

# 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 207

26 MARCH 2014

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<p style="text-align: right;">Page 25500</p> <p>1 [PROCEEDINGS ON 26 MARCH 2014]  2 [09:32] CHAIRPERSON: The Commission resumes.  3 We're starting late this morning because I wanted to get  4 the transcript of a passage in the witness's evidence which  5 has formed the subject of a number of newspaper and other  6 media reports, which are not correct, and the transcript  7 has been printed for me and I gave it to Mr Semenya who  8 came to see me in chambers to inform me that he wished to  9 raise the matter. That's the reason that we're late, so I  10 apologise to those of you who were kept waiting.  11 Mr Semenya, I think you indicated you wanted to  12 address the matter immediately before Adv Pillay continues  13 with his examination-in-chief.  14 MR SEMENYA SC: With your permission,  15 Chair. Chair, you would have noticed that the reporting on  16 the evidence of the Colonel yesterday went to the extent of  17 suggesting that the legal team had sought to get him to  18 tell an untruth before the Commission. That's the tenure  19 of the reportage.  20 But Chair, you'd also realise that the transcript  21 does not bear that accusation out. What the Colonel said  22 was that in consultation he was made to understand that  23 there would be accusations put to the witness that he must  24 take responsibility for what had happened at koppie 3. The  25 witness did not say, or remotely suggest that the legal</p>	<p style="text-align: right;">Page 25502</p> <p>1 object if we allow Mr Semenya – he won't really be cross-  2 examining, he'll just be putting something to the witness.  3 MS PILLAY: Not at all, Chair.  4 CHAIRPERSON: So I must – well okay, yes  5 perhaps I should put it. Luitenant Kolonel, ek herinner u  6 dat u nog gebonde is aan u plegtige bevestiging.  7 SALMON JOHANNES VERMAAK: Bevestig.  8 VOORSITTER: U het nou gehoor wat –  9 sorry, I should do it in English. You've heard what Mr  10 Semenya has said. It relates to what you said yesterday.  11 We have the transcript and I think we should make it  12 available in due course to the media so that the matter can  13 be dealt with satisfactorily, but do you confirm that what  14 Mr Semenya has said is an accurate summary of what you  15 said?  16 COLONEL VERMAAK: Mr Chair, yes, I agree  17 what Mr Semenya said just now.  18 CHAIRPERSON: Thank you very much. So Mr  19 Semenya, I take it it's not necessary for you to ask any  20 questions at this stage. So the members of the media who  21 are, as I said who are in the chamber or listening from the  22 media room next door will I trust have taken note of what's  23 been said. We will make available to them copies of, or  24 perhaps we can just give the reference. I'm not sure if  25 it's on the website yet of the Commission, but we can make</p>
<p style="text-align: right;">Page 25501</p> <p>1 team had pushed him into telling any untruth about the  2 matters around that story.  3 So we would request, Chair, that perhaps with  4 your assistance we can have the reporting on the matter  5 that is accurate and reflective of the evidence that was  6 told by the witness, without tarnishing the image of the  7 legal team.  8 CHAIRPERSON: Yes, Mr Budlender as chief  9 evidence leader, is there anything you wish to say in  10 respect of what Mr Semenya has said?  11 MR BUDLENDER SC: Chair, only this; that  12 Mr Semenya's account of the evidence which the witness gave  13 is consistent with my recollection of it. But he has the  14 transcript which is very much better than my recollection,  15 but it's certainly consistent with my recollection.  16 CHAIRPERSON: Those members of the media  17 who are either present in the chamber –  18 MR BUDLENDER SC: I'm sorry, Chair, could  19 I interrupt? Perhaps it might be helpful if that were put  20 to the witness so that he could confirm whether Mr  21 Semenya's understanding of his evidence is correct. That  22 may be a better way of dealing with it than one of us  23 making a pronouncement on it.  24 CHAIRPERSON: I think that's an  25 appropriate way of doing it, and I'm sure Ms Pillay won't</p>	<p style="text-align: right;">Page 25503</p> <p>1 available to them the relevant section of the transcript  2 which we received, which bears out what Mr Semenya has  3 said. That we can do as soon as is possible. I understand  4 it's page 25448. I haven't got it in front of me at the  5 moment. Is that the page, Mr Semenya?  6 MR SEMENYA SC: That is the page, Chair.  7 CHAIRPERSON: Yes, if it's available on  8 the internet then the media can find it there. If it's not  9 yet been put up on the internet I'd be grateful if they'd  10 let me know so that we can make arrangements for it to be  11 given to them either electronically or in hardcopy form.  12 Ms Pillay, do you wish now to proceed with your  13 examination-in-chief?  14 EXAMINATION BY MS PILLAY (CONTD.): Thank  15 you, Chair. Good morning, Colonel.  16 COLONEL VERMAAK: Good morning, Ma'am.  17 MS PILLAY: Colonel, before we continue  18 with the examination-in-chief proper there's just one issue  19 that I'd like to deal with. After proceedings concluded  20 yesterday I was approached by one of the widows of the  21 Lonmin security guards who were brutally killed on the 12th  22 of August and she requested that I ask you whether you have  23 any knowledge or information which would assist her in  24 understanding the circumstances under which her husband was  25 killed. So do you have any knowledge or information that</p>

<p style="text-align: right;">Page 25504</p> <p>1 would assist her?</p> <p>2 KOLONEL VERMAAK: Mnr die Voorsitter, die</p> <p>3 inligting wat ek het, het ek reeds voor die Kommissie</p> <p>4 getuig. Daar is geen nuwe inligting wat ek op hierdie</p> <p>5 stadium hulle enigsins mee behulpsaam kan wees nie.</p> <p>6 MS PILLAY: Thank you, Colonel. Can we</p> <p>7 now turn to paragraph 13 of LLL8? Now you deal in that</p> <p>8 paragraph of your statement with a meeting that was held on</p> <p>9 the 28th of October 2012. Can you just tell us who issued</p> <p>10 the instruction for you to attend the meeting?</p> <p>11 KOLONEL VERMAAK: Voorsitter, ek kan nie</p> <p>12 op hierdie stadium vir u presies sê wie die dokumentasie</p> <p>13 geteken het nie. Ons kan dit bekom as nodig, maar al die</p> <p>14 bevelvoerders, offisiere van die verskillende groepe was op</p> <p>15 daardie dag ontbied na die Operational Response Service se</p> <p>16 hoofkantoor in Pretoria.</p> <p>17 MS PILLAY: And what did you understand</p> <p>18 to be the purpose of the meeting?</p> <p>19 KOLONEL VERMAAK: Dit was maar weereens</p> <p>20 gewees om te kyk na die "presentation" wat deur Kolonel</p> <p>21 Scott voorberei was en weereens na te gaan of daar moontlik</p> <p>22 enige detail miskien uitgelaat kan word. Daar was ook deur</p> <p>23 van die nasionale generale wat die regsplan aan die</p> <p>24 bevelvoerders voorgestel het en hulle gesê het dat dit die</p> <p>25 mense is wat hulle dan gedurende die Kommissie sal</p>	<p style="text-align: right;">Page 25506</p> <p>1 KOLONEL VERMAAK: Dit was die</p> <p>2 uiteensetting van die verskillende stappe wat sou gevolg</p> <p>3 geword het van "action 1" tot die laaste ene, wat ek ook op</p> <p>4 daardie dag vir die eerste keer gehoor het.</p> <p>5 MS PILLAY: That's in relation to the</p> <p>6 plan that was implemented –</p> <p>7 COLONEL VERMAAK: To the plan –</p> <p>8 MS PILLAY: - on the 16th.</p> <p>9 KOLONEL VERMAAK: Dis korrek, ja.</p> <p>10 MS PILLAY: What was Colonel Scott's</p> <p>11 response to your query?</p> <p>12 KOLONEL VERMAAK: Ek het, in die betrokke</p> <p>13 gesprek het hy vir die lede gesê dat hy daardie oggend vir</p> <p>14 die eerste keer staande order 262 gelees het en –</p> <p>15 MS PILLAY: Can I just understand,</p> <p>16 "daardie oggend" is in October?</p> <p>17 COLONEL VERMAAK: October, the 28th with</p> <p>18 that meeting he said to us that was the first day that he</p> <p>19 ever read standing order 262, that he was happy that most</p> <p>20 of the steps were according to standing order 262.</p> <p>21 MS PILLAY: Most of the steps set out in</p> <p>22 the plan?</p> <p>23 KOLONEL VERMAAK: Dis soos hy dit gestel</p> <p>24 het, ja. Daar was ook aan die lede gesê dat dit nie ooit</p> <p>25 gemeld moet word dat daardie dokumentasie eers daardie</p>
<p style="text-align: right;">Page 25505</p> <p>1 verteenwoordig.</p> <p>2 MS PILLAY: Now you say in line 3 of</p> <p>3 paragraph 13 – I'm sorry, in line 2 of paragraph 13 that</p> <p>4 Lieutenant Colonel Scott was the facilitator of the</p> <p>5 meeting. Now can you tell us exactly what he was doing on</p> <p>6 the day?</p> <p>7 KOLONEL VERMAAK: Op die betrokke dag het</p> <p>8 hy bepaalde dokumentasie uitgedeel wat die verskillende</p> <p>9 stappe van die optrede van die 16de presies uiteen uitgesit</p> <p>10 het. Ek kan net meld op daardie stadium was die mees</p> <p>11 senior persoon in die werksessie was Brigadier Calitz</p> <p>12 gewees. Die generale het in 'n ander konferensiekamer</p> <p>13 vergader. Ek weet ongelukkig nie wie almal daar was nie.</p> <p>14 Ek het toe vir Kolonel Scott aangevat oor die</p> <p>15 feit dat hy op so laat stadium die nodige dokumente</p> <p>16 versprei onder die lede en het ek hom gevra hoekom is</p> <p>17 hierdie dokumente nie voor die optrede as deel van die</p> <p>18 "debriefing" uitgedeel aan die bevelvoerders nie.</p> <p>19 MS PILLAY: Can I just understand,</p> <p>20 Colonel, before you proceed further, what document is it</p> <p>21 that Colonel Scott distributed at the meeting?</p> <p>22 KOLONEL VERMAAK: As u my 'n oomblik gee</p> <p>23 sal ek net gou in die leer kyk of dit –</p> <p>24 MS PILLAY: You can even just describe</p> <p>25 the document to us so that we understand what –</p>	<p style="text-align: right;">Page 25507</p> <p>1 betrokke dag aan die lede oorhandig was vir insae nie. Ek</p> <p>2 het onmiddellik beswaar gemaak daarteen. Ek was redelik</p> <p>3 ontsteld gewees oor die feit dat hy vir bevelvoerders</p> <p>4 versoek om nie enigsins te noem dat hulle daardie oggend</p> <p>5 vir die eerste keer die nodige dokumente ontvang het nie.</p> <p>6 Hy het toe verder 'n opmerking gemaak dat die</p> <p>7 lede moes, tydens sy voorligtingsessies moes hulle</p> <p>8 geluister het wat die plan is en sou hulle buite die plan</p> <p>9 opgetree het dan sal die lede maar hulle eie</p> <p>10 verantwoordelikheid moet dra. Ek het hom toe gekonfronteer</p> <p>11 met die stelling en hy het toe gemeld dat elke lid is</p> <p>12 verantwoordelik vir sy eie optrede tydens die Marikana</p> <p>13 insident.</p> <p>14 Daarop het ek hom weereens gevra waar is die</p> <p>15 notules van al die vergaderings wat gehou was, want ek meen</p> <p>16 as 'n mens vergadering hou het jy bepaalde</p> <p>17 vergaderingsprosedures en daar was nooit aan ons enige</p> <p>18 notule voorgehou dat daar kon regstellings gemaak word op</p> <p>19 die notules van die vorige dag nie. Daar was ook nie</p> <p>20 agendas opgestel nie. Die enigste wat ons gehad het is</p> <p>21 elke oggend die voorlegging wat op die transpirant, of die</p> <p>22 projektor aan ons voorgehou was.</p> <p>23 MS PILLAY: And what was Colonel Scott's</p> <p>24 response to your question?</p> <p>25 KOLONEL VERMAAK: Hy was hoogs ontsteld</p>

