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 194 28 FEBRUARY 2014

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64 10th Avenue, Highlands North, Johannesburg P O Box 721, Highlands North, 2037 Tel: 011-440-3647 Fax: 011-440-9119 Cell: 083 273-5335 E-mail: realtime@pixie.co.za Web Address: http://mysite.mweb.co.za/residents/pak06278



	Dogo 22/67		Dogo 22450
1	Page 23657 [PROCEEDINGS ON 28 FEBRUARY 2014]	1	Page 23659 normally of deputy Provincial Commissioners, cluster
2	[09:48] CHAIRPERSON: The Commission resumes.	2	commanders and provincial heads and we have feedback.
3	You're still under oath, Major-General. I'm sorry we're	3	Normally we try and make these feedback sessions coincide
4	starting late but we had some housekeeping matters to	4	with our monthly operational meetings so that we don't have
5	attend to which we have done and we will now proceed. Mr	5	to call people too many times.
6	Chaskalson?	6	MR CHASKALSON SC: And in the course of
7	GENERAL NAIDOO: s.u.o.	7	that feedback do you actually see the minutes of the NMF?
8	CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):	8	GENERAL NAIDOO: No, the minutes are not
9	Thank you, Chairperson. Major-General, when we broke	9	distributed to the meeting. The Provincial Commissioner
10	yesterday we'd been dealing with the NMF and would you	10	communicates the information to us, what is required.
11	agree that a lot of the work of the NMF has to do with	11	MR CHASKALSON SC: So you've never seen
12	resources, training, HR issues, matters of that nature?	12	any minutes of the NMF?
13	GENERAL NAIDOO: Chair, that's correct,	13	GENERAL NAIDOO: Chair, I have seen
14	the NMF is our decision-making body for policy.	14	minutes of NMF.
15	MR CHASKALSON SC: And so it addresses	15	MR CHASKALSON SC: Which minutes have you
16	that fall within your portfolio as deputy commissioner in	16	seen of the NMF?
17	the province?	17	GENERAL NAIDOO: Chair, at the various
18	GENERAL NAIDOO: Well, yes. In fact all	18	times that I was acting as Provincial Commissioner I had to
19	policy issues are decided by the NMF. When I say policy I	19	deal with those minutes, so I can check when, the times
20	mean operational policy, national policy obviously is a	20	that I was acting and I received these minutes so I had to
21	ministerial prerogative.	21	deal with them.
22	MR CHASKALSON SC: Now what role do you	22	MR CHASKALSON SC: And as an acting
23	play in preparing with the Provincial Commissioner for NMF	23	Provincial Commissioner would you represent the province at
24	meetings and assisting her to prepare for NMF meetings?	24	the NMF if the Provincial Commissioner – well, with you
25	GENERAL NAIDOO: Chair, all deputy	25	acting because the Provincial Commissioner wasn't present?
	Page 23658	1	Page 23660
1	Provincial Commissioners are responsible to ensure that	1	GENERAL NAIDOO: That's implied, yes.
2	relevant information pertaining to our province, as far as	2 3	MR CHASKALSON SC: We know that the
3	our responsibilities are concerned, are submitted to her,		Provincial Commissioner was not present at the October 2012
4	dependent – there are some generic issues which have to be		NME mosting . Were you acting in her place?
5	brought have to be made available at each meeting or then	4 5	NMF meeting. Were you acting in her place?
6	brought, have to be made available at each meeting or then	5	GENERAL NAIDOO: Chair, I – what I can
6	others, there might be gender specific items, so we are	5 6	GENERAL NAIDOO: Chair, I – what I can remember is I have not attended an NMF at any time whilst I
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1	Page 23661 MR CHASKALSON SC: When was the first	1	Page 23663 GENERAL NAIDOO: Chair, it would – I
2	time you saw the minutes of the meeting of the 15th August?	2	think the number of rounds should be seen in proportion to
		2	the number of firearms that are being utilised in a
3	, , , , , , , , , , , , , , , , , , ,		0
4	about the NMF?	4	particular operation. If reference is made to 4 500 R5
5	MR CHASKALSON SC: The NMF meeting, yes.	5	rounds, an R5 magazine takes 30 rounds. We normally issue
6	GENERAL NAIDOO: Chair, I can't remember	6	a member with two magazines for 30 rounds. So if you take
7	specifically but I can go and check when.	7	the number of R5s that were utilised and you divide that by
8	MR CHASKALSON SC: Would it have been	8	30 it would give you an indication basically whether it's
9	when those minutes were circulated to the province in	9	reasonable or not - just to indicate on the scale and to
10	advance of the next meeting?	10	respond to the question about what is reasonable.
11	GENERAL NAIDOO: Possibly. One would	11	MR CHASKALSON SC: But presumably members
12	reasonably expect, yes, about that time.	12	are issued with R5s and their magazines at their departure
13	MR CHASKALSON SC: Because we can	13	points, or not?
14	pinpoint what that time was. I wonder if, I mean if you	14	GENERAL NAIDOO: Chair, yes. With the
15	could check over the weekend when you first saw those	15	exception of the people at crowd management, the standard
16	minutes.	16	procedure is when you book out a firearm, sharp point, you
17	GENERAL NAIDOO: Yes, I could do that,	17	book out the firearm with ammunition so if it's a 9
18	Chair.	18	millimetre you will take the requisite number of rounds and
19	MR CHASKALSON SC: While we're dealing	19	if it's an R5 you will take the requisite. I think it's
20	with sort of police finance and administration matters and	20	only in crowd management that the member books out a
21	organisation matters and before we get back to Marikana	21	firearm only, not the rounds, because of their standard
22	proper, there's been evidence before this Commission of an	22	operating procedures.
23	instruction to deliver 4 000 rounds of R5 to Marikana on	23	MR CHASKALSON SC: And Major-General,
24	the 16th of August. Were you aware of any such instruction	24	where did the members at Marikana book out their firearms?
25	at the time?	25	Did they book them out before they, when they left to come
	Page 23662		Page 23664
1	GENERAL NAIDOO: At the time, no. Yes,	1	to Marikana or at Marikana itself?
2	during the process of this Commission I did find that out,	2	GENERAL NAIDOO: Chair, as far as I could
3	yes.	3	remember, members were deployed from their various units
4	MR CHASKALSON SC: Now what sort of	4	all over the country with their equipment, as far as I can
5	administrative requirements would need to be performed for		
-	duministrative requirements would need to be performed for	5	remember. There may have been members who may have
6	an order of this nature?	5 6	remember. There may have been members who may have required certain supplementary equipment. We can establish
			5
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6 7	an order of this nature? GENERAL NAIDOO: Chair, what it – it	6 7	required certain supplementary equipment. We can establish that but the deployment was done on the basis that the
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	Page 23665		Page 23667
1	GENERAL NAIDOO: Chair, no, I don't have	1	GENERAL NAIDOO: Ja, it is.
2	it offhand. Supply chain does not fall directly under my	2	CHAIRPERSON: So, do we know – we should
3	responsibility but I think it's in proportion to the number	3	know, we should be able to work it out but do we - if you
4	of firearms we have in the province. We have a policy of	4	can't tell us off the top of your head we'll work it out
5	not stockpiling ammunition for purposes of ageing, et	5	but do you know how many R5s were actually at Marikana on
6	cetera, so these is a threshold so that we don't have stock	6	the 16th August?
