possible scenario  
 25 was to have a column of police vehicles on the outside and

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1 the ambulance on the inside, It's a possible scenario.  
 2 MR CHASKALSON SC: But, Major-General, of  
 3 course once you moved your police vehicles forward to  
 4 approach the koppie and left your civilian vehicles behind,  
 5 that formation of police vehicles protecting the civilian  
 6 vehicles would be broken up because the police vehicles  
 7 would no longer be shielding the civilian vehicles which  
 8 would be ultimately a couple of hundred metres behind them.  
 9 GENERAL NAIDOO: Chair, that was not  
 10 true, it was only five vehicles that went forward. The  
 11 bulk, more than 20 or possibly 20 vehicles approximately  
 12 were still, would be escorted, so that would not be true.  
 13 MR CHASKALSON SC: So the bulk of the  
 14 escort stayed behind you and was there to protect, to  
 15 continue to protect and to shield the civilian personnel.  
 16 GENERAL NAIDOO: That is correct, Chair.  
 17 CHAIRPERSON: Mr Chaskalson, when you get  
 18 to a point at which we can adjourn would you let me know?  
 19 I'm not suggesting we should stop now but at some  
 20 convenient stage in the near future we will be able to  
 21 adjourn.  
 22 MR CHASKALSON SC: And I just want to get  
 23 clarity on your motive for going forward, and there it may  
 24 be useful to go to your testimony yesterday.  
 25 CHAIRPERSON: I think you mean –

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1 MR CHASKALSON SC: On Friday, on Friday,  
 2 on page 2295 from line 24, 2295, in response to a question  
 3 from the chair, -  
 4 GENERAL NAIDOO: Sorry, Chair, 22?  
 5 MR CHASKALSON SC: 925.  
 6 CHAIRPERSON: Oh 22925.  
 7 GENERAL NAIDOO: I have it, Chair.  
 8 MR CHASKALSON SC: Sorry, not in response  
 9 to a question from the chair, the answer was addressed to  
 10 the chair. At line 21, Mr Semenya says, "And what was the  
 11 reason you tell us for moving to that koppie now as opposed  
 12 to koppie 1. Chair, yes, it concerned us because we had to  
 13 move pass the area known as koppie 3 to get to koppie 1  
 14 with emergency service personnel. As I indicated I was  
 15 responsible to ensure that they get safely to what we now  
 16 know as scene 1. I could not guarantee that safety while  
 17 there was discharge of firearms and should even one of the  
 18 personnel, the emergency personnel get hit by a stray  
 19 bullet or be directly shot that would obviously cause  
 20 problems because we've given an undertaking to secure these  
 21 personnel."  
 22 Mr Semenya continues, "And you go to koppie 3 to  
 23 do what there? Chair, yes, it was obvious I needed to  
 24 determine why the shooting was taking place. I could see  
 25 SAPS personnel there and we needed to address the issue of

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1 the shooting so that we could clear the routes for the  
 2 emergency vehicles." Now what did you mean by that,  
 3 "address the issue of the shooting so that we could clear  
 4 the routes for the emergency vehicles?"  
 5 GENERAL NAIDOO: Chair, as I already  
 6 indicated, we had an indication that the NIU or we could  
 7 see the NIU deployed in that particular position, as I  
 8 already testified the shooting was coming from that  
 9 direction, not to say that it was the NIU themselves  
 10 shooting, and I indicated it was heavy gunfire at some  
 11 stage. So the logical thing would be to address the police  
 12 officials who were possibly shooting, to establish what the  
 13 situation was. Had they indicated to us it was not safe or  
 14 there was a crowd that's possibly breaking through,  
 15 etcetera, then obviously my instruction would be to take  
 16 the emergency personnel out of the area, back onto the  
 17 road. That was it, and also as I indicated, I'm not sure  
 18 if I did testify to that, that it was the shooting that was  
 19 occurring in front of us, we had to as the police official  
 20 also ascertain why the shooting was taking place. I  
 21 already indicated that as far as our planning and briefing,  
 22 now there is a next incident why the shooting was taking  
 23 place when we were briefed in terms of the crowd  
 24 dispersion.  
 25 MR CHASKALSON SC: I just want to clarify