<p style="text-align: right;">Page 25508</p> <p>1 en onmiddellik vir Generaal Annandale telefonies gekontak, 2 wat in dieselfde gebou was. Ek het toe opgestaan en ek het 3 vir die lede gesê dat ek nie akkoord kan gaan met wat daar 4 gebeur nie, dat ek myself gaan verskoon van hierdie 5 werksessie af. 6 MS PILLAY: And why could you not 7 associate yourself with what was happening in that work 8 session? 9 KOLONEL VERMAAK: Ekskuus, herhaal net 10 weer. 11 MS PILLAY: Why could you not associate 12 yourself with what was happening in the work session? 13 KOLONEL VERMAAK: In die eerste plek wat 14 my kwaad gemaak het was die feit dat hy vir die lede gesê 15 het as hulle nie geluister het tydens die voorlegging, of 16 die voorligtingsessie wat hy gegee het nie gaan hulle 17 alleen staan en moet hulle nie verwag dat bestuur saam met 18 hulle gaan staan as hulle op hulle eie opgetree het nie. 19 My mening was dat hy nie so 'n opmerking teenoor die lede 20 kan maak en voortydig alreeds insinueer dat daar van die 21 lede is wat verkeerd opgetree het nie, en dit is hoekom ek 22 hom gekonfronteer het met die feit dat hy eers daardie dag 23 vir die eerste keer aan ons sodanige notas oorhandig het. 24 En wat vir my ook nogal 'n groot vraagteken geplaas het oor 25 die feit dat hy die opsteller van die plan was is dat hy</p>	<p style="text-align: right;">Page 25510</p> <p>1 bevelvoerder. 2 KOLONEL VERMAAK: Hy was die operasionele 3 bevelvoerder, Voorsitter. 4 MS PILLAY: And what happened after you 5 excused yourself from the meeting? 6 KOLONEL VERMAAK: Ek het uitgeloop en ek 7 het in die ontvangsportaal gaan sit, waarop Generaal 8 Annandale gekom het en hy het my gekalmeer en vir my gesê 9 dat ek moet dit nie in daardie lig sien nie en dat ek na 10 die breër prentjie moet kyk as net sekere insidente, waarop 11 ek daar aan hom genoem het dit gaan nie vir my oor 'n breër 12 prentjie nie, dit gaan vir my oor die waarheid. Hy het my 13 versoek om terug te keer na die vergadering toe en ek het 14 Brigadier Calitz om verskoning gevra deurdat ek sy 15 senioriteit as die senior in die werksessie geignoreer het 16 en net uit die vergadering uitgeloop het, en ek het aan 17 geen gesprekke verder deelgeneem nie. 18 MS PILLAY: Alright, can we now turn to 19 the letter of the 12th of December 2012, which is HHH68 and 20 document 8 in your bundle. Can you just tell us what was 21 the context in which you wrote this letter? 22 KOLONEL VERMAAK: Sedert die Marikana 23 insident was daar nog deurlopend onluste gewees in die 24 Platina Myn streek. 25 [09:52] Ek was ontplou van Augustus tot middel Desember</p>
<p style="text-align: right;">Page 25509</p> <p>1 maande na die insident voor al die lede gaan staan en erken 2 dat dit die eerste keer daardie oggend is wat hy staande 3 order 262 onder oë gehad het. 4 MS PILLAY: Now did any of the other 5 commanders raise objections similar to those that you had 6 raised? 7 KOLONEL VERMAAK: Ek dink hulle was 8 eintlik maar verbaas gewees dat ek daar opgestaan het en 9 hom direk gekonfronteer het want tot op daardie stadium was 10 die plan voorgehou aan die meeste bevelvoerders en dit was 11 net vir hulle gesê dit is die plan wat uitgevoer word, en 12 dit sluit Brigadier Calitz in. Ek was nooit by waar 13 Brigadier Calitz as die oorhoofse bevelvoerder gevra was 14 hoe sy plan sou gelyk het nie. 15 MS PILLAY: You mean the operational 16 commander? 17 KOLONEL VERMAAK: Dis korrek. 18 CHAIRPERSON: The overall commander was 19 officially General Mpembe. Brigadier Calitz was the 20 operational commander. 21 KOLONEL VERMAAK: Dis korrek. 22 CHAIRPERSON: So he wasn't the "oorhoofse 23 bevelvoerder." 24 KOLONEL VERMAAK: Nee, nee. 25 VOORSITTER: Hy was die operasionele</p>	<p style="text-align: right;">Page 25511</p> <p>1 in daardie area en sekere insidente waargeneem uit die lug 2 uit wat nog steeds vir my kommerwekkend was, waar ek 3 potensieel gesien het dat daar ook dinge skeef kan loop en 4 toe het ek besluit, nadat ek – ek wil net my nota kry, mnr 5 die Voorsitter – op die 7de Desember het ek aan mnr Frikkie 6 Pretorius 'n SMS gestuur waar ek hom gevra het vir 'n 7 afspraak met die Nasionale Kommissaris en die Provinsiale 8 Kommissaris spesifiek want ek het gevoel dat sekere 9 inligting, volgens my, nie oorgedra was aan die nasionale 10 bestuur nie. As ek daarna verwys dan dra ek persoonlik nie 11 kennis enigsins waar daar aan die Nasionale Kommissaris of 12 die Provinsiale Kommissaris tydens hierdie gebeure verwys 13 na my skrywes wat ek voor die tyd aan hulle gestuur het wat 14 ek vir hulle gevra het hulle moet asseblief heroorweeg hoe 15 die insidente plaasvind, waarin ek my laaste skrywe in Mei 16 pertinent genoem het dat ek bang is vir 'n herhaling in 17 Ficksburg waar mense hulle lewens kan verloor. Dit het my 18 toe geroep om hierdie skrywe te rig en weer eens baie van 19 die punte wat ek in my vorige skrywe gemeld het, het ek 20 herhaal in die dokument van die 12de Desember. 21 MS PILLAY: Now, if we look at the letter 22 and in particular the first 10 paragraphs of the letter, 23 it's really a summary of your experience and your training, 24 your POP experience and some of the other issues which 25 we've dealt with already in the May 2012 letter and the May</p>

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1 2011 letters, do you agree?

2 KOLONEL VERMAAK: Dis korrek.

3 MS PILLAY: If you can then turn to

4 paragraph 11 specifically where you identify shortcomings

5 in the handling of the unrest situations at Lonmin, Amplats

6 and Impala and I'd like you just to go very briefly through

7 each of the shortcomings and specifically if you could

8 identify the ones which you say are relevant to the

9 Marikana incident.

10 KOLONEL VERMAAK: Voorsitter, as ons 11.1

11 vat waar ek gemeld het, "Members don't have" – nee,

12 "Members don't have commanders with experience in charge at

13 unrest scenes," spesifiek vermeld na die tipe onluste wat

14 ons op daardie stadium ervaar het waar dit gegaan het oor

15 arbeidsgeskille en dan ook gesien in die lig van die geweld

16 wat plaasgevind het vooraf in Marikana voor die 13de en dan

17 die 13de en die 16de, was dit vir my 'n bekommernis want daar

18 was eenhede van oral af ingetrek wat nog nooit blootgestel

19 was aan sulke tipe onluste wat ons op die myne ervaar het

20 nie.

21 MS PILLAY: And if we look just

22 specifically, and let's deal with the two incidents

23 separately, the incident of the 13th and then the incident

24 of the 16th, in relation to either the 13th or the 16th,

25 which are the commanders which you say didn't have the

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1 necessary or the requisite experience and who were in

2 charge on the day?

3 KOLONEL VERMAAK: Van die mense wat ek

4 weet wat wel die ondervinding daar het dink ek is kolonel

5 Merafe, op daardie stadium van die openbare orde polisie,

6 was hy vir my die mees ervare persoon ten opsigte van

7 blootstelling aan onluste op die myne. Die ander persone

8 wat van Pretoria af en wat ek agterna verneem het van

9 regoor die land laat kom is, het dit net vir my duidelik

10 geword dat daardie mense glo ek nog nie blootgestel was aan

11 mynonluste soos wat ons dit in die Noordwes ervaar nie.

12 MS PILLAY: And let's deal with the

13 person who was ultimately in charge on the 13th, that's

14 General Mpembe, was both the operational commander and the

15 overall commander on the 13th. Does this shortcoming apply

16 to him as well?

17 KOLONEL VERMAAK: Uit my tydperk as

18 bevelvoerder van openbare orde was hy nooit betrokke

19 enigsins by enige insidente waar ons mynonluste gehanteer

20 het nie. Of hy agterna betrokke was direk by mynonluste in

21 Rustenburg, die sal ek nie kan op antwoord nie.

22 MS PILLAY: And in a sense that answer

23 would apply to the 16th as well because General Mpembe was

24 the overall commander of the 16th. Any other commanders

25 involved in the incident and the operation of the 16th whom

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1 this shortcoming would apply to?

2 KOLONEL VERMAAK: Die TRT lede glo ek nie

3 word normaalweg blootgestel aan die hantering van openbare

4 orde polisie nie. Soos dit volgens my, is dit mense wat

5 nog nooit aan daardie tipe geweld blootgestel was nie.

6 Mense wat ek wel weet wat goeie kennis het van mynonluste

7 is brigadier Calitz homself, kolonel Merafe wat ek ken uit

8 die Noordwes provinsie uit. Wat ook vir my redelik

9 verbasend was, is dat deur al die 2010 sokker, die AFCON

10 sokker, het brigadier Calitz van sy kantoor af 'n

11 beplanningsgroepie gehad wat hom gehelp het met al die

12 beplannings ten opsigte van die big events en selfs waar

13 daar geweld op sekere plekke plaasgevind het, was die twee

14 kapteine ingekry om die nodige beplannings in die

15 Rustenburg area meestal in samewerking met kolonel Merafe

16 te doen. Die twee lede was glad nie betrokke by die opstel

17 van die plan tydens Marikana nie, so dit was vir my vreemd

18 dat iemand van taakmag af ingekry word om 'n beplanning te

19 doen waar dit 'n openbare orde voorval is.

20 MS PILLAY: And if we look at 11.2 –

21 COMMISSIONER HEMRAJ: Sorry, before we

22 move on, I'm just not sure whether you are saying that the

23 criticism relating to a lack of experience does extend to

24 General Mpembe or not. Could you just clarify that for me

25 please?

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1 KOLONEL VERMAAK: Voorsitter, volgens my

2 ervaring waar ons ontplooi was tydens onluste, was generaal

3 Mpembe nie direk betrokke by mynonluste gewees nie.

4 COMMISSIONER HEMRAJ: Thank you.

5 MS PILLAY: Colonel, if we can then deal

6 with 11.2, "Commanders don't know or have the legislation

7 under what they can act," what did you mean by that?

8 KOLONEL VERMAAK: Voorsitter, die

9 maklikste om 'n saak oop te maak waar openbare geweld is,

10 is jy gaan open 'n openbare geweld dossier, terwyl daar

11 baie ander oortredings plaasvind tydens hierdie optrede of

12 insidente en dit vir my 'n feit is dat jy al die

13 aangeleenthede wat ge-oortree word ook in wetgewing moet

14 vervat, alhoewel die wet op Reëling van Byeenkomste 'n

15 omskrywing het ten opsigte van openbare geweld, word daar

16 die Padverkeerswet word byvoorbeeld oortree, blokkering van

17 paaie, aanrandings vind plaas, opsetlike saakbeskadiging

18 vind plaas en dies meer.

19 MS PILLAY: Now Colonel, in the context

20 of the Marikana operation, which commanders in your view

21 didn't have, didn't know or have the legislation under

22 which they can act?

23 KOLONEL VERMAAK: Ek dink weer as ek

24 terugkom en ek kyk na al die eenhede wat daar ontplooi was,

25 ek ken hulle nie by name nie, ek het agterna eers gehoor

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1 van hoeveel verskillende eenhede van regoor die land af is  
2 mense getrek, maar ek sal uitlig as ek sê dat TRT is een  
3 van die afdelings wat definitief nie vertrouwd is met al die  
4 nodige wetgewing nie.