7	that becomes redundant and obsolete which becomes	7	GENERAL NAIDOO: Chair –
8	fruitless. So there is a process of using up of old stock	8	CHAIRPERSON: I think we can probably get
9	and getting in new stock but I mean we can establish that	9	it from L. I don't expect you to do that. If you know it,
10	information.	10	tell me –
11	MR CHASKALSON SC: Well, can I –	11	GENERAL NAIDOO: I would think it was in
12	MR SEMENYA SC: Chair, if this line of	12	excess of 200 but I think we can give you a figure, yes.
13	cross-examination holds a risk of eliciting information	13	Chair, just for a point of clarity, how many rounds in
14	that may compromise the security of the province, we	14	circulation, is it only pertaining to R5s?
15	undertake to make this information available in writing to	15	CHAIRPERSON: Yes, well, the only ones
16	the evidence leaders.	16	that were requested, there was a request for an additional
17	MR CHASKALSON SC: Maybe that's the best	17	4 000 rounds, R5 rounds. If Mr Chaskalson wants more
18	way of ending this –	18	information he must say so but I'm interested in R5s.
19	CHAIRPERSON: I think that's –	19	GENERAL NAIDOO: Okay.
20	MR CHASKALSON SC: - this cross-	20	CHAIRPERSON: At the moment.
21	examination, so let me maybe indicate what we'd like to	21	MR CHASKALSON SC: I think flowing from
22	know, which is – let's go back to 2012 which is the year	22	Commissioner Hemraj's question we should also ask in
23	we're talking about. What was the annual procurement, in	23	relation to shotgun pellets, not rubber pellets.
24	the year leading up to August 2012 how many rounds of R5	24 25	GENERAL NAIDOO: Alright.
25	were procured by the province?	25	MR CHASKALSON SC: Whether they're
	Page 23666		Page 23668
1	Page 23666 GENERAL NAIDOO: Okay.	1	Page 23668 birdshot or buckshot.
1 2		1 2	-
	GENERAL NAIDOO: Okay.		birdshot or buckshot.
2	GENERAL NAIDOO: Okay. COMMISSIONER HEMRAJ: And perhaps you can	2	birdshot or buckshot. GENERAL NAIDOO: Okay.
2 3	GENERAL NAIDOO: Okay. COMMISSIONER HEMRAJ: And perhaps you can tell us whether there was any birdshot stockpiled and kept	2 3	birdshot or buckshot. GENERAL NAIDOO: Okay. CHAIRPERSON: I'm reminded by Adv Hemraj that there was an undertaking, as I remember it, from the police to give us information on affidavit with the
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1	Page 23669 these things, he has to maintain a register where it's	1	Page 23671 talk about paperwork, the station will have the paperwork
2	booked out and it comes in. So when they do the	2	as far as the 10 000 rounds that are in circulation for it.
3	stocktaking, firearm – we do a biannual stock take which	3	CHAIRPERSON: Applying that to the facts
4	has to be certified and on the biannual stock take the	4	of this case we understand that there was a request, it's a
5	amounts that have been issued and the amounts in stock have	5	controversial matter as to who made the request and we
6	to balance. So the station or unit commander has to	6	understand that someone at commander level requested 4000
7	maintain a record of the stock that has been issued to him	7	rounds. We don't know to whom – because I don't know
8	and appears on his government property account. So for	8	whether other people do, to whom the request was addressed.
9	instance if a member has expended five rounds there would	9	We also know that 4000 rounds arrived at the JOC. We also
10	be a report, there will be an IPID form now, previously it	10	know that Brigadier Pretorius said we don't need them and
11	never was, and there would be possibly a case number.	11	sent them back. Now if they had been sent from the local
12	Those documents will be filed at the place where these	12	police station the station commander would have been
13	things are stored so that they may be written off and the	13	issuing them not just to people under his command because -
14	amount that's now missing can be reconciled by issuing new	14	it would have went to the JOC, so a whole lot of people all
15	stock. So the record-keeping in terms of that is the unit	15	under different commands. So they would no longer have
16	or the station commander at local level.	16	been part of his stock, whether in his store or in the
17	MR CHASKALSON SC: So the paper work is	17	hands of those under his command.
18	done at local level and – I mean obviously there'll be a	18	GENERAL NAIDOO: That is correct.
19	reconciliation process going upwards, I would imagine, or	19	CHAIRPERSON: Right, now so I assume that
20	let's take these one at a time. There's paper work done at	20	he would have made some entry if it was a station
21	local level, reconciliation going upwards, is that correct?	21	commander, unit commander to say I've taken 4000 rounds and
22	GENERAL NAIDOO: I think let's be	22	I've not given them to people under my command, but I've
23	specific in terms of what are we – which paper work are	23	sent them to the JOC at Marikana or whatever. Now that
24	talking about?	24	would be some kind of book entry that would have been made,
25	MR CHASKALSON SC: Well, each time rounds	25	I assume. Is that right?
			5
	Page 23670		Page 23672
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Marikana Commission of Inquiry

Pretoria

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	Page 23673	-	Page 23675
1	GENERAL NAIDOO: That's correct, Chair.	1	would have been consulted because the Provincial
2	MR CHASKALSON SC: Who instructed you to	2	Commissioner would have not made such a decision because it
3	– well was it your decision to hold Roots or was it a	3	affected people from other provinces and obviously the
4	decision that you were instructed to execute?	4	National Commissioner had to be sensitised. So it won't be
5	GENERAL NAIDOO: I was instructed to	5	a situation of just making a unilateral decision in our
6	write it, but we did have a discussion that on the 24th the	6	province when it affects other provinces. There has to be
7	people that were deployed at Marikana at the time of the	7	some transversal consultation in decision making.
8	incident would be changed and be returning to their	8	MR CHASKALSON SC: And General Mawela in
9	different provinces and units. And there was a need for us	9	relation to the Special Forces, he was also present at
10	to preserve the information. As I understand there was a	10	Marikana or he came in on the 16th. Would he have been part
11	commission of inquiry to be held. A SAPS legal team had	11	of the decision?