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1 this before we close, was it essentially to get information  
 2 or was it to go in to assist the police in the koppie to  
 3 bring the shooting under control?  
 4 GENERAL NAIDOO: Chair, as I indicated,  
 5 primarily it was to understand why there was shooting  
 6 taking place there, but as a police official I was also  
 7 required to, if my assistance was required to assist but I  
 8 did not go there with the intention of going in and  
 9 addressing the issue of the koppie. I was going to try and  
 10 establish why the shooting was taking place because my  
 11 primary objective at that stage was to get a clear route  
 12 for the emergency vehicles.  
 13 MR CHASKALSON SC: But, Major-General, if  
 14 your concern was really just to establish what was going on  
 15 why couldn't you do that on the radio or by cell phone, why  
 16 did you have to take five armed vehicles of K9 personnel  
 17 and yourself into the heart of the battle?  
 18 GENERAL NAIDOO: Chair, I think we  
 19 already testified to the fact that we had communication  
 20 problem. At this stage also when we were moving forward we  
 21 were directly under a pylon, so that communication problem  
 22 was even worse. If I could have ascertained from the radio  
 23 what the situation was I'm sure I would have, but based on  
 24 the scenario I faced at that point in time I made a  
 25 decision to go and establish for myself what the situation

1 is there.

2 CHAIRPERSON: How long did you think this

3 reconnaissance would take or might take?

4 GENERAL NAIDOO: Chair, when we got

5 there, as I said it was just a few hundred metres, so you

6 would not really think that getting there, establishing

7 what would you take to a very long time, and –

8 CHAIRPERSON: But how long would you

9 think it might take?

10 GENERAL NAIDOO: Five minutes, ten

11 minutes, less than ten minutes, but as I said distance wise

12 it is close.

13 CHAIRPERSON: Ja, did you think of saying

14 to your driver, look here, we may have a problem getting

15 through here with all these bullets flying around, is there

16 not another route, can we not go back, is there not another

17 route which we can go along which will get us to the scene

18 where the shooting took place without having to go past

19 this potentially dangerous area? Did you ask that to your

20 driver?

21 GENERAL NAIDOO: Chair, no, what we

22 rather discussed was, as we came around he indicated this

23 is the best road to get to koppie 1. I did not have that

24 discussion with him, no.

25 CHAIRPERSON: Did I understand you to say

1 the barbed wire area but you said that wasn't a problem

2 anymore and you could have got to scene 1 in good time,

3 much more quickly and in fact you did, isn't that so?

4 GENERAL NAIDOO: Chair, ja, had I been

5 aware of and had the sight that we had now, yes, I probably

6 would have made such a decision. As I said I made the

7 decision on the basis of what I saw and knew at that stage.

8 I was not advised that we could go this way and that way,

9 my understanding was that we were going in the direction

10 and we would pass on the outskirts of where the shooting

11 was taking place.

12 MR CHASKALSON SC: Chairperson, I do want

13 to proceed on this issue but it is not something that can

14 be done in a couple of minutes.

15 CHAIRPERSON: It is a topic that can be

16 resumed on the morrow?

17 MR CHASKALSON SC: Thank you,

18 Chairperson.

19 CHAIRPERSON: We'll adjourn nine o'clock

20 tomorrow.

21 [COMMISSION ADJOURNED]

22 .

23 .

24 .

25 .

1 that you had to go past koppie 3?

2 GENERAL NAIDOO: Chair, -

3 CHAIRPERSON: That's what you said in the

4 passage that was put on the screen?

5 GENERAL NAIDOO: Chair, if the road, if

6 you follow the road it goes in between koppie 1 and 3.

7 CHAIRPERSON: But wasn't there also an

8 alternative road between koppie 1 and the power station?

9 GENERAL NAIDOO: Chair, I'm not familiar

10 with that, I can't.

11 MR CHASKALSON SC: If I can just put it

12 higher than that, Chair, isn't the main road the road that

13 goes between koppie 1 and the power station?

14 GENERAL NAIDOO: Chair, as far as I know

15 it is the main road that goes in the direction of koppie 1.

16 I did not at that stage to that far down, so I'm unable to

17 testify that.

18 CHAIRPERSON: Well, you see there are

19 main roads and the secondary road, so even if there was a

20 secondary road, there have to be a main road, if there is a

21 secondary road between koppie 1 and the power station you

22 can get through without getting passed the battle zone,

23 between, you know the vicinity of koppie 3, you didn't have

24 to go passed koppie 3 and if you've gone the other way and

25 you got through, immediately you would be on the inside of

[Empty space]

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