5 MS PILLAY: And apart from TRT, any other  
6 the other commanders that were in charge of the operation?

7 KOLONEL VERMAAK: Ja, brigadier Fritz het  
8 by verskeie geleenthede opgemerk en hy was op daardie  
9 stadium die nasionale hoof van die spesiale taakmag, dat  
10 volgens sy mening taakmag nie 'n rol het om daar te speel  
11 nie want dit is nie in lyn met hulle verantwoordelikhede,  
12 dit is uitsluitlik openbare geweld en was hy deurentyd  
13 onbetrokke ten opsigte van enige insette waar die  
14 beplannings voorgehou was aan ons.

15 COMMISSIONER HEMRAJ: Colonel, how did  
16 you come to the conclusion that these commanders did not  
17 know the legislation? Was it when you spoke with them, was  
18 it because of the way they conducted themselves, how was it  
19 conveyed?

20 KOLONEL VERMAAK: Voorsitter, die feit  
21 dat sedert die insident van Marikana was dit nog steeds die  
22 norm gewees om net 'n openbare geweld saak te open, terwyl  
23 daar geleenthede was om mense te arresteer vir besit van  
24 gevaarlike wapens, die wet maak duidelik voorsiening dat 'n  
25 groep nie toegelaat moet word om met gevaarlike wapens aan

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1 'n optog deel te neem nie en ons het nooit in daardie  
2 tydperk gesien dat daar ingevolge daardie wetgewing, in  
3 kort, enige optrede geloods was nie.

4 COMMISSIONER HEMRAJ: Thank you, Colonel.

5 MS PILLAY: If you can then turn to 11.3,  
6 Colonel, "Members allow illegal actions at certain areas  
7 and the next day they take steps against, for example,  
8 illegal strikers or marchers. These actions confuse the  
9 public and they neglect their responsibility to protect and  
10 serve." In the context of – does this apply to the  
11 Marikana operation and if it does, what –

12 KOLONEL VERMAAK: Ja, spesifiek na  
13 Marikana operasie ook. Dit is 'n punt wat ek persoonlik  
14 geopper het dat die publiek toegelaat was om van Nkaneng,  
15 die informele woongebied, na die koppie toe en terug te  
16 beweeg met gevaarlike wapens van die Maandag af en nooit  
17 was daar enigsins enige poging aangewend om hierdie mense  
18 aan te spreek ten opsigte van die wapens wat heen en weer  
19 gedra word nie. In die oggende vroeg het ons oor die  
20 gebied gevlieg, dan was daar baie min mense op die koppie  
21 en het, volgens my mening kon daardie mense ontwapen gewees  
22 het met minder potensiaal vir groot konflik. Dit is een  
23 van die aspekte wat ek daar bedoel het, is dat jy kan nie  
24 een dag mense toelaat om onwettige aksies te neem en die  
25 volgende dag dan wil jy teen hom optree nie.

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1 MS PILLAY: Now we see in 11.4 there's  
2 actually two points dealt with and let's take the first  
3 one, "Senior officers do planning without any experience in  
4 serious incidents and this caused that the SAPS must  
5 afterwards explain their actions." What does that refer  
6 to?

7 KOLONEL VERMAAK: Dit kom terug na die  
8 oorspronklike plan toe waar ek gesê het dat dit vir my  
9 vreemd was dat die beplanners wat altyd die planne doen in  
10 die Noordwes provinsie glad nie op daardie stadium betrokke  
11 was by hierdie beplannings nie. 'n Operasionele plan vir  
12 openbare orde verskil van ander planne af. Jy kan nie sê  
13 dat as jy 'n misdaadvoorkoming beplanning doen dit  
14 dieselfde is as 'n openbare orde beplanning wat jy moet  
15 aandag aan gee nie.

16 MS PILLAY: And the second portion of  
17 that point says, "Marikana/Lonmin is a very good example  
18 where senior management was warned before specific actions  
19 were taken but they did not give any attention to the  
20 advice. This type of ignorance put the National and  
21 Provincial Commissioners in a very difficult situation."  
22 What is it that you were referring to?

23 KOLONEL VERMAAK: Daar was dit spesifiek  
24 gewees waar ek van die helikopter af ook gevra het vir die  
25 JOC, eers het ek vir die voertuie op die grond gevra of die

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1 mense wat by hulle verby loop tussen die voertuie verby  
2 loop, of hulle gewapen was. Dit was bevestig. Daar was 'n  
3 versoek na die JOC gerig dat daar opgetree moet word teen  
4 die mense wat dan hulle skuldig maak aan hierdie tipe van  
5 gedrag. Die terugvoering wat gekry was, is dat die JOC 'n  
6 besluit geneem het dat daar nie opgetree gaan word nie, dis  
7 die een deel. Die ander deel is die feit dat ek van die  
8 12de af my mening uitgespreek het ten opsigte van die  
9 aggressiwiteit van die mense wat waargeneem is en die  
10 onvoorspelbaarheid ten opsigte van uit ervaring uit oor  
11 baie jare heen.

12 MS PILLAY: Can we then turn to 11.5?  
13 "Officers and members" –

14 CHAIRPERSON: I'm sorry, before you move  
15 on to that. You've of course mentioned earlier that on, I  
16 think it was the Tuesday, you gave warnings to the senior  
17 officers, particularly I think to Brigadier Garnett –

18 KOLONEL VERMAAK: Dis korrek, Voorsitter.

19 CHAIRPERSON: - about the effect of the  
20 muti, your understanding, what effect that would have on  
21 the miners.

22 KOLONEL VERMAAK: Dis korrek, Voorsitter.

23 CHAIRPERSON: On the strikers, sorry.

24 KOLONEL VERMAAK: Dis korrek.

25 CHAIRPERSON: Now did you convey that

<p style="text-align: right;">Page 25520</p> <p>1 warning to other senior officers apart from Brigadier 2 Garnett? 3 [10:11] KOLONEL VERMAAK: Dis korrek. Die oggend 4 van die 15de en die oggend van die 16de tydens JOC 5 vergaderings het ek dieselfde bekommernis uitgespreek waar 6 ek gemeld het dat ek – een oggend was ek, brigadier 7 Engelbrecht was ook daar, het hy bevestig dit wat ek sê en 8 die oggend van die 16e was kolonel Isaacs teenwoordig van 9 CIG en het hy dieselfde bekommernis uitgespreek in die JOC 10 vergadering. 11 CHAIRPERSON: Yes, thank you. 12 KOLONEL VERMAAK: Ek kan miskien net 13 daarby aansluit, Voorsitter, is waar ek in een van my 14 skrywes gemeld het dat ek voel dat al die inligting nie 15 oorgedra word aan die Nasionale Kommissaris en ek 'n 16 vergadering aangevra het om spesifiek hierdie 17 aangeleenthede uit te lig, juis daarvoor het ek gevoel as 18 die Nasionale Kommissaris miskien pertinent daarop gewys 19 was kon daar moontlik 'n ander besluit geneem gewees het. 20 MS PILLAY: If we can then turn to 11.5, 21 "Officers and members do planning without any knowledge of 22 the Gatherings Act or standing order 262." 23 KOLONEL VERMAAK: Dis direk verwysend na 24 kolonel Scott wat die beplanning gedoen het en gehanteer 25 het, wat drie maande na die tyd voor die lede erken het dat</p>	<p style="text-align: right;">Page 25522</p> <p>1 vasgelê is nie. Daar is meer gekonsentreer op ander 2 aspekte van mense wat rondstaan en die belangrike gedeelte 3 van waar die onderhandelingsproses op videoband moet 4 vasgelê word is nie ten volle gedoen nie. Daar was ook 'n 5 leemte met die kamera op 'n stadium wat afgegaan het, wat 6 'n groot gedeelte nie opgeneem is nie en dit word 7 toegeskryf aan die feit dat die toerusting nie meer op 8 standaard is soos wat ons dit in die verlede ondervind het 9 nie. In die verlede sou alle onderhandelinge waar die 10 bevelvoerder met die groepleier onderhandel, sal daardie 11 gesprek op band geneem word, dit sal onmiddellik nog 12 voordat die video-operateur van diens gaan sal dit 13 oorgeplaas word op 'n DVD of 'n CD en dit word dan op 'n 14 spesifieke manier geliasseer, gebêre vir verdere navraag. 15 Video-operateurs het spesifieke kursusse deurloop om op 'n 16 latere stadium, sou dit nodig wees, in 'n strafhof 17 getuies te kan gaan lewer ten opsigte van die neem van 18 die video. Voor Marikana insident dra ek nie kennis van 19 sodanige intensiewe videokamera opleiding aan lede nie. 20 MS PILLAY: Now you say in point 11.8, "I 21 never saw any commander anymore with a voice recorder when 22 he negotiates with leaders for reference purposes 23 afterwards. 24 KOLONEL VERMAAK: Dit kom aan, hand-aan- 25 hand loop dit saam met die videokamera waar, in die verlede</p>
<p style="text-align: right;">Page 25521</p> <p>1 hy 262 op die 28ste October vir die eerste keer gelees het. 2 MS PILLAY: In 11.6, "Members are not 3 properly trained at training institutions. Some of the 4 instructors were never exposed to any of the incidents 5 which he must lecture. There is a big difference between 6 book knowledge and experience on the ground." 7 KOLONEL VERMAAK: Dis dieselfde argument 8 wat ek gister gehad het ten opsigte van baie jong lede wat 9 opgelei word as 'n instrukteur, train the trainer course, 10 hy gaan doen die trainer's course, doen die basiese 11 opleiding van die spesifieke vak wat hy moet aanbied en dan 12 word hy aangewend as 'n instrukteur. 13 MS PILLAY: 11.7, "In the past video 14 cameras were part of the issued equipment to train members 15 and every single action and negotiations were recorded for 16 evidence purposes later when needed. POP don't have this 17 capacity anymore. Some of the video footage that was taken 18 during the Marikana/Lonmin incident did not have any 19 value." Now can you just explain what you meant in this 20 paragraph? 21 KOLONEL VERMAAK: As 'n mens kyk na die 22 video-opname van die 13de waar die groep by die spoor gesit 23 het en jy gaan ontleed spesifiek daardie video-opnames dan 24 sal gesien word dat nie die hele gesprek van die senior 25 persoon wat met die groep se leier onderhandel op video</p>	<p style="text-align: right;">Page 25523</p> <p>1 het ons bevelvoerders mikrobandopnemers gehad wat jy 2 gebruik het, jy het die ander groep met wie jy onderhandel, 3 het jy gewaarsku dat jy daardie gesprekke op band neem en 4 daardie bande is ook gebêre sou daar op 'n latere stadium 5 navraag gewees het. 6 MS PILLAY: You say in 11.9, "During all 7 this unrest in February 2012 there was not one member of 8 POP that took still photos from the crowd or leaders that 9 could assist the investigation officer to identify them 10 afterwards that I could see. In the past every POP member 11 had a still camera for this purpose. At this stage we, as 12 the air wing, took all the photos during incidents." 13 KOLONEL VERMAAK: Elke POP unit het 'n 14 stilkamera gehad. Die persoon wat die stilfoto's geneem 15 het en die persoon wat die videokamera-operateur was, het 16 baie nou saamgewerk, veral waar dit gegaan het om latere 17 identifisering van leiersfigure as daar moontlike dossiere 18 geopen word, dan was daardie foto's onmiddellik beskikbaar 19 gestel aan die ondersoekbeamptes. Ons het by die POP 20 Klerksdorp, het ons na elke insident het ons albums 21 opgestel met al die besonderhede van wie die foto's geneem 22 het, waar dit geneem is en min of meer 'n kort beskrywing 23 waar moontlik van elke foto. 24 MS PILLAY: Now 11.8 you deal with 25 whether the Nyala drivers were sufficiently qualified.</p>