12	been appointed to represent the SAPS and we knew that and	12	GENERAL NAIDOO: Chair, I'm not sure if
13	even with that we still had so many difficulties in terms	13	he was personally in charge but his representative
14	of this. We knew that if we did not first get whatever is	14	obviously was General Annandale, who was part of the
15	available and preserve it we will have problems once the	15	operation. And I'm sure General Annandale could not, on
16	Commission sits. And once our legal team's appointed to	16	his own, decide that he was coming to take part in this
17	actually present them with all the available information.	17	exercise for as many days. He would have to consult his
18	So that discussion was at our senior level and then I was	18	boss, being General Mawela. So there would have been
19	tasked to make an arrangement so that when the changeover	19	consultation I'm sure.
20	of the groups at Marikana occurred on the 24th that we	20	MR CHASKALSON SC: Was there a formal
21	immediately go into this exercise of getting all the	21	decision ever taken as to what this two week conference of
22	information and preserving it basically.	22	70 police members was called for, a formal terms of
23	MR CHASKALSON SC: Now Major-General	23	reference for the conference or anything like that?
24	you've spoken about we and at senior level, who are the	24	GENERAL NAIDOO: Chair, no. Initially
25	individuals who were party to this decision?	25	yes and you will see - my thought was maybe this was going
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	Page 23674		Page 23676
1	Page 23674 GENERAL NAIDOO: Chair, obviously I	1	Page 23676 to be some sort of debriefing session. That was my opinion
1 2		1	•
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2	GENERAL NAIDOO: Chair, obviously I report to my Provincial Commissioner and she is the only	2	to be some sort of debriefing session. That was my opinion when I listened to the whole thing and you'll see that I
2 3	GENERAL NAIDOO: Chair, obviously I report to my Provincial Commissioner and she is the only person above me who can authorise such activity. So she	2 3	to be some sort of debriefing session. That was my opinion when I listened to the whole thing and you'll see that I endorsed the call-up accordingly. But there were some
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Pretoria

	Page 23677	4	Page 23679
1	GENERAL NAIDOO: Chair, when I said one	1	protecting the rights and interests of the individual
2	of the products I refer to exhibit L and the other one	2	signatory to the statement. Or with a view to protecting
3	being the narrative. Those were our two primary products	3	only the interests of SAPS. If it's the former then they
4	of Roots, yes.	4	are treated – then we can possibly understand why they
5	MR CHASKALSON SC: Were there any	5	don't say certain things or they don't address certain
6	secondary products?	6	things. Stay quiet, stay silent on certain issues. If
7	GENERAL NAIDOO: Yes, Chair. At that	7	it's in relation to the interests only of SAPS well then a
8	stage we were asked for statements and we had engaged a	8	failure to address an issue would have different
9	legal firm to assist us in terms of interfacing with IPID.	9	implications. Are you - well look we can – this is an
10	IPID needed reports or statements from all members who	10	issue I suppose we can clarify with the legal
11	fired at the different incidents and so we used that	11	representatives, who will, I would imagine, know who they
12	opportunity because people were still available, so that we	12	were briefed to represent. But from your perspective,
13	did not have to call them to secure statements. And most	13	before there was any Commission, you understood that
14	of the statements that we are currently using came out of	14	individual policemen were being represented by the firm of
15	that process where statements were taken for IPID.	15	Mr Pretorius. Is that correct?
16	MR CHASKALSON SC: So bringing in the	16	GENERAL NAIDOO: Chair, as I indicated,
17	legal team, was that in the first instance to represent the	17	the day after this incident the IPID team that arrived
18	individual policeman who may be subjected to IPID	18	required statements and members were reluctant just to
19	investigation?	19	write their own statements and give - obviously and there
20	GENERAL NAIDOO: Chair, when we appointed	20	were requests for legal representation. So that is when we
21	the legal team there was no commission as far as I could	21	had to interact with the State Attorney's office to secure
22	remember. When we appointed the legal team or the	22	them legal representation. And yes the urgency factor was
23	attorneys it was purely to assist with the request from	23	that most of the members, a lot of the members that were
24	IPID for the taking of statements. IPID themselves had a	24	involved in the incident did not come from the North West
25	limited capacity we could have said okay come and take our	25	Province and there would be, at some stage, attorneys. So
	D		D
1	Page 23678 statements and we had more than 500 members. It was a	1	Page 23680 we wanted to address the request from IPID before people
2	mammoth task. We have a very good relationship with IPID.	2	dispersed. So as far as my knowledge goes around the legal
	You know we resolve issues and one of the issues we	3	
3		5	representation that's how we got to appointing, via the
3 4		4	representation that's how we got to appointing, via the State Attorney, a firm to represent our members.
	resolved was we would engage because our members requested	4	State Attorney, a firm to represent our members.
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1	Page 23681	1	Page 23683 form and the giving, ostensible the giving of the warnings
1	saying we are not going to make a statement. We would say	1 2	contained in the form? Would that be correct?
2	we will refrain until, you know, people orientated	2	
3	themselves and we wanted this process to go as quickly as possible because of the dispersion of the people back to	3 4	
4 5	their units.	4 5	as far as my knowledge goes, these member's statements,
			most of these statements, if not all, ja almost all the
6		6	statements that we have been using here are the statements
7	question, thank you.	7	made by members in response to the request from IPID with
8	GENERAL NAIDOO: Thank you.	8	regard to the shooting incidents. Initially there were
9	COMMISSIONER HEMRAJ: I must say what I	9	only members who fired made statements, but obviously the
10	have not seen in any of these warning statements is all	10	position was even members who did not fire should give
11	those documents that contain the warnings, before warning	11	statements because they would have probably witnessed the
12	statements were taken. I don't know if evidence leaders	12	shootings. But I think that's where we get the affidavit
13	are in possession of any of those.	13	versus the warning statements.
14	MR CHASKALSON SC: In the IPID files you	14	[10:27] But yes, the premise is that the statements where
15	see a lot of the warning statements that are submitted to	15	members fired were supplied to IPID as part of the
16	the Commission are the retyped copies. In some of the	16	investigation.
17	original IPID files that we've seen there are the pro forma	17	CHAIRPERSON: Do I understand you to be
18	documents which have all of those warnings and are filled	18	saying that the shottist, I'm not sure if shottist is the
19	out in handwriting on top of the document that we see or on	19	right word –
20	top of the hand-written version of the document that we	20	GENERAL NAIDOO: That's correct, sir.
21	see. We haven't done a reconciliation to see which ones	21	CHAIRPERSON: I think shottist may only
22	have the warning and which ones don't. Then the added	22	apply to people shooting at a Bisley but anyway, the
23	complication that some of the warning statements are	23	shottists, the people who shot – it doesn't sound right,
24	deposed to as affidavits, but that needn't detain us while	24	shottist – they're the ones who got warnings because they
25	Major-General Naidoo is under cross-examination.	25	were suspects.
	Page 23682		Page 23684
1			5
1	CHAIRPERSON: Well to take an example,	1	GENERAL NAIDOO: That's correct.
2	we've been handed a pile of documents prepared by the Human	1 2	GENERAL NAIDOO: That's correct. CHAIRPERSON: The ones who were with them
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1	Page 23685 MR CHASKALSON SC: If we can go back up	1	Page 23687 GENERAL NAIDOO: That's possible.