<p style="text-align: right;">Page 25524</p> <p>1 "Members with code EC(10) were given the Nyala keys during 2 this period and never had any training to operate a Nyala 3 vehicle and that caused a lot of expenditures that was not 4 budgeted for." Does this apply in the Marikana operation? 5 KOLONEL VERMAAK: Sover my kennis strek, 6 ja. Daar was aanvanklik nie 'n lys van bestuurders gewees, 7 beskikbaar, om te kan bepaal wie het die nodige magtiging 8 om die Nyala-voertuie te bestuur nie. Weer eens 9 terugverwysend na voor 2005 was daar spesifieke kursusse 10 gewees vir Nyala bestuurders waar hulle op 'n kursus gegaan 11 het om die sodanige voertuie reg te bestuur, reg te 12 onderhou en dat hulle kennis dra van die funksionering van 13 die totale voertuig. 14 COMMISSIONER HEMRAJ: Colonel, may I just 15 enquire how this came to your attention that at Marikana 16 the drivers of the Nyalas did not have the requisite – 17 KOLONEL VERMAAK: Voorsitter, daar was 18 geleenthede wat hulle bestuurders gesoek het vir, om Nyalas 19 te bestuur. So daar was nie 'n lys wat pertinent 20 beskikbaar was om te sê hierdie is 'n opgeleide Nyala 21 bestuurder nie. Die gebruik het geword van dat as jy 'n 22 kode 10 of swaarvoertuiglisensie het, dan is die voertuig 23 dan aan daardie persoon oorhandig om mee te bestuur. Daar 24 is wel 'n vereiste, omdat hy passasiers vervoer moet hy ook 25 'n openbare bestuurspermit by hom hê, 'n geldige openbare</p>	<p style="text-align: right;">Page 25526</p> <p>1 gestuur vir 'n inligtingsbevelvoerder van daardie afdeling 2 en was die lede wat verbonde daaraan was, verplig om 'n lys 3 by te hou van sy beriggewers. Al daardie inligting was 4 blootgestel aan die offisier wat dan weer op sy beurt dit 5 sal deel met die bevelvoerder en die ander lede wat by 6 operasies by betrokke is. Ook weens die feit dat hulle 7 self geregistreerde beriggewers gehad het, inligting gaan 8 nie net oor onluste nie, hulle het baie inligting gehanteer 9 ten opsigte van ander misdade ook, spesifiek het ons gekyk 10 na onwettige wapens en het ons dan ook self die eise 11 ingesit. Dit was deur die betrokke takbevelvoerder van die 12 speurders in die betrokke dorp waar die inligting bekom is, 13 ingehandig vir 'n aanbeveling. Dan is die eis ingehandig, 14 wanneer die eis uitbetaal word was dit die hanteerder wat 15 dan weer die eis aan die beriggewer uitbetaal het. 16 COMMISSIONER HEMRAJ: Are you saying, 17 Colonel, that there was no information available with 18 regard to the Marikana incident or is your complaint mainly 19 about the manner in which it was conducted, the manner in 20 which the informers were managed? 21 KOLONEL VERMAAK: Voorsitter, met 22 vermelding na die Marikana insident, as u kan onthou was 23 daar in die voorlegging verwys na faceless people. So daar 24 was geen inligting, bruikbare inligting wat kon gebruik 25 geword het vir proaktiewe optredes nie en dit is 'n groot</p>
<p style="text-align: right;">Page 25525</p> <p>1 bestuurspermit. 2 MS PILLAY: In 11.9, Colonel, you deal 3 with the lack of sufficient intelligence. You say "The 4 availability of information before incidents does not exist 5 anymore. In the past there was an information office at 6 each unit and they managed their own informants. Some of 7 them were attending courses to handle informers. These 8 members also claimed for rewards for the informers. They 9 were in possession of all the relevant registers as 10 prescribed by standing order, finance, when I was 11 transferred to the air wing, North-West." Can you just 12 explain to us what you meant there? 13 KOLONEL VERMAAK: Dis korrek. In die 14 verlede voordat die onluste-eeenhede afgeskaal was, was lede 15 opgelei in spesifieke hantering van inligting. Daar was 'n 16 inligtingsbeen binne-in elke eenheid. Hierdie persone het 17 ook die golden triangle vergaderings bygewoon om 18 eerstehandse inligting te hê om die bevelvoerder 19 onmiddellik op hoogte te hou. Daar was op 'n stadium 'n 20 tekortkoming van wat die Wet vereis, dat die 21 verantwoordelike persoon van die polisie se kant af 22 skriftelik aangestel moet wees om die polisie te 23 verteenwoordig in sodanige vergadering. Spesifiek kan ek 24 weer terugverwys, voor 2005 was luitenant-kolonel Gert 25 Oosthuizen wat my tweede-in-bevel was op die eenheid,</p>	<p style="text-align: right;">Page 25527</p> <p>1 leemte gewees ten opsigte van waar jy 'n operasie beplan, 2 van die inligting wat jy beskikbaar het. Die enigste 3 inligting wat wel beskikbaar was, is kolonel Isaacs-hulle 4 wat bevestig het in die oggend in the JOC dat die mense sal 5 nie hulle wapens neerlê nie en dat hulle bereid sal wees om 6 te baklei voordat hulle, hulle wapens vrywilliglik sal 7 neerlê. 8 MS PILLAY: So is your evidence that the 9 police ought to have had this information before the 10 violence started erupting over the period 9 to 16 August? 11 KOLONEL VERMAAK: Dis korrek. Van die 12 13de af was daardie inligting oorgedra ten opsigte van die 13 rituele en ten opsigte van die feit dat hierdie persone nie 14 vrywillig hulle wapens sal neerlê nie. 15 CHAIRPERSON: I notice that in your 16 paragraph 11.9 you say, "The availability of information 17 before incidents doesn't exist anymore." 18 KOLONEL VERMAAK: Dis – 19 CHAIRPERSON: According to the evidence 20 we have, certainly from the 13th onwards and I think 21 actually in Brigadier Engelbrecht's statement he was also, 22 was from the 12th onwards, they do seem to have made quite 23 rigorous efforts to get information and Brigadier 24 Engelbrecht explains how there were handlers and informers 25 and so on but certainly from the evidence we've had so far,</p>



<p style="text-align: right;">Page 25528</p> <p>1 Lonmin doesn't seem to know very much of what was going on 2 because it was Lonmin who actually talked about faceless 3 people. They didn't know who the people were and 4 certainly, to be fair to Brigadier Engelbrecht, he and his 5 people appeared to have made quite rigorous efforts from, 6 say, the 12th onwards to get information and you yourself 7 say that on the morning of the 16th Colonel Isaacs made it 8 quite clear to the JOCCOM that the police information, 9 which turned out to be correct, was that the miners weren't 10 going to hand over their weapons and they were going to 11 fight.</p> <p>12 KOLONEL VERMAAK: Dis korrek.</p> <p>13 CHAIRPERSON: That appears to be correct.</p> <p>14 Of course it may be contended that that's not an entirely 15 accurate interpretation of the facts but certainly on the 16 evidence so far prima facie that appears to be so, but I'm 17 not sure that one can criticise the criminal intelligence 18 people from, on the 16th, for not having adequate 19 information to put before the JOCCOM. The criticism may 20 be, and I think that may be the criticism that you're 21 making, that that information wasn't factored in properly 22 when the plan was worked out. Is that, would that be an 23 accurate summary or have I got that wrong?</p> <p>24 KOLONEL VERMAAK: Voorsitter, dis korrek, 25 maar as 'n mens teruggaan na die Vrydag toe, was daar reeds</p>	<p style="text-align: right;">Page 25530</p> <p>1 KOLONEL VERMAAK: Dis korrek.</p> <p>2 MS PILLAY: Can we then look at paragraph 3 12 of the letter where you start dealing with the 4 suggestions that you make and go –</p> <p>5 CHAIRPERSON: Sorry, Ms Pillay, is this 6 going to – how long is this point going to take?</p> <p>7 MS PILLAY: Chair, I'm not too sure. It 8 should take not, it shouldn't take too long but I think 9 now, if the Chair is inclined to have a comfort break, now 10 would be a good –</p> <p>11 CHAIRPERSON: Well, I normally have one 12 at about half past 10 because we don't sit normal court 13 hours, we sit longer hours than those and one has to bear 14 in mind the needs of everyone concerned. So we'll take the 15 comfort break at this stage.</p> <p>16 [COMMISSION ADJOURNS COMMISSION RESUMES] 17 [10:53] CHAIRPERSON: The Commission resumes. 18 Luitenant Kolonel, ek herinner u dat u nog gebonde is aan u 19 plegtige bevestiging.</p> <p>20 SALMON JOHANNES VERMAAK: Bevestig.</p> <p>21 CHAIRPERSON: Mr Bizos. Sorry, are you- 22 MS PILLAY: Sorry, Chair, I think I 23 understood the question earlier –</p> <p>24 CHAIRPERSON: No, I thought you'd 25 finished.</p>
<p style="text-align: right;">Page 25529</p> <p>1 'n aanloop gewees ten opsigte van onwettige byeenkomste, 2 optogtge, die feit dat die samewerking van die optoggangers 3 nie daar was nie. Van daar af tot na die 13de was daar nie 4 inligting beskikbaar gewees wat moontlik die volgende dag 5 ver wag kan word van die stakers se kant af nie. So die 6 inligting was reeds 'n tekort van die Vrydag af.</p> <p>7 CHAIRPERSON: That's from the 10th?</p> <p>8 KOLONEL VERMAAK: Dis korrek.</p> <p>9 CHAIRPERSON: I see. That's your 10 criticism.</p> <p>11 KOLONEL VERMAAK: Dis korrek.</p> <p>12 CHAIRPERSON: Yes.</p> <p>13 MS PILLAY: Colonel, you also make the 14 point that apart from the fact that information ought to 15 have been made, information ought to have been gathered 16 before the incident, you also made the point that there has 17 to be, there ought to have been information officers at 18 each unit. Now which unit is it that you're referring to?</p> <p>19 KOLONEL VERMAAK: In hierdie betrokke 20 geval sal dit Phokeng openbare orde polisie, die 21 hoofeenheid wees wat dan daardie verantwoordelikheid van 22 inligtingsoffisier sal moet hê.</p> <p>23 MS PILLAY: So as I understand the 24 shortcoming that you're identifying, it's that POP units 25 should also be gathering their own intelligence.</p>	<p style="text-align: right;">Page 25531</p> <p>1 MS PILLAY: I've just got a few 2 questions.</p> <p>3 CHAIRPERSON: Oh, I beg your pardon.</p> <p>4 MS PILLAY: Two topics.</p> <p>5 CHAIRPERSON: I asked you as I walked 6 past you and you nodded your head.</p> <p>7 MS PILLAY: Sorry, I misunderstood the 8 question.</p> <p>9 CHAIRPERSON: Alright, okay. Alright, 10 I'm sorry if I cut you off in midstream. Please proceed 11 with your examination-in-chief.</p> <p>12 EXAMINATION BY MS PILLAY (CONTD.): 13 Colonel, we were dealing with paragraph 12 of your letter 14 HHH68, and can I ask you to take us very briefly through 15 your suggestions which are set out in those paragraphs, or 16 those sub-points.</p> <p>17 KOLONEL VERMAAK: Paragraaf 12.1 deel met 18 die vorige punte wat ek reeds genoem het waar leemtes 19 geïdentifiseer is. Paragraaf 12.2 verwys ek na 20 dokumentasie wat bygehou was sou daar agterna 'n hofsak 21 voortspruit oor enige optrede. Wat van kardinale belang 22 is, dit is jou basiese dokumentasie wat elke groep wat aan 23 diens rapporteer by Openbare Orde moet voltooi. SAP15 is 24 'n naamlys met elke lid se besonderhede daarop, ook net 25 vermelding van die wapens en die hoeveelheid ammunisie wat</p>

<p style="text-align: right;">Page 25532</p> <p>1 hy het, "operational diary," kom terug na rekordhouding toe  2 op elke voertuig, elke Nyala moet daar 'n rekordhouer wees  3 wat behoorlik rekord hou van alle gebeure wat hulle in  4 betrokke is op 'n skof beurt.  5 Dan die uithandiging en die terughandigingstaat,  6 dit is alle ammunisie en pirotegniese hulpmiddelle wat elke  7 lid by hom moet hê. Uithandiging is wanneer die skof beurt  8 aan diens kom word dit voltooi, deur die seksie of  9 pelotonbevelvoerder geteken. Na afloop van die dienste dan  10 word dit nagegaan deur die bevelvoerder weereens, of jou  11 seksiebevelvoerder, jou pelotonbevelvoerder. Normaalweg  12 was dit jou seksiebevelvoerder wat verantwoordelik is vir  13 sy seksie om daardie dokumentasie na te gaan en dit te  14 vergelyk met die ammunisie en pirotegniese hulpmiddelle wat  15 die lid mee terugkom en van diens rapporteer.  16 "Tasking form issued by commander," as lede aan  17 diens kom kry hy 'n taak wat voltooi word deur die  18 bevelvoerder met pertinente vermelding wat gedurende die  19 skof beurt van hom verwag word. As daar inligting is dat  20 daar moontlik probleme verwag kan word tydens sy skof beurt  21 word dit in daardie taak vorm aangemeld of vervat sodat die  22 seksiebevelvoerder dit met sy lede kan hanteer en almal op  23 hoogte is presies wat hulle verantwoordelikhede en hulle  24 taak gaan wees.  25 MS PILLAY: And in the context of an</p>	<p style="text-align: right;">Page 25534</p> <p>1 KOLONEL VERMAAK: Dis korrek, Voorsitter.  2 COMMISSIONER HEMRAJ: And were they in  3 use when you were the commander of POPS after 2005 –  4 KOLONEL VERMAAK: Dis korrek. Dit is 'n,  5 dis 'n nasionale standaard wat daar is. Die feit dat lede  6 van oor die hele land gekom het dink ek het ook 'n redelike  7 groot rol gespeel in die sin van dat al hierdie dokumente  8 nie onmiddellik beskikbaar was vir die lede nie en het  9 hulle maar staatgemaak op die SAP15 wat 'n een-bladsy  10 dokument is, waarop jou lede se naam wat op die skof is  11 aangebring word.  12 COMMISSIONER HEMRAJ: Thank you.  13 MS PILLAY: Can we then turn to 12.3,  14 Colonel? It's a further suggestion made by you.  15 KOLONEL VERMAAK: In die verlede het ons,  16 die basiese uitreiking aan ons lede was gewees donshael.  17 Ons het die 37mm rubber rondte gehad. Dis 'n vuurwapen wat  18 multi-funksie het. Hy kan traanrook, 37mm traanrook skiet,  19 en hy kan ook dan 'n 37mm rubber rondte skiet. Die lading  20 van die 37mm was op 'n latere stadium verminder om  21 beserings, erge beserings te voorkom. Die haelgeweer was  22 een van die laaste vorm van verdediging wat jy sou gebruik  23 het as die ander dan nou nie gewerk het nie.  24 MS PILLAY: Now you make a point in 12.3  25 that you would rather warn the protester with a number 5</p>
<p style="text-align: right;">Page 25533</p> <p>1 operation does this tasking form mean a form which sets out  2 your role and responsibilities under the operational plan?  3 KOLONEL VERMAAK: Dis korrek. Dis  4 onderhewig aan die operasionele plan. As 'n  5 pelotonbevelvoerder spesifieke takings kry dan is dit sy  6 verantwoordelikheid om taking vorms uit te, te voltooi vir  7 elke seksie wat onder hom werk, met pertinente vermeld van  8 wat van hulle dan sou verwag word.  9 "Post shift report," in die verslag word alles  10 vermeld waar daar suksesse bereik is met vermelding van  11 arrestasies, wie gearresteer is, waar hy gearresteer is,  12 waar hy aangehou word, wat die saaknommer is, wat die  13 selregister nommer is van so 'n persoon, en sou hulle  14 tydens hulle skof beurt enige inligting optel of sekere  15 waarnemings maak dan word dit op daardie voltooi. Al  16 hierdie dokumente word in 'n pakkie gebind en die  17 inligtingsoffisier gaan hierdie inligting, of hierdie  18 dokumente na. So gou as doenlik sien hy dit na en as daar  19 dan nou inligting is wat via die operasionele lede van die  20 grond af kom tydens hulle normale dienste dan word dit  21 aangespreek deur middel van die bevelvoerder en dan weer  22 terug na die peloton- en seksiebevelvoerders toe.  23 COMMISSIONER HEMRAJ: You say, Colonel,  24 that none of these forms are being used currently, or were  25 used at the time of Marikana.</p>	<p style="text-align: right;">Page 25535</p> <p>1 shotgun or birdshot rather than kill him with an R5 rifle,  2 but can somebody be killed with a shotgun, a birdshot  3 shotgun?  4 KOLONEL VERMAAK: Dit is moontlik,  5 afhangende van die afstand wat op die persoon gevuur word  6 en ook liggaamsposisie speel ook 'n rol in die gebruik van  7 donshael.  8 MS PILLAY: But the point you make here  9 that it's still less dangerous than an R5.  10 KOLONEL VERMAAK: Dis korrek.  11 MS PILLAY: And paragraph 12.4?  12 KOLONEL VERMAAK: Elke seksie sou in  13 daardie, net een R5 of een R1 mee uitgereik gewees het. Al  14 die ander lede sal met of die traanrook, 37mm, uitgereik  15 wees, of hy sal met 'n haelgeweer uitgereik gewees het.  16 Normaal is dat deel van sy uniform is sy 9mm pistool wat hy  17 aan sy sy dra, wat hy ten alle tye by hom het, maar op  18 seksie-gewys is dit net een R1 of een R5 vir die mees  19 ernstigste geval wat moontlik kan wees.  20 MS PILLAY: So again a suggestion by you  21 in order to limit the number of R5 or R1 rifles used in POP  22 operations?  23 KOLONEL VERMAAK: Dis korrek.  24 MS PILLAY: Colonel, can we then turn to  25 document 00010? It's the information note. It's document</p>

<p style="text-align: right;">Page 25536</p> <p>1 21 in your bundle. Can you just explain to us what this 2 document is and why it is that you compiled this document? 3 KOLONEL VERMAAK: Ek was versoek gewees 4 deur die regsplan om 'n dokument op te stel gesien in die 5 lig van my ondervinding, my opleiding en my ervaring, sodat 6 dit hulle kan behulpsaam wees met die voorbereiding vir die 7 Kommissie, asook om die Nasionale Kommissaris en die 8 Provinsiale Kommissaris wat nie altyd presies al hierdie 9 inligting het tot hulle beskikking nie, om dit dan te 10 gebruik om met hulle te konsulteer sou hulle dan kom getuig 11 daaroor. 12 MS PILLAY: Now Colonel, the first 15 13 pages of this report appears to be a summary of excerpts 14 from various instruments and/or reference material. Is 15 that correct? 16 KOLONEL VERMAAK: Dis korrek. 17 MS PILLAY: And why was that reference 18 material included in the report? 19 KOLONEL VERMAAK: Dit is deel van die 20 opleidings kurrikulum waardeur ek gegaan het, verwysing na 21 spesifiek die onderhandelinge, na Professor Spoelstra, Dr 22 Louise Newmeyer wat vir ons kursusse aangebied het, en dan 23 ook in-huis opleiding die handleidings wat ons dan gebruik 24 het en gekry het tydens die spesifieke opleiding, of die 25 kursus wat jy deurloop.</p>	<p style="text-align: right;">Page 25538</p> <p>1 Commissioner, if we can actually just deal with the report 2 itself. 3 CHAIRPERSON: I'm not sure that I heard 4 the date. Did he say – he said he was summoned to the 5 National Commissioner's office on the Monday morning, or 6 the Sunday evening and was there on the Monday. What date 7 was that? 8 KOLONEL VERMAAK: Die 21ste Januarie, as 9 ek dit reg het, Voorsitter. 10 CHAIRPERSON: Of which year? 11 KOLONEL VERMAAK: 2013. 12 CHAIRPERSON: Last year. 13 KOLONEL VERMAAK: Ja. 14 CHAIRPERSON: Thank you. 15 MS PILLAY: Right, we'll deal with the 16 meeting of the 21st of January shortly, Colonel. Can I just 17 ask you to turn to page 16 of the report. 18 KOLONEL VERMAAK: Ek het hom. 19 MS PILLAY: Can you just explain 20 paragraph 1 of that page to us, please? 21 KOLONEL VERMAAK: Ek het in die dokument 22 dit baie duidelik gestel die vergadering wat ek aangevra 23 het al in Desember, waarop ek geen terugvoering gekry het 24 nie, dat dit nooit èrens die bedoeling was om enige persoon 25 of senior offisier in diskrediet te plaas nie, maar dit</p>
<p style="text-align: right;">Page 25537</p> <p>1 MS PILLAY: And why did you see the need 2 to include that references, those references in your 3 report? 4 KOLONEL VERMAAK: Nie dat ek enige 5 wantroue het in enige van die senior generale nie, maar het 6 ek gevoel deur my ondervinding en my ervaring in Openbare 7 Orde Polisie, ook gesien in die lig van dat die Nasionale 8 Kommissaris, Generaal Phiyega, baie kort nog aangestel was, 9 het ek gevoel ek wil die dokument opstel, beskikbaar stel, 10 en dat dit dalk moontlik kan help vorentoe om 'n beter 11 diens aan die publiek te lewer en ook om die polisiemanne 12 te beskerm in opsigte waar hulle blootgestel word aan 13 sekere dienste en sou dit dalk nie gebeur het as al hierdie 14 inligting moontlik tot die beskikking was nie. 15 Of die NASCOM dit alles gehad het op daardie 16 stadium was ek nie van bewus nie. Ek het dit ter 17 goederetrou opgestel. Die Vrydag wat ek dit klaar opgestel 18 het, die Sondagaand is ek gekontak. Ek is opdrag gegee om 19 die Maandagoggend by die Nasionale Kommissaris se kantoor 20 te rapporteer, waar teenwoordig was die Nasionale 21 Kommissaris, die Provinsiale Kommissaris, Generaal Rantu 22 van die Regsafdeling, Generaal Zuma, asook mnr Pretorius 23 van die regsplan. 24 MS PILLAY: Colonel, before we deal with 25 when you handed the report over to the National</p>	<p style="text-align: right;">Page 25539</p> <p>1 eerder die bedoeling was vir 'n hulpdokument, gesien in die 2 lig dat na 2005 die Openbare Orde Polisie baie verminder 3 is. Daar is baie kennis en ervaring wat verlore gegaan het 4 in die tydperk, en weens my lojaliteit teenoor die Suid- 5 Afrikaanse Polisediens en die gemeenskap het ek dit nodig 6 geag om hierdie dokument op te stel om nie net die 7 gemeenskap beter te bedien nie maar ook die voetsoldate op 8 die grond te kan help dat hulle nie in situasies geplaas 9 word dat hulle op die ou einde van die dag regs aanspreeklik 10 gehou gaan word vir dade waar hulle deur senior persone 11 aangesê is om operasies uit te voer nie. 12 MS PILLAY: Now can we go to the heading 13 in the middle of the page on page 16 – 14 CHAIRPERSON: Before you move to the 15 heading in the middle of the page, in the first paragraph, 16 the one that we've been dealing with, you say this document 17 was compiled - or the meeting actually but you're referring 18 to the document really – was compiled to “assist the 19 defence with specific issues.” Now who is the defence? 20 KOLONEL VERMAAK: Met verwysing na die – 21 ekskuus, dalk die verkeerde woord gebruik, maar verwysend 22 na die regsplan van die polisie, Voorsitter. 23 MS PILLAY: If we can then turn to the 24 heading in the middle of the page, Colonel, “Questions that 25 might be asked,” and deal with the first question, “Why did</p>