2	to the top of the document – sorry, it possibly went too	2	CHAIRPERSON: Is it possible or is it so?
3	soon, you can take it on trust that the date of your	3	GENERAL NAIDOO: Well, if – when I say
4	signature is 25 August. As you indicated, when you sent	4	possible I mean then if we had complied with all the
5	out the call-outs, the call-up, it was for a debriefing and	5	requirements, yes, okay.
6	preparation for the judicial Commission of Inquiry. So on	6	MR CHASKALSON SC: What are the
7	25 August you were intending, inter alia, to conduct a	7	additional requirements in the standing order that would go
8	debriefing at Roots, is that correct?	8	beyond what you had in mind for your debriefing?
9	GENERAL NAIDOO: Chair, when I indicated	9	GENERAL NAIDOO: Chair, my understanding,
10	debriefing, yes, that was my word usage, yes.	10	if we wanted to comply with everything we would have then
11	MR CHASKALSON SC: But would this not be	11	conducted some sort of SWOT analysis and put in some place,
12	the debriefing that is required in terms of the standing	12	some remedial plan, et cetera, those kinds of things. As I
13	orders after an operation of the nature of Marikana?	13	said, there were several parallel processes that were
14	GENERAL NAIDOO: Chair, as I indicated,	14	running which, as far as I'm concerned, did not allow us to
15	when we decided or when we discussed the issue of having	15	do these things, yes.
16	this process at Roots my understanding was yes, possibly	16	CHAIRPERSON: In the preparation for the
17	it's going to be a process, a logical process to get this	17	Commission –
18	information together so that, firstly, the information is	18	GENERAL NAIDOO: Yes.
19	preserved and secondly, when our legal team – now I'm	19	CHAIRPERSON: - it would have been
20	talking about the team that would represent us at the	20	sensible for the SAPS to have come to the Commission and
21	Commission – is appointed, that we would, through some	21	said, look here, we've looked at it now, gathered all the
22	process, have this information assimilated and available.	22	information we can about what happened, we've come to the
23	So that's, for me, a debriefing, yes.	23	conclusion that certain lessons have been learnt, these are
24 25	CHAIRPERSON: You said possibly. I don't	24 25	the lessons we've learnt and this will help the Commission
25	think you meant possibly because the heading is "Debriefing	25	in approaching the matter. So the exercise you're talking
	Page 23686		Page 23688
1	and preparation," so as far as you were concerned –	1	about would have been a useful exercise to perform for the
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	Page 23689		Page 23691
1	the incident at Marikana was what he saw on the news, to	1	the standing orders.
2	come and chair and facilitate the process and we then gave	2	MR CHASKALSON SC: But Major-General, it
3	him a team of people who could write, Colonel Visser and	3	wasn't just you because if we go down GGG3 we see a
4	his work study officers, to assist to write the narrative	4	separate call-up at a later stage with the same heading
5	and the report but at that stage we didn't call it a	5	from Major-General Mpembe. Can we just go down? Keep
6	narrative and a presentation. So these are the things that	6	going down. That's your call-up. Can we go lower down?
7	obviously, before we decided okay, there's going to be a	7	Now this will be Major-General Mpembe's call-up and that
8	presentation and narrative, I think this is how we arrived	8	too is a debriefing and preparation for the judicial
9	at it, through a process of how do we go forward, what is	9	Commission of Inquiry. Go further down and we'll see – so
10	it we want to do.	10	there's Major-General Mpembe issuing that call-up as late
11	MR CHASKALSON SC: But Major-General, it	11	as the 29th, which is in fact a day after Roots has started.
12	seems to me that the presentation and the narrative were	12	Now he still seems to be talking about a debriefing.
13	always contemplated as assisting the Commission,	13	Obviously you can't speak to what he would have had in mind
14	preparation for the Commission. This is what you were	14	in terms of a debriefing because –
15	going to present to the Commission to tell the Commission	15	GENERAL NAIDOO: Chair, maybe I can help.
16	what had happened at Marikana, is that not correct?	16	You'll see and maybe we should check the third document
17	GENERAL NAIDOO: The presentation at	17	before I respond –
18	Roots, yes.	18	MR CHASKALSON SC: The third is General
19	MR CHASKALSON SC: So the presentation	19	Mbombo and that's –
20	was always about preparation for the Commission.	20	GENERAL NAIDOO: And you will see a
21	GENERAL NAIDOO: Or the presentation and	21	commonality is, the person that I tasked to arrange the
22	the narrative was about –	22	facilities is the same person in all three. So I spoke to
23	MR CHASKALSON SC: And the narrative.	23	him when we did the first call-up and I indicated, look, we
24	GENERAL NAIDOO: Correct.	24	want to have this session to debrief and prepare for the
25	MR CHASKALSON SC: I'm not distinguishing	25	Commission. So the fact that the others were signatories
1	Page 23690		Page 23692
1	between the two in these regards, but the call-up	1	does not indicate that they had the same state of mind as
2	between the two in these regards, but the call-up contemplated more than just preparation for the Commission,	2	does not indicate that they had the same state of mind as me. All it means is the person that I tasked to draw up
_	between the two in these regards, but the call-up contemplated more than just preparation for the Commission, it contemplated two separate things. The one was	2 3	does not indicate that they had the same state of mind as me. All it means is the person that I tasked to draw up the letters and who he took the letters to be signed by,
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FOR JUSTICE

	Page 23693		Page 23695
1	MR CHASKALSON SC: I'm not talking about	1	element as well?
2	the person who typed it, I'm talking about the person who	2	GENERAL NAIDOO: Chair, as I indicated,
3	signed it but you can't speak to that.	3	the word, the use of the word "debrief" was mine and based
4	GENERAL NAIDOO: I can't speak to their	4	on my presumption of what we were doing there, it sounded
5	state of mind, I can only indicate how I arrived at that	5	like we were going to have a debrief.
6	heading.	6	MR CHASKALSON SC: So – I'm slightly
7	MR CHASKALSON SC: Now, when did the	7	confused, Major-General. Are you saying that that brief
8	debriefing component of Roots fall away, as it were?	8	that you gave to Brigadier Van Graan included within it
9	GENERAL NAIDOO: Chair, I testified when	9	what you had contemplated as your debrief?
10	we started that morning when everybody came in and they	10	GENERAL NAIDOO: No, nowhere did I
11	were welcomed, it was then that we were now or we	11	suggest that, Chair. What I said was when compiling the
12	introduced a facilitator who I had also for the first time	12	call-up instruction I indicated to the official that was
13	met, a Brigadier from head office, and we basically	13	assisting me, look, that we need to call these people up
14	indicated what our situation was and what we were looking	14	and we need to arrange the logistics of people that will be
15	at. So we tried to find in our orientation there, how we	15	coming to Potchefstroom to conduct a debriefing to prepare
16	would go about it and that's eventually how we arrived at	16	for the Commission. So he took it as I said it and that's
17	having a presentation and a narrative.	17	the document that we have before us.