<p style="text-align: right;">Page 25540</p> <p>1 the Provincial Commissioner not give attention to the 2 letters that were sent to her with suggestions?"</p> <p>3 KOLONEL VERMAAK: Dis korrek.</p> <p>4 MS PILLAY: Now this question has been 5 brought to the attention of the Provincial Commissioner and 6 eventually in the meeting of the 21st of January. Was there 7 a response to this question?</p> <p>8 KOLONEL VERMAAK: Die terugvoering wat ek 9 gekry het die dag was dat die Provinsiale Kommissaris gesê 10 het dat die operasionele bevelvoerder, Generaal Mpembe op 11 daardie stadium die aangeleentheid moes gehanteer het en sy 12 nie bewus was van enige terugvoering ten opsigte van dit 13 nie.</p> <p>14 MS PILLAY: Now the meeting was on the 15 21st of January 2013. To date have you had any response 16 from the Provincial Commissioner on the suggestions that 17 you've made in the many letters that we've dealt with?</p> <p>18 KOLONEL VERMAAK: Nee, mnr die 19 Voorsitter, ek het tot op datum op nie een van my skrywes 20 of my inligting notas enige terugvoer gekry oor die 21 aanbevelings of voorstelle wat ek aan hulle gemaak het nie. 22 Hierdie briewe was ook van die begin af beskikbaar gestel 23 aan die regspan van die Suid-Afrikaanse Polisie sodat hulle 24 kan sien daar was in die verlede wel dit onder die aandag 25 gebring, leemtes geïdentifiseer, en dies meer.</p>	<p style="text-align: right;">Page 25542</p> <p>1 dat die skokgranate en die traanrookgranate gegooi moet 2 word.</p> <p>3 MS PILLAY: And do I understand your view 4 to be, Colonel, that it was the use of the teargas and stun 5 grenades that triggered the violence on the 13th?</p> <p>6 KOLONEL VERMAAK: Definitief.</p> <p>7 MS PILLAY: Can we then look at the next 8 bullet point? I'm sorry, before we turn to the next bullet 9 point, the last point you make is around the fact that 10 General Mpembe was the one in charge of the operation as 11 opposed to Lieutenant-Colonel Merafe who was a trained POP 12 commander. Can you just explain that point briefly to us 13 again?</p> <p>14 KOLONEL VERMAAK: Dit is waar die OOP- 15 lede generaal Mpembe gekonfronteer het op daardie 16 werksessie by Roots, hoekom hy kom oorvat het op 'n toneel 17 wat openbare orde polisie was en dat daar 'n gesprek tussen 18 hom en kolonel Merafe was ten opsigte van hulle verskil het 19 oor die hantering van die persone.</p> <p>20 MS PILLAY: Now in the next bullet point 21 you dealt with the fact that Major-General Annandale was 22 informed that the people who he had appointed as 23 negotiators were hostage negotiators and were not the 24 correct people to deal with a POP negotiation. Can you 25 just explain briefly what you meant by that?</p>
<p style="text-align: right;">Page 25541</p> <p>1 [11:12] MS PILLAY: If we can deal with the 2 second bullet point, official letter that was sent, it was 3 relevant and this summarises the three letters that were 4 sent and obviously this report is the fourth document in 5 which you make suggestions.</p> <p>6 KOLONEL VERMAAK: Dis korrek.</p> <p>7 MS PILLAY: Can we then deal with the 8 third bullet point? Can you just take us through what it 9 is that you mean in that bullet point?</p> <p>10 KOLONEL VERMAAK: Die feit dat die lede 11 aan my persoonlik oorgedra het dat hulle aangesê was om 12 hulle langwapens in die Nyalas te gaan los, die feit dat 13 dit waargeneem was op die videobande dat dit wel die geval 14 was en die feit dat daar inligting alreeds die Sondag 15 deurgegee was dat probleme verwag kan word as hierdie groep 16 sou gekonfronteer word en nie een van daardie aspekte, 17 volgens my waarneming, was in konsiderasie geneem nie.</p> <p>18 MS PILLAY: And if we look at the same 19 bullet point but from page 17 of the report, you mentioned 20 the fact that the instruction from General Mpembe that 21 teargas and stun grenades must be thrown, triggered the 22 assault on SAPS.</p> <p>23 KOLONEL VERMAAK: Dis korrek, dit is 24 verwysend na die vergadering by Roots waar kaptein Thupe 25 die generaal gekonfronteer het dat hy die opdrag gegee het</p>	<p style="text-align: right;">Page 25543</p> <p>1 KOLONEL VERMAAK: Ek het op 'n informele 2 basis na generaal Annandale toe gegaan toe ek opgemerk het 3 die aantal gyselaaronderhandelaars wat by die JOC 4 rapporteer het. Ek het aan hom genoem dat volgens my 5 mening en ondervinding die persone nie die regte persoon is 6 om met hierdie mense te onderhandel nie, want dit gaan nie 7 oor 'n gyselaarsituasie nie, dit gaan spesifiek oor 'n 8 arbeidskwessie, sekere eise wat gestel word tydens sodanige 9 stakings. En verder het ek genoem dat ek kennis dra dat 10 kolonel McIntosh eers daardie jaar in die omgewing van 11 April sy kursus, gyselaaronderhandelingskursus voltooi het 12 en hy nog nie, sover my kennis strek, enigsins sedert 13 daardie tyd aangewend was by soortgelyke onderhandelinge 14 nie. Ek het gemeld dat daar wel in die openbare orde 15 polisie, is daar nog steeds opgeleide onderhandelaars. 16 Spesifiek kan ek vergelyk of verwys na brigadier Calitz wat 17 ook 'n opgeleide onderhandelaar is, kolonel Oosthuizen wat 18 intussen uit OOP is, wat in Klerksdorp by die cluster werk, 19 hy is ook beskikbaar met die nodige ondervinding om 20 sodanige onderhandelinge te kon hanteer. Generaal 21 Annandale het vir my gesê dat hy het die besluit geneem om 22 die mense te laat kom om die groepsgevoel deur die 23 onderhandelaars te laat bepaal. Ek het hom op daardie 24 stadium meegedeel dat daar alreeds nege gerapporteer het, 25 waarvan die meeste vanaf Gauteng gekom het. Hy het toe sy</p>

<p style="text-align: right;">Page 25544</p> <p>1 foon vir my gegee en vir my gevra ek moet kolonel Strydom,  2 wat die nasionale koördineerder is van die  3 gyselaaronderhandelaars, skakel en dan vir hom die boodskap  4 oor te dra dat hy nie nog onderhandelaars na Marikana toe  5 moet stuur nie.  6 MS PILLAY: Now Colonel, as I understand  7 the issue that you have identified with the suitability of  8 Colonel McIntosh being in charge of the negotiations during  9 the Marikana operation, is that firstly he didn't have the  10 adequate training in the sense that he was a hostage  11 negotiator and not a POP negotiator.  12 KOLONEL VERMAAK: Dis korrek. Die feit  13 dat hy in April sy kursus klaargemaak het en reeds in  14 Augustus aangewend word by onderhandelinge wat nie verband  15 hou met gyselaaronderhandeling nie, dis hoekom ek na hom  16 toe gegaan het en aan hom dit genoem het.  17 MS PILLAY: And the second issue is the  18 one you've again mentioned now, the fact that he didn't  19 have sufficient experience.  20 KOLONEL VERMAAK: Dis korrek.  21 MS PILLAY: For the handling of  22 negotiations.  23 KOLONEL VERMAAK: Dis korrek.  24 MS PILLAY: Can we then move to page 18  25 of the report?</p>	<p style="text-align: right;">Page 25546</p> <p>1 CHAIRPERSON: In regard to the first  2 point what you say in relation to, in the third paragraph  3 of that bullet you say, "The question was raised why didn't  4 the police take over the koppie early in the morning  5 because then they are in control, whereby the protesters  6 could be arrested with dangerous weapons as they arrive."  7 Well, according to the evidence that we have so far, that  8 was really the essence of the encirclement plan, it was  9 said by the witnesses that the encirclement plan would only  10 work early in the morning when there were a handful, a very  11 small number of people on the koppie. The idea was to put  12 the wire around the koppie, then go inside, deal with the  13 people inside who were – there wouldn't be very many – a  14 gap would be left for them to come out and lay down their  15 arms and so on. And then there's other, and then there  16 would be a process, a filtering process I think it was  17 called, whereby what were called gatherers – that's people  18 coming from, I suppose from the hostels and the informal  19 settlements – with their weapons could be picked up, as it  20 were, as they came through and disarmed. That was the  21 plan, according to the evidence we've had and the evidence  22 also is that that was still the plan on the table on the  23 Thursday morning at the JOCCOM meeting that you attended at  24 6 o'clock and you've in fact said that the plan talked  25 about was the encirclement plan.</p>
<p style="text-align: right;">Page 25545</p> <p>1 COMMISSIONER HEMRAJ: Before you do that,  2 Colonel, did you bring to General Annandale's attention  3 that there were negotiators present in the North-West  4 Province who had the requisite POPS training or the  5 training to be a POPS negotiator –  6 KOLONEL VERMAAK: Dis korrek.  7 COMMISSIONER HEMRAJ: - rather than a  8 hostage negotiator.  9 KOLONEL VERMAAK: Dis korrek. Ek het vir  10 hom vermeld. Ek het selfs vir hom genoem dat die  11 bevelvoerder van Mahikeng openbare orde polisie, sover my  12 kennis strek is hy ook opgelei as onderhandelaar.  13 COMMISSIONER HEMRAJ: What was the  14 response to that when you pointed out certain people? Was  15 there any response –  16 KOLONEL VERMAAK: Hy het volstaan by dat  17 hy die mense laat kom het wat daar is om die  18 onderhandelinge te hanteer.  19 COMMISSIONER HEMRAJ: Thank you.  20 MS PILLAY: Now on page 18, the first two  21 bullet points you deal with alternatives to the plan that  22 was ultimately implemented. Is there anything else that  23 you want to add in relation to this point?  24 KOLONEL VERMAAK: Nee, ek dink dit is  25 basies –</p>	<p style="text-align: right;">Page 25547</p> <p>1 KOLONEL VERMAAK: Dis korrek.  2 CHAIRPERSON: But it could only be  3 implemented early in the morning.  4 KOLONEL VERMAAK: Dis –  5 CHAIRPERSON: When there were not many  6 people on the koppie. The evidence then reveals that there  7 was a delay because they couldn't do anything until after  8 nine because there was an undertaking from Mathunjwa that  9 he'd report back after nine whether the people were going  10 to lay down their arms. And in fact he didn't come back at  11 nine and there was a long delay and there were reasons for  12 that that we don't have to go into, but the evidence also  13 is – I don't know whether you will remember, whether this  14 is correct – the evidence of Brigadier Calitz is that  15 because of the information that had been given by Colonel  16 Isaacs that they would, the strikers weren't going to lay  17 down their arms and were going to fight, it was decided  18 that a contingency plan should be drawn up to deal with the  19 situation if that was the case. And he says it was  20 expected that Lieutenant-Colonel Scott was going to do that  21 because he was the planner and of course he wasn't there at  22 the 1:30 meeting, neither were you, but Colonel Scott tells  23 us he can't remember what he did on the Thursday morning  24 but he says he didn't draw up – he had ideas which he  25 discussed with General Annandale, when precisely is the</p>

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1 subject of debate, I won't worry you with that – but that  
 2 he prepared nothing, he had nothing on his computer, he had  
 3 no hard copies of the plan that was ultimately proposed and  
 4 eventually he says he says he mentioned it at the 1:30  
 5 meeting and he then, when he went into the field all he  
 6 could show the commanders was what he had on his computer  
 7 which was essentially some earlier material but he  
 8 explained the extra bits, which weren't even on the screen  
 9 but he put them later on the document that's before the  
 10 Commission. That's his evidence and he explains also that  
 11 the problem they had was that the Provincial Commissioner  
 12 had decided already the night before that the problem would  
 13 be dealt with on the Thursday. Obviously if it was dealt  
 14 with by a voluntary laying down of arms, there wouldn't  
 15 have been a problem but she indicated that if that didn't  
 16 happen, it was going to be dealt with effectively by a  
 17 tactical option.

18 COMMISSIONER HEMRAJ: [Microphone off,  
 19 inaudible]

20 CHAIRPERSON: No, Scott didn't know that.  
 21 Scott's evidence is that the first he heard about the  
 22 decision to proceed to the tactical option was at the 1:30  
 23 meeting which began by the Provincial Commissioner  
 24 announcing that the tactical option must now be  
 25 implemented. It wasn't quite clear what the tactical

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1 option was going to be, or the details. He explained them  
 2 at the meeting. So that's the evidence that we have. Now  
 3 your criticism is that why didn't the police take over the  
 4 koppie early in the morning. Well, the reason is,  
 5 according to the evidence, that they had to stay – because  
 6 of the promise to Mathunjwa they couldn't do anything till  
 7 after nine. Mathunjwa didn't report back until much later  
 8 and by that time the encirclement option was effectively no  
 9 longer available. It wouldn't work, it couldn't work,  
 10 which is why they had to adopt the other option. So that's  
 11 the evidence. I take it you weren't aware of that. You  
 12 were at the 6 o'clock meeting, you then went out into – not  
 13 into the field, into the air actually in your helicopter  
 14 and you weren't summoned to the 1:30 meeting. The evidence  
 15 in fact is that nobody at the 1:30 meeting had any POP  
 16 experience. The POP people were out in the field and in  
 17 your case, you as a POP man, a man with POP experience, you  
 18 were in the air. So this plan which was a new plan which  
 19 had not previously been before the JOCCOM, according to  
 20 Colonel Scott, was presented at the 1:30 meeting, I think  
 21 round about 2 o'clock at the meeting actually. There were  
 22 no POP people to comment on it but those who were there  
 23 accepted it and the evidence is further that he then went  
 24 out at 2:30, as he was instructed to do, and explained it  
 25 to the commanders simply by showing on his laptop what was

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1 to happen. Now that's the evidence as we have it. They  
 2 also, he also says, to be fair, that none of the commanders  
 3 then in the field at 2:30 said this isn't going to work but  
 4 this was explained later by some of the witnesses to say,  
 5 well, if they had resisted it and tried to prevent it being  
 6 implemented then and there'd been some calamity that  
 7 evening and a lot of people had been killed, they would  
 8 have been blamed for that. So I'm putting all that to you,  
 9 I know it's a long speech, not just a question but a number  
 10 of the points you raise here have been covered in the  
 11 evidence and I get the impression you weren't aware of the  
 12 evidence that I've summarised to you, am I correct?

13 KOLONEL VERMAAK: Dis korrek.

14 CHAIRPERSON: The plan, as I've explained  
 15 to you, which according to the evidence was the plan in  
 16 fact from the Tuesday right until the Thursday at the 1:30  
 17 meeting, did you understand what the encirclement plan  
 18 involved, for example when you were at meetings on the  
 19 Wednesday?

20 KOLONEL VERMAAK: Mnr die Voorsitter,  
 21 daar was genoem dat die koppie moet encircle word. Dit was  
 22 ook genoem dat daar 'n tekort aan logistiek is ten opsigte  
 23 van lemmetjiesdraad om daardie hele area toe te maak. Dit  
 24 sou 'n probleem geskep het en dis waar besluit is dat daar  
 25 'n gedeelte encirclement sal wees, dan sal daar 'n

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1 dispersion wees en hulle sal die mense ontwapen en dan sal  
 2 die nodige arrestasies gemaak word. Om terug te kom na die  
 3 14de en die 15de toe, die voorstelle wat gemaak was dat daar  
 4 eerder die opsie geneem moet word om die koppie oor te vat  
 5 wanneer dit vroeg in die oggend is, wanneer daar min mense  
 6 is en dan daardeur op so 'n manier onmiddellik jou  
 7 magsvertoon te bewys en dat jy nie gaan toelaat dat daar  
 8 enige verdere onwettige optredes gaan toegelaat word in  
 9 hierdie tydperk nie. So dit was die mening ten opsigte van  
 10 die oorneem van die koppie. Die argument was gewees dat as  
 11 die polisie die koppie oorneem, waar sou die mense dan gaan  
 12 vergader het? Ek het spesifiek vermeld uit die baie  
 13 ondervinding ook dieselfde jaar van Januariemaand af met  
 14 die onluste in Rustenburg met die stakings daar, was dit  
 15 normale praktyk gewees dat die werkers kom op die sportveld  
 16 bymekaar en as hulle op die sportveld bymekaar kom is hulle  
 17 soveel makliker hanteerbaar want dan kan jy die nodige  
 18 fasiliteite beskikbaar stel wat wel in Rustenburg die geval  
 19 was, die myne het die perseel vir hulle beskikbaar gestel,  
 20 hulle het ook 'n sportgrond gehad wat aangrensend tot die  
 21 hostelle was en hulle het net hulle sekuriteit opgeskerp  
 22 sou van die mense wat die vergadering bywoon moontlik  
 23 oorgaan tot geweld, dan het hulle, hulle sekuriteit daar  
 24 geplaas om dan die eiendom verder te beskerm. So dit was  
 25 in die lig daarvan dat die voorstel gemaak was dat die

<p style="text-align: right;">Page 25552</p> <p>1 polisie eerder onmiddellik moet begin die wet toepas en die 2 boodskap uitdra, gesien ook in die lig van dat daar al 3 verskeie mense gedood is, dat daar deur middel van dit, as 4 jy arrestasies kan begin maak, die normale prosedure is dat 5 CIG begin onmiddellik van die gearresterdes te ondervra om 6 dan sodanig te kyk of hulle enige nuwe inligting kan kry 7 wat dan vorentoe kan help met beplannings en optredes. 8 MS PILLAY: Colonel, that's the last – 9 CHAIRPERSON: Sorry I interrupted you, Ms 10 Pillay, but that was my response to his first bullet. I 11 thought, now it's confirmed that that's so, that the facts 12 that I put to him he wasn't aware of but I think you now 13 want to move on to the second bullet point. 14 MS PILLAY: Chair, the second bullet 15 point I think he's already dealt with. It's just the last 16 one is the meeting of the 28th of October which he's already 17 testified to this morning. Is there anything else you want 18 to add in relation to that meeting? 19 [11:32] KOLONEL VERMAAK: Nee wat, ek is tevrede 20 met dit wat ek oor getuig het. 21 MS PILLAY: Now on the last page, on page 22 19 I think you don't deal with any more shortcomings. You 23 essentially state the purpose of the report, which is to 24 highlight issues for the purposes of the SAPS 25 Commissioners, and that you may yourself be called as a</p>	<p style="text-align: right;">Page 25554</p> <p>1 is, dis die een aspek wat ons oor gepraat het. 2 MS PILLAY: Did the National Commissioner 3 tell you when these allegations came to her attention? 4 KOLONEL VERMAAK: Nee, ek het haar gevra 5 eerste plek wie het dit gemaak, toe sê sy, sy kan nie 6 openbaar maak aan my wie is die persone wat dit aan haar 7 gemeld het nie. Toe het ek vir haar gesê, of dan vir die 8 vergadering daar gesê dan in my oë gesiglose mense wat 9 beweringe maak praat leuens want as jy bereid is om sulke 10 beweringe te maak sal jy bereid wees om voor daardie 11 persoon te staan van wie jy daardie beweringe maak. Toe 12 was die ander aspek wat aangeraak was – 13 MS PILLAY: Colonel, just before we move 14 away from the allegation that there were shots fired from 15 the helicopter, do you carry a firearm when you're up in 16 the air in the helicopter? 17 KOLONEL VERMAAK: Mnr die Voorsitter, vir 18 die afgelope 12 jaar dra ek nooit meer 'n vuurwapen 19 permanent by my nie. U sal nooit 'n pistool by my kry nie, 20 nie 'n lang wapen nie. Ek het spesifieke redes hoekom ek 21 so daaroor voel. As ons wel inligting het dat daar 'n 22 moontlike roof of 'n "cash-in-transit" of iets in daardie 23 lyn sal wees, sal ek my vuurwapen wat in 'n kluis is in my 24 kantoor, sal ek uit boek. Ek sal die dienste gaan verrig, 25 sal terugkom en ek sal daardie vuurwapen weer terugplaas in</p>
<p style="text-align: right;">Page 25553</p> <p>1 witness and share your experience with the Commission. 2 KOLONEL VERMAAK: Dis korrek. Die, as ek 3 kan teruggaan na die 21ste Januarie waar ek ingeroep was 4 deur die Nasionale Kommissaris, waar die persone 5 teenwoordig is soos wat ek reeds gemeld het, was ek 6 aanvanklik gekonfronteer in die sin van dat daar 'n gevoel 7 is dat ek vyandiggesind is teenoor die polisie oordat ek 8 dit gewaag het om hierdie verslag op te stel en dit dan nou 9 tot op die hoogste vlak te laat versprei. Ek dink nie dit 10 is normale praktyk dat iemand dit doen nie. 11 Ons het intensief deur die verslag gewerk. Eers 12 was daar aspekte wat die Nasionale Kommissaris met my 13 opgeneem het waaroor sy 'n bekommernis gehad het, onder 14 andere dat daar beweringe was dat ek rondom 'n 15 braaivleisvuur sou gesit het en gespog het hoe ons mense 16 uit die helikopter uit geskiet het. Ek het terug gereageer 17 en ek het vir haar gesê dat sy my nooit by 'n sosiale 18 braaivleis sal kry nie om die doodeenvoudige rede deur al 19 die jare se onluste wat ons aan blootgestel was, ons het 20 baie persone gekry wat "genecklace" was en daardie reuk wat 21 jy kry met 'n braaivleis herinner jou terug na daardie 22 insidente toe waar mense "genecklace" was. So ek het 'n 23 seuntjie van 11 jaar oud en ek het vir haar gesê die naaste 24 wat ek aan 'n braaivleis kom, as ek by hom gaan sit en hy 25 sit op sy klein roostertjie en hy braai sy worsie. So dit</p>	<p style="text-align: right;">Page 25555</p> <p>1 die kluis. 2 MS PILLAY: Now specifically on the 13th 3 or on the 16th did you carry a firearm? 4 KOLONEL VERMAAK: Glad nie, mnr die 5 Voorsitter. Ek het geen, vir daardie hele tydperk wat ons 6 van Augustus tot Desember daar ontplooi was, en ek was 7 permanent daar ontplooi, ek het my lede afgewissel. Hulle 8 het so elke tweede week het die groepe mekaar afgelos, maar 9 vir daardie hele tydperk was ek ontplooi in my hoedanigheid 10 as die Lugvleuel bevelvoerder om al die dienste te 11 koordineer met die operasionele mense op die grond. 12 COMMISSIONER HEMRAJ: Colonel, I see on 13 the last page of this report you mention that you have 14 training in negotiation as well and you have considerable 15 experience as well, I expect, in negotiations. Did you 16 offer your assistance to General Annandale at the time? 17 KOLONEL VERMAAK: Ek het vir hom gesê ek 18 is opgeleide onderhandelaar. Ek het vir hom gemeld dat die 19 jare ondervinding wat ek het by Openbare Orde Polisie diens, 20 en hy het kennis geneem daarvan. 21 COMMISSIONER HEMRAJ: Thank you. 22 MS PILLAY: Now what else was said to you 23 by the National Commissioner on the 21st of January 2013? 24 KOLONEL VERMAAK: Voorsitter, daar was 'n 25 bewering gemaak dat ek met die "evidence leaders," die</p>

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1 advokate skelm agteraf konsulteer en dat ek met ander  
 2 advokate soos mnr Bizos en Dali Mpfu en ander persone ook  
 3 gekonsulteer het. Ek het haar onmiddellik gevra wie maak  
 4 daardie beweringe want ek sal graag wil weet wie dit is.  
 5 Ek het nog nie een van daardie twee here persoonlik ontmoet  
 6 nie. Ek het in hierdie Kommissie vir die eerste keer in my  
 7 lewe hulle van aangesig tot aangesig gesien, en haar  
 8 verduideliking was weer dat sy nie haar inligtingsbron kan  
 9 bekendmaak aan my nie.

10 Ons het 'n baie lang gesprek gehad en hierdie  
 11 hele dokument deurgewerk. Op die einde het Generaal Mbombo  
 12 gesê daar is van die goed, spesifiek na, verwysing na die  
 13 skrywes wat nie onder haar aandag gebring was nie, dat sy  
 14 daardie dag wat ek elkeen van hulle 'n lêer uitgereik het  
 15 met al hierdie dokumente in vir die eerste keer daarvan  
 16 verneem het.

17 Ons het van die oggend 10 uur af gesit tot die  
 18 aand 6 uur toe wat ons hierdie dokument deurgewerk het en  
 19 toe ons klaar is toe het die Nasionale Kommissaris my  
 20 bedank vir die feit dat ek die moed en die oortuiging gehad  
 21 het om so 'n dokument op te trek en dit onder haar aandag  
 22 te bring. Haar kommentaar daarop was dat ek die eerste  
 23 polisieman na Marikana was wat, soos sy dit gestel het, die  
 24 "guts" gehad het om so 'n dokument op te trek.

25 MS PILLAY: Now Colonel, just to deal

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1 with the question of you holding covert consultations with  
 2 the evidence leaders, how did you respond to that  
 3 allegation?