18	MR CHASKALSON SC: But what did you	18	CHAIRPERSON: I take it the major respect
19	indicate to Colonel Visser and I take it Colonel Visser is	19	in which what happened at Roots differed from an exercise
20	the facilitator to whom you refer.	20	which included a debriefing –
21	GENERAL NAIDOO: No, no.	21	GENERAL NAIDOO: Chair –
22	CHAIRPERSON: He talked about a Brigadier	22	CHAIRPERSON: Let me finish. The major
23	from head office. He said Colonel Visser comes from the	23	respect in which what happened at Roots differed from an
24	North-West Province, am I right?	24	exercise incorporating a debriefing in the ordinary sense,
25	MR CHASKALSON SC: Sorry –	25	was that no attempt was made to present the lessons that
	Page 23694		Page 23696
1	CHAIRPERSON: Who was the Brigadier?	1	the SAPS themselves had learnt from the exercise. Is that
2	CHAIRPERSON:Who was the Brigadier?GENERAL NAIDOO:Brigadier Van Graan, I	2	the SAPS themselves had learnt from the exercise. Is that right?
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	Dogo 22701		Dogo 22702
1	Page 23701 the SAPS.	1	Page 23703 on Tuesday. If we can now go back to what was going on at
2	GENERAL NAIDOO: Chair, as I indicated to	2	scene 2, when you arrived at scene 2 which will be a
3	you, one of the primary objectives of this exercise was to	3	separate chapter of this cross-examination. Now the first
4	conserve the information as it was, or preserve the	4	issue I want to canvas with you is your - is one the issues
5	information as it was. At the time when we started with	5	flowing from your decision to move in to scene 2? The
6	the presentation or even up to the time we completed the	6	operational commander for the operation was Brigadier
7	presentation we had not yet briefed our legal team. So we	7	Calitz, that's common cause. You're of a higher rank than
8	finished the presentation and so if the inference is that	8	Brigadier Calitz, does it not pose operational difficulties
9	we were preparing a partisan one it was only partisan in	9	if someone of a higher rank moves into an operation where
10	the fact that it was compiled by people that were involved	10	his movements and actions are supposed to be co-ordinated
11	in the incident, based on the accounts of the people that	11	and to a certain extent directed by the operational
12	were involved in the incident and not some investigation as	12	commander of a lower rank?
13	such. But otherwise it was intended to put together all	13	GENERAL NAIDOO: Chair, two things. I
14	the information that we had assimilated in a fashion that	14	think one of the issues that we need to remember is there
15	could be explained, that's all.	15	are – in certain circumstances that the issue of rank is
16	MR CHASKALSON SC: So Colonel Visser was	16	not the main determining criteria to say who would be the
17	given a brief essentially to package together all relevant	17	correct person to do this. One of them being in the issues
18	information that had been made available to him in the form	18	where crowd management activities would be taken. The
19	that he thought would best convey the facts to the	19	other one for instance the conducting of particular
20	Commission.	20	activities at a crime scene. For instance in an incident
21	GENERAL NAIDOO: That was his mandate and	21	where there's an explosion you will very well get a
22	by way of training and skills that's the way he was	22	sergeant arriving and taking charge of the scene and the
23	supposed to operate.	23	station commander could be a brigadier. By virtue of the
24	MR CHASKALSON SC: And the SAPS members	24	skills that required to do a particular thing, that's
25	at the commission from generals down to constables knew	25	speaking in terms of our policies. And practically I was
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1	Page 23702	1	Page 23704
1	that all relevant information, whether good or bad for SAPS	1	not on the terrain of Brigadier Calitz, I was in reserve to
2	that all relevant information, whether good or bad for SAPS ought to be made available to Colonel Visser so that he	2	not on the terrain of Brigadier Calitz, I was in reserve to provide any support that was required by the main
2 3	that all relevant information, whether good or bad for SAPS ought to be made available to Colonel Visser so that he could perform his function.	2 3	not on the terrain of Brigadier Calitz, I was in reserve to provide any support that was required by the main operation. So I do not see a conflict, I have had many
2 3 4	that all relevant information, whether good or bad for SAPS ought to be made available to Colonel Visser so that he could perform his function. GENERAL NAIDOO: That is correct, Chair.	2 3 4	not on the terrain of Brigadier Calitz, I was in reserve to provide any support that was required by the main operation. So I do not see a conflict, I have had many instances myself and as well in the broader police we have
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1	Page 23705	1	Page 23707
1	aware that were entrenched in a particular place, that was	1	in your evidence in chief you had in fact not expected to
2	already contained in the planning for the use of tactical	2	find him at koppie 3 when you got here. Brigadier Calitz
3	units.	3	"Korrek, Mnr Die Voorsitter." So Brigadier Calitz's
4	MR CHASKALSON SC: But wouldn't that	4	testimony was that he didn't expect you at koppie 3. He
5	aggravate the awkwardness of Brigadier Calitz essentially	5	arrived at koppie 3 and found you in command and that you
6	ordering you what to do or where to go if it now was	6	had taken control. Do you think you agree with this
7	outside his area, the expertise? We're dealing with a	7	evidence?
8	tactical situation and the operational commander is a	8	GENERAL NAIDOO: Chair, that's correct.
9	brigadier, a general's come in to assist the tactical	9	MR CHASKALSON SC: So you had taken
10	situation and the operational commander's expected to issue	10	control as the senior officer at koppie 3.
11	orders to the general.	11	GENERAL NAIDOO: Chair, I already
12	GENERAL NAIDOO: That situation did not	12	indicated when I arrived what I found. I also indicated
13	arise and in no way was Brigadier Calitz undermined in	13	what I've instructed, so I don't think I'm disputing
14	terms of is responsibilities as it's indicated when we	14	anything.
15	eventually met at scene 2. We had assessed the situation	15	MR CHASKALSON SC: And that meant
16	and he indicated look I should stay there make sure that	16	exercising command and control over the tactical troops
17	tel relevant units do what they had to do and hand over and	17	that were being employed at koppie 3 including the
18	he took the prisoners off. So I don't see any conflict	18	specialist groups like the NIU and the STF.
19	there. I think one would have to be sufficiently aware of	19	GENERAL NAIDOO: That is correct, Chair.
20	what our policies say and what's required to do the job.	20	MR CHASKALSON SC: So if there were
21	And if we let a little thing like that come in between our	21	failures of command and control in the operation at koppie
22	effectiveness of functioning as an organisation then	22	3 those are failures which we should hold you responsible
23	obviously we're going to have problems. I can't say that	23	for.
24	I'm a general, I should not sit at forward holding area 1,	24	GENERAL NAIDOO: Chair, at that stage the
25	I want to sit at an air-conditioned office at the JOC.	25	people that I linked up with and the people that I worked
	Page 23706		Page 23708
1	Page 23706 There was a decision that I was required to go to forward	1	Page 23708 with was the NIU from the position that I found them. So
1 2	Page 23706 There was a decision that I was required to go to forward holding area 1 as a major-general and I accepted that my	1 2	with was the NIU from the position that I found them. So
	There was a decision that I was required to go to forward		5
2	There was a decision that I was required to go to forward holding area 1 as a major-general and I accepted that my	2	with was the NIU from the position that I found them. So in terms of what we did there after I linked up with them,
2 3	There was a decision that I was required to go to forward holding area 1 as a major-general and I accepted that my organisation needed me to work there and I complied.	2 3	with was the NIU from the position that I found them. So in terms of what we did there after I linked up with them, I would have to take that responsibility, yes.
2 3 4	There was a decision that I was required to go to forward holding area 1 as a major-general and I accepted that my organisation needed me to work there and I complied. MR CHASKALSON SC: Well can I take you to	2 3 4	with was the NIU from the position that I found them. So in terms of what we did there after I linked up with them, I would have to take that responsibility, yes. MR CHASKALSON SC: But what about more
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1	Page 23709 passage in Mr White's statement.	1	Page 23711 moves swiftly onto directing Canters." Now I would suggest
2	CHAIRPERSON: Is it a lengthy passage	2	to you that implicit in Gary White's statement is that if a
3	because I've been asked to take the tea adjournment now.	3	single episode of fire demands that the police take cover
4	I'm in your hands.	4	and assess where the fire is coming from so that steps can
5	MR CHASKALSON SC: It's not a	5	be taken to isolate the problem and deal with it, a free-
6	particularly lengthy statement. We can take the	6	for-all of the sort that we had at scene 2 calls for much
7	adjournment but –	7	more pressing command and control to stop the police
8	CHAIRPERSON: Well let's take the tea	8	shooting, direct the police to a position of cover and then
9	adjournment and then perhaps you can give him the passage	9	isolate the problem.
10	to look at in the meanwhile so he can marshal his thoughts.	10	GENERAL NAIDOO: Chair, I don't
11	MR CHASKALSON SC: It's JJJ178 on page	11	necessarily agree with the proposition that's been put
12	119, towards the bottom of that page near little paragraph	12	because we must remember that we have different schools of
13	 If we're going to take the tea break maybe we can just 	13	thought on how do we handle certain tactical situations and
14	keep that up. Can we spill over to the next page because	14	I'm going to give you a practical example so that maybe I
15	it's - no sorry drop down, it's just that paragraph that I	15	will illustrate what I'm trying to say based on my
16	would like the Brigadier to look at and maybe then we	16	experience in previous jobs. If you get to a situation, in
17	should take the tea break and reconvene to address this	17	some situations where there is live fire such as what we
18	after the tea break.	18	are saying – an example, the Israelis in terms of their
19	CHAIRPERSON: All right we'll now take	19	methodology would urge everybody, down, down, down and the
20	the adjournment. I think we must try to get back within 15	20	Cubans have another – I'm just using now a rough analogy –
21	minutes please. That should not be impossible.	21	the Cubans have another approach to it, they go forward.
22	[COMMISSION ADJOURNS COMMISSION RESUMES]	22	So when we're looking, I don't know what's in Mr White's
23	[11:53] CHAIRPERSON: The Commission resumes. As	23	frame of mind and what's his background in terms of these
24	I indicated, we have – I'm sorry about it because it means	24	things and tactical with regard to this, but when I
25	we've got another 35 minutes but for logistic reasons,	25	indicated and when we were talking about the approach to
	Page 23710		Page 23712
1	there's nothing I can do about it, we have to stop at half	1	scene 2 I indicated that we were moving forward in a
2	past 12 but you're still under oath, Major-General.	2	tactical process, et cetera, based on how we were trained
3	GENERAL NAIDOO: Still under oath, Chair.	3	in terms of approaching scenes where there is shooting. So
4	CHAIRPERSON: Mr Chaskalson, you're still	4	by saying Mr White suggests that everybody should take
5	cross-examining, I take it. You were looking at a passage	5	cover, I think it's situational appropriate and depending
6	in Mr White's report. You were looking at this passage in	6	on the school of training, et cetera, that each particular
7	Mr White's report.	7	unit or police service or police force utilises at time.
8	GENERAL NAIDOO: s.u.o.	8	So to say that Mr White has put this up and say it's the
9	CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):	9	gospel, that's what the South African Police would do at
10	Major-General, have you read the passage?	10	most situations is not necessarily true. It may work maybe
11	GENERAL NAIDOO: Chair, yes, I'm just	11	in an urban setting where the environment will allow such a thing, it may not a sapit approximate into that a learn
12	going back to it.	12 12	thing, it may not. I can't speculate into that. I can
13	MR CHASKALSON SC: Sorry, Major-General.	13 14	input into what I experienced and how I responded.
14	Major Conoral, Cary White is a rotired experienced public		MR CHASKALSON SC: Major-General, do
15	Major-General, Gary White is a retired experienced public order police officer from Great Britain with experience in		-
15 16	order police officer from Great Britain with experience in	15	either Cuba or Israel conduct their policing operations
16	order police officer from Great Britain with experience in dealing with conflict in Northern Ireland. Here he says,	15 16	either Cuba or Israel conduct their policing operations subject to a bill of rights that makes the fundamental
16 17	order police officer from Great Britain with experience in dealing with conflict in Northern Ireland. Here he says, "At 14:45 in the video Brigadier Calitz is heard saying,	15 16 17	either Cuba or Israel conduct their policing operations subject to a bill of rights that makes the fundamental right to life paramount?
16 17 18	order police officer from Great Britain with experience in dealing with conflict in Northern Ireland. Here he says, "At 14:45 in the video Brigadier Calitz is heard saying, 'live fire.' It appears to be a report of live fire rather	15 16 17 18	either Cuba or Israel conduct their policing operations subject to a bill of rights that makes the fundamental right to life paramount? GENERAL NAIDOO: Chair, what I would want
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	Page 23713		Page 23715
1	various different units are trained.	1	indicating is that when we arrived there a tactical
2	MR CHASKALSON SC: Major-General, can you	2	situation existed and the relevant tactical units tried to
3	try to answer my question? To your knowledge, do either	3	address the issue.
4	Israel or Cuba conduct their policing operations subject to	4	CHAIRPERSON: - *11:53-09/19 the relevant
5	a bill of rights that makes the fundamental right to life	5	tactical units - the K9 people and they fired lots of shots
6	paramount?	6	from behind the special task force whose commander then
7	GENERAL NAIDOO: Chair, I am not aware of	7	told them to take cover. Are you suggesting that every one
8	the legal framework of either country specifically so I	8	of the K9 people who fired the shots to which Colonel
9	won't be able to give that answer.	9	Gaffley refers was focusing his fire on some person whom he
10	MR CHASKALSON SC: Are you aware whether	10	could see to be a gunman?
11	the South African Police Service conduct its policing	11	GENERAL NAIDOO: Chair, I'm in no way
12	operations subject to a constitution which makes the	12	suggesting that and I think we dealt with that in previous
13	fundamental right to life paramount?	13	testimony when we dealt with individual statements but I
14	GENERAL NAIDOO: I am aware of that.	14	think to say that the K9, on their arrival at the scene,
15	MR CHASKALSON SC: So although it would	15	contributed the most, I think the inference made, Chair,
16	be a feasible way to sort out a problem at the koppie by	16	during, at that stage was that the K9 fired the most shots
17	throwing a few hand grenades into the koppie, you wouldn't	17	at the scene, was incorrect and I think at some stage it
18	do that, would you?	18	was also led that maybe I should have let public order
19	GENERAL NAIDOO: And we did not.	19	police deal with that particular issue. So what I'm
20	MR CHASKALSON SC: No, but you did kill	20	indicating is that based on the situation that I was faced
21	17 people.	21	with, I utilised the NIU and as well as the K9 to try and
22	GENERAL NAIDOO: As far as I can recall,	22	address the situation to the best with the resources I had.
23	Chair, there were 14 people that were recovered at koppie	23	CHAIRPERSON: Well, the K9 people, you
24	2.	24	know I wasn't suggesting that they fired most of the shots
25	MR CHASKALSON SC: And another three who	25	but I was aware of what's in exhibit L slide 257 and what
	Page 23714		Page 23716
1	Page 23714 subsequently died in hospital. Major-General, when you	1	we see there is the following, that the K9 people who were
1 2	subsequently died in hospital. Major-General, when you approached koppie 2 and joined up with Colonel Modiba, were	1 2	we see there is the following, that the K9 people who were under your command, I think, fired two warning shots, they
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1	Page 23717 order police fired 12 R5 rounds and the TRT fired 44 R5	1	Page 23719 assumption and I can understand why, because remember there
2	rounds, the national intervention unit fired 103 R5 rounds.	2	was a person with a rifle who was seen as well and he
3	MR CHASKALSON SC: Major-General, if I	3	suggests that that person somehow got away, slipped past
4	can ask a follow-up question –	4	carrying his rifle with him. So I think if you ask, ask
5	CHAIRPERSON: Is that towards and	5	him to assume four, he'll more happily make the assumption.
6	warning?	6	MR CHASKALSON SC: Let's then –
7	GENERAL NAIDOO: The total according to –	7	GENERAL NAIDOO: Chair, I will only, I
8	CHAIRPERSON: I mentioned towards.	8	will be only able to indicate what we recovered. I mean I
9	GENERAL NAIDOO: Chair, I –	9	won't be able to project what could have been there. I
9 10	CHAIRPERSON: I take it a warning shot is	10	said I based our action on what we encountered there but as
	C C	11	to try and assume how many firearms were there and how
11 12	either in the ground or it's in the sky. A shot towards is	12	many, versus what we recovered, I think I won't be able to
	a shot that's got a much greater chance of injuring or	12	do that.
13	killing someone, is that right?	14	CHAIRPERSON: Well, must we assume that a
14 15	GENERAL NAIDOO: Chair, yes, but if we –		
15	we looked at for instance the national intervention unit	15	whole batch of people managed to slip past the police who
16	that shot when I got to them, it will be remembered they	16	surrounded the koppie, with firearms and got away with them
17 18	indicated that they fired warning shots and which probably	17 18	without being caught? I suppose that's theoretically possible but being realistic, it's not very high on the
	ricocheted and all those explanations. So even in the	19	
19 20	instance of firing warning shots it's probable that, you	20	scale of probability, is it? GENERAL NAIDOO: Chair –
20 21	know, you can cause injury or death. MR CHASKALSON SC: Doesn't that emphasise	20	CHAIRPERSON: I can understand one or two
	MR CHASKALSON SC: Doesn't that emphasise the point that when there is firing taking place the police	22	maybe.
22 23	should not go forward into a fire fight but should rather	22	GENERAL NAIDOO: On the issue of the R5,
23 24	take cover, try to isolate the position from where the	23 24	I don't know, perhaps maybe on the issue of the R5, we've
24 25	firing is coming and then deal with it in a very targeted	24 25	had a similar case in October of the same year during the
25	ning is coming and then deal with it in a very targeted	25	had a similar case in october of the same year during the
	Page 23718		Page 23720
1	and focused manner with their most expert personnel to deal	1	same unrest which spread eventually to other mines and we
2	with it, which in this case would have been the STF?	2	had an incident where a member of the public order police
3		-	
	GENERAL NAIDOO: Chair, I don't	3	was hacked on his arm, almost off, and his shotgun was
4	understand because it was alluded previously that we should	4	taken. The area was secured before the people could get
4 5	understand because it was alluded previously that we should have first used the public order police in this situation	4 5	taken. The area was secured before the people could get away and we could not find the shotgun for two weeks and
4 5 6	understand because it was alluded previously that we should have first used the public order police in this situation before talk of the STF came in and the public order police	4 5 6	taken. The area was secured before the people could get away and we could not find the shotgun for two weeks and after two weeks we found it concealed in the very same side
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	Page 23721		Page 23723
1	disavowing responsibility for the shooting of the, or most	1	should reformulate your question to deal with it.
2	of the shooting of the NIU?	2	MR CHASKALSON SC: Well, Major-General,
3	GENERAL NAIDOO: No, Chair. I in no way	3	if as you approach the scene and you hear shooting and you
4	moved back from what I said originally. I indicated that	4	cannot identify where it is, you acted as Gary White says a
5	when I got to the NIU I instructed them on a particular	5	responsible commander would have acted, you indicated that
6	action. What I'm indicating is that there was an	6	the police units must seek cover and you essentially shut
7	indication now that starting with the NIU, had contributed	7	down the shooting from the police side so that you can
8	to some sort of cross-fire at the intervention that we did	8	isolate where the hostile shooting is coming from, would
9	when we did it. What I'm indicating is before we even	9	that not have been the sensible way to approach the matter?
10	arrived at where the NIU was, they had already fired many	10	GENERAL NAIDOO: Chair, I think that in
11	rounds, there were already bodies lying there and I would	11	terms of the evidence I've led, I think that's about very
12	want that to be clarified. I am not moving back from what	12	similar to the way we acted. I indicated that the line
13	we said and what we did.	13	move forward to a particular point and then I asked the
14	MR SEMENYA SC: Chair, can I for the	14	members to hold their line. We also discussed the issue
15	record say, as I understand the – and I don't know where	15	about appropriate cover and I testified in terms of the use
16	this line of cross-examination is going but as I understand	16	of vehicles for cover, in terms of the tactical training of
17	the law, there is a litany of cases that tell us how	17	the K9 members and yes, so I think in that aspect we did do
18	insidious hindsight is. The inquiry is not whether or not	18	that.
19	-	19	MR CHASKALSON SC: But you intervened, it
20	[12:13] MR CHASKALSON SC: Mr Chairperson, I	20	was the shooting to begin with that prompted you to
21	don't want to interrupt my learned friend but this is not	21	intervene.
22	an appropriate objection. He can make this argument in	22	GENERAL NAIDOO: I don't understand.
23	argument. It is not to lend the witness some assistance at	23	MR CHASKALSON SC: You say that your
24	this point.	24	diversion from your primary function of taking medics to
25	CHAIRPERSON: [Microphone off, inaudible]	25	where people were dying was prompted by hearing shooting at
	Page 23722		
	1 dgC 25722		Page 23724
1	- lend the witness some assistance. What you are doing is	1	Page 23724 the koppie.
1 2	6	1 2	-
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2	- lend the witness some assistance. What you are doing is you're putting to him what Mr White says should have been	2	the koppie. GENERAL NAIDOO: That is correct, Chair.
2 3	- lend the witness some assistance. What you are doing is you're putting to him what Mr White says should have been done, that's what is being debated. Whether at the end of	2 3	the koppie. GENERAL NAIDOO: That is correct, Chair. MR CHASKALSON SC: And you intervened as
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Marikana Commission of Inquiry

Pretoria

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	Page 23725	1	Page 23727
1	MR CHASKALSON SC: And zoom back a little	1	was already in its position on the other side of the rocks
2	bit so that we can get the starting time on the left of the	2	when you came over. Papa11 only reached that position at
3	screen. Your vehicle was in the position that I will mark	3	16:15:01, 16:15:01. So when you came over the rocks and
4	now where it was idling, probably within 100 metres of the	4	when the NIU were shooting with you coming over the rocks,
5	koppie, 150 metres of the koppie. Would you accept that as	5	which was witnessed from the people inside papa11, that was
6	an accurate estimate, or I'll do a Google Earth measurement	6	after 16:15:01. So there were at least six and a half
7	and we can –	7	minutes between the point at which you arrived and the
8	CHAIRPERSON: What you did was you	8	point at which you and the NIU shot, coming over the rocks
9	pointed out on the screen a spot just below the letters G	9	 probably more because from the statements of people in
10	and N, in fact between the letters G and N in the line	10	papa11 it doesn't sound like the instant they arrived they
11	which reads "16:12:35 ignition off" and what you pointed	11	saw you coming over the rocks, that was – it sounds like
12	was a spot between, effectively between the G and N in	12	there was a gap but at least six and a half minutes. Now
13	"ignition" just below the word, if I saw correctly on the	13	in that six and a half minutes, even before you started
14	screen.	14	walking to the NIU you say gunshots or bullets kicked up
15	MR CHASKALSON SC: That's correct,	15	dust at your feet.
16	Chairperson. Now you reached that position at 16:08:05 and	16	GENERAL NAIDOO: Chair, I think including
17	your vehicle was idling in that position for three minutes.	17	some of the statements that we already dealt with confirms
18	How soon after your vehicle arrived at the scene did you	18	that, yes.
19	get out of the vehicle?	19	MR CHASKALSON SC: Now, you didn't at
20	GENERAL NAIDOO: Chair, as I indicated, I	20	that point think it would be a wise move to try to withdraw
21	was not in the vehicle, I was walking alongside the	21	with everybody to a safe position, shut down the SAPS
22	vehicle. My driver was driving the vehicle. I have	22	shooting so that you could identify where the hostile
23	testified to that effect.	23	shooter, if indeed there was one, was positioned?
24	MR CHASKALSON SC: At a certain point, at	24	GENERAL NAIDOO: Chair, I think that was
25	16:12:35 your driver switched the vehicle off. Did you	25	precisely the reason why I went to the NIU because, as I
	Page 23726		Page 23728
1	Page 23726 give any instruction in this regard?	1	Page 23728 already testified, the shooting was coming from where I
1 2		1	5
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2	give any instruction in this regard? GENERAL NAIDOO: No, Chair.	2	already testified, the shooting was coming from where I could see they were. Hence my testimony earlier to say
2 3	give any instruction in this regard? GENERAL NAIDOO: No, Chair. MR CHASKALSON SC: Then we cannot use	2 3	already testified, the shooting was coming from where I could see they were. Hence my testimony earlier to say that a lot of the shooting of the NIU had already been
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1	Page 23729	1	Page 23731
1	was, one of the things is we did not exclude the	1	GENERAL NAIDOO: We knew that, I
2	possibility of the gunfire heard coming from them as well,	2	testified to that.
3	was to establish the reason for the fire and to establish	3	MR CHASKALSON SC: You had in fact walked
4	whether I could allow the convoy that was waiting for me to	4	past their armoured vehicle en route to the NIU.
5	move, to move on. I indicated already when I arrived there	5	GENERAL NAIDOO: Chair, they were parked
6	that they were in a tactical position, they were under	6	in front of the line, yes.
7	cover and I observed the bodies that had been shot. I	7	MR CHASKALSON SC: The second is, a few
8	think I have testified to all these things. So to answer	8	minutes ago you said that while you were at the NIU you
9	the question, that was the intention of going to the NIU	9	could still hear gunshots, they weren't in your immediate
10	because at that stage they were the people that I perceived	10	vicinity but they were coming from somewhere around the
11	to be doing the shooting as well.	11	koppie and you conceded that there was a risk that other
12	MR CHASKALSON SC: And when you got to	12	police members may be at risk because of these gunshots.
13	the NIU was there still shooting all around you at the	13	GENERAL NAIDOO: Chair, I think we have
14	koppie?	14	an interrupted narrative. I was still indicating where I
15	GENERAL NAIDOO: Chair, the shots that I	15	was, what the situation was when I arrived at the NIU. I
16	indicated that were around us was a couple of rounds that	16	did not proceed further with the narrative to – but we will
17	struck the ground in front of us in the ground and when I	17	get there but I'm indicating I arrived at the NIU and they
18	arrived at NIU there were still shots elsewhere, not	18	were not shooting at that stage.
19	exactly where we were, further in the koppie in the	19	CHAIRPERSON: I'd like to ask one
20	background but I could not say clearly at that stage	20	question. I think we may have to adjourn after that. The
21	whether it was left or right.	21	NIU people you say weren't shooting. Were shots still
22	MR CHASKALSON SC: And you didn't know	22	being fired from some other direction?
23	whether it was police or hostile strikers.	23	GENERAL NAIDOO: Chair, I have testified
24	GENERAL NAIDOO: No, I could not say who	24	that further on somewhere in the koppie I could hear a few
25	was shooting and I also did not at that stage perceive the	25	shots, yes.
	Page 23730		Page 23732
1	Page 23730 shooting to be done in our, in the direction that I was in.	1	Page 23732 CHAIRPERSON: And I think you've already
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