4 KOLONEL VERMAAK: Voorsitter, ek was, ek,  
 5 al die beweringe wat gemaak was, was ek redelik ongelukkig  
 6 oor gewees want die kere wat ek wel met hulle gekonsulteer  
 7 het was die afspraak gemaak deur middel van Brigadier  
 8 Pretorius se kantoor, soos wat daar ooreengekom was dat ons  
 9 nie direk met enigiemand sal konsulteer tensy dit deur haar  
 10 kantoor gegaan het nie. Die laaste keer wat ek 'n  
 11 konsultasie gehad het was hulle bewus, mnr Pretorius was  
 12 ook bewus van dit gewees. Nie een van hulle het my  
 13 vergeselskap nie want daar was gesê daar is 'n spesifieke foto  
 14 wat na gekyk wil word. Hulle wil net my mening vra rondom  
 15 dit wat ek op die foto sien. Hulle het vir my kolletjies  
 16 uitgewys op die foto, wat ek eerlikwaar voor die tyd nie  
 17 eers opgemerk het nie. Ek het nie elke foto onder 'n  
 18 vergrootglas geplaas nie. Soos ek gesê het, ek het die  
 19 foto's gevat, ek het dit afgelaai en ek het dit vir Kolonel  
 20 Scott-hulle beskikbaar gestel, en dit was die laaste keer  
 21 wat ek met die "evidence leaders" 'n afspraak gehad het en  
 22 hulle gesien het.

23 Nadat ons daar klaar is het die Nasionale  
 24 Kommissaris vir my gesê dat sy my woord aanvaar vir dit en  
 25 dat sy daardie gedeelte dan as afgehandel beskou.

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1 MS PILLAY: Now apart from the one  
 2 consultation where you were asked merely to identify  
 3 certain spots on a photograph, when was the first time that  
 4 you consulted alone with the evidence leaders?

5 KOLONEL VERMAAK: Dit is nadat - mnr die  
 6 Voorsitter, ja, die eerste keer wat ek na dit alleen met  
 7 hulle gekonsulteer het is na 12 Februarie. Ons het bietjie  
 8 gespot daarvoor wat ek gesê het dis die eerste keer wat ek  
 9 in my polisie loopbaan hoor dat jou regsman jou "fire" in  
 10 plaas van die kliënt die regsman "fire." So dit is die  
 11 eerste keer daarna wat ek weer met die "evidence leaders"  
 12 direk 'n konsultasie gehad het.

13 MS PILLAY: And that's 12th of February  
 14 2014?

15 KOLONEL VERMAAK: Ja, ja. 2014.

16 CHAIRPERSON: When you say the first time  
 17 you've heard of a legal team firing the client rather than  
 18 the other way around, does that mean that up until the 12th  
 19 of February you regarded yourself as a client of the South  
 20 African Police Service legal team?

21 KOLONEL VERMAAK: Dis positief,  
 22 Voorsitter -

23 CHAIRPERSON: Well okay, the answer to  
 24 that is yes, and they then indicated to you, did they, on  
 25 the 12th day of February, that they were no longer able to

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1 act for you -

2 KOLONEL VERMAAK: Dis korrek.

3 CHAIRPERSON: - to represent you before  
 4 the Commission?

5 KOLONEL VERMAAK: Dis korrek.

6 CHAIRPERSON: And I presume they must  
 7 have said you have to make other plans?

8 KOLONEL VERMAAK: Mnr Pretorius het dit  
 9 op hom geneem om my persoonlik in kennis te stel, wat ek  
 10 baie groot waardering voor gehad het, want volgens hom was  
 11 die opdrag gegee dat ek via Brigadier Calitz skriftelik net  
 12 ingelig moes geword het dat die polisie se regsman my nie  
 13 verder gaan verteenwoordig in die Kommissie nie. So ek het  
 14 mnr Pretorius persoonlik gesien, hy het persoonlik die  
 15 inligting aan my oorgedra en daarna is daar vir my gesê dat  
 16 ek kan aansoek doen vir my eie regsvertegenwoordigers in die  
 17 Kommissie, wat ek verstaan, maar het ek ook aan hulle  
 18 genoem dat ek dink dit is heeltemal onregverdig om op  
 19 hierdie stadium van die Kommissie 'n persoon in te bring en  
 20 van hom te verwag dat hy op hoogte moet kom ten opsigte van  
 21 die hele verloop van die Kommissie.

22 CHAIRPERSON: And then did you make a  
 23 decision that you would wish your evidence to be led by one  
 24 of the evidence leaders?

25 KOLONEL VERMAAK: Dis positief.



<p style="text-align: right;">Page 25560</p> <p>1 CHAIRPERSON: And that's what in fact has 2 happened.</p> <p>3 KOLONEL VERMAAK: Dis korrek. Ek kan net 4 noem dat mnr Chaskalson en mnr Wesley het met my gepraat, 5 hulle het aan my genoem dat hulle daar is om die saak van 6 die Kommissie te stel en dat dit my vrye keuse is om iemand 7 van buite af te kry om my te verteenwoordig hier. Ek het 8 aan hulle genoem dat ek voel dat ek bly by die waarheid en 9 die waarheid sal seëvier op die ou einde van die dag en ek 10 voel gemaklik soos wat dit tans die geval is.</p> <p>11 MS PILLAY: Chair, I'm very close to 12 being done. I've just got a new exhibit, Chair, just the 13 diary, excerpt from the Colonel's diary for the 21st of 14 January 2013, just to round up the evidence on –</p> <p>15 CHAIRPERSON: Round off.</p> <p>16 MS PILLAY: Sorry, to round off the 17 evidence.</p> <p>18 CHAIRPERSON: Thank you. And what will 19 this exhibit be?</p> <p>20 MS PILLAY: It's 00018.</p> <p>21 CHAIRPERSON: So this is an extract from 22 Colonel Vermaak's, Lieutenant Colonel Vermaak's diary, well 23 it's effectively for 20 to 21 January. What year is this?</p> <p>24 KOLONEL VERMAAK: 2013, Voorsitter.</p> <p>25 CHAIRPERSON: 2013.</p>	<p style="text-align: right;">Page 25562</p> <p>1 Impala Myne, het ons gesukkel met die feit dat die enigste 2 helikopter wat toegerus was met die nodige FLIR sisteem wat 3 dit kan opneem en wat dan daardie beelde kan herlei na 'n 4 operasionele kamer toe al vir 'n hele aantal maande gestaan 5 het. Ek het verskeie eposse gestuur na die tegniese hoof 6 om my bekommernisse uit te spreek. Die een het ek gestuur 7 die 19de Februarie 2013, wat onder andere gerig was aan 8 Generaal Tokwe, Naidoo, na my senior vlieënier toe, Kaptein 9 Andre Oosthuizen, destydse hoof, seksiehoof van die 10 Lugvleuel, Brigadier Nkoana, na Brigadier Calitz toe wat 11 die provinsiale hoof was. Ek het hom gerig na Kolonel 12 Oberholzer, ook op nasionale vlak, wat die nasionale 13 koördineerder is van die helikopter vlieëniers, en ek het 14 hom ook na die Pretoria se Lugvleuel toe gestuur wat 15 koördinering doen van take van die helikopters regoor die 16 land. Dan verder het ek hom ook gestuur aan Kolonel 17 Mashego, Luitenant Kolonel Mashego, wat die tegniese 18 bestuurder is by die polisie se werkswinkel.</p> <p>19 MS PILLAY: Now can you just deal very 20 briefly with the equipment that you refer to in respect of 21 the B105 and the R44?</p> <p>22 KOLONEL VERMAAK: Die R44 het ook 'n baie 23 klein FLIR kamera op wat as hy opnames maak dan is hy 24 veronderstel om dit op 'n rekenaar "onboard" te stoor, maar 25 kort nadat die helikopters aangekoop was het ons probleme</p>
<p style="text-align: right;">Page 25561</p> <p>1 MS PILLAY: Now Colonel –</p> <p>2 CHAIRPERSON: I've marked the – well, I'm 3 going to do it now. I've marked that exhibit 00018.</p> <p>4 MS PILLAY: Thank you, Chair. Colonel, 5 when did you make this entry into your diary?</p> <p>6 KOLONEL VERMAAK: Ek het hierdie 7 inskrywing gemaak direk nadat ek die aand teruggekeer het 8 van Pretoria af.</p> <p>9 MS PILLAY: And is anything –</p> <p>10 KOLONEL VERMAAK: Dit is om ongeveer, 11 soos wat u daar sien, 22:18, in daardie omgewing het die 12 Provinsiale Kommissaris vir my 'n SMS gestuur waarin sy 13 haar dank uitgespreek het ten opsigte van wat ek op daardie 14 stadium bereid was om te doen vir die polisie.</p> <p>15 MS PILLAY: Thank you, Colonel. The 16 final document that I wanted to deal with is HHH5, which is 17 document 17 in the bundle. Now in this statement, Colonel, 18 you deal with the video equipment on the B105 and the R44 19 helicopter.</p> <p>20 KOLONEL VERMAAK: Dis korrek.</p> <p>21 MS PILLAY: Can you just very briefly 22 tell us why you deposed to this statement and just 23 summarise the contents of the statement for us?</p> <p>24 KOLONEL VERMAAK: Voorsitter, ek het van 25 Februarimaand af, van die onluste wat ons gehad het by</p>	<p style="text-align: right;">Page 25563</p> <p>1 begin ondervind met die opnemer. Dit was verskeie kere 2 gerapporteer, soos ons sê as hy ingaan vir 'n diens dan sit 3 die vlieëniers dit op, op 'n "snag" lys. Hy kan wel op die 4 monitor in die helikopter, wat baie klein is, as ek moet 5 verduidelik is dit seker so 20 sentimeter by 30 sentimeter. 6 [11:52] Wat die boordbemanning direkte sig het op die 7 plekke waar die kamera dan gerig word, maar hy kan 8 ongelukkig geen beelde uitstuur na jou operasionele 9 bevelvoerder or jou oorhoofse bevelvoerder wat in die 10 operasionele kamer sit nie.</p> <p>11 MS PILLAY: Can I just ask you to 12 explain, Colonel, what you mean by a small FLIR camera?</p> <p>13 KOLONEL VERMAAK: Ek het nie die presiese 14 tegniese detail ten opsigte van die sterkte van die kamera 15 en dies meer nie, maar as jy kan vergelyk, dalk 'n 16 vergelyking tref en dit dalk 'n idee sal gee van die tipe 17 kameras wat dit verskil is die bal waarin die lens is van 18 hierdie kamera is omtrent die grootte van 'n sokkerbal, as 19 dit nie kleiner is nie. Die bal van die Goshawk kamera wat 20 op die 105 gemonteer word is seker vier keer daardie 21 grootte so hy is baie sterker, hy het infrarooi, infrarooi 22 op hitte en op koue, so hy is 'n baie meer effektiewe 23 kamera op die ou einde van die dag.</p> <p>24 MS PILLAY: And in relation to the FLIR 25 camera, Colonel, can you just describe what the strength of</p>

<p style="text-align: right;">Page 25564</p> <p>1 that camera is, particularly in relation to for example the 2 hand-held video camera? 3 KOLONEL VERMAAK: Nee, hy is baie sterker 4 as 'n gewone hand-held. Hy is ook baie meer stabiel omdat 5 hy ontwerp is om vas aan die helikopter te wees waar jy, as 6 jy met 'n hand-held in the helikopter sit, daar is bewing 7 in hom en so jou beeld, jy verloor beeld op 'n hand-held in 8 vergelyking met jou fixed een. 9 MS PILLAY: And if you can then deal with 10 the video equipment on the B105? 11 KOLONEL VERMAAK: Die video equipment is 12 deel van die kamera, so jy het 'n sisteem wat losstaande is 13 as jy hom nie gebruik nie, maar sou jy hom wil gebruik is 14 die boordbemanning opgelei om daardie kamera met al sy 15 toerusting in die helikopters te sit. Ek kan net noem, ek 16 het na Marikana insident, 24 Oktober het ek weer 'n brief 17 na kolonel Ndongwa, Mashigo, brigadier Honda en generaal 18 Tokwe gestuur waarin ek die volgende informasie aangevra 19 het, "The following information and documentation must be 20 presented to the Commission regarding the following aspects 21 - the date when the 105 was booked for the NPI, the reason 22 for the delay, reason why only the 105 was equipped with a 23 FLIR system and not also the Squirrel Romeo Papa Bravo, the 24 reason why the camera recording function on the R44 is not 25 working for more than two years and why it's not repaired."</p>	<p style="text-align: right;">Page 25566</p> <p>1 MS PILLAY: Now Colonel, this issue is 2 one of the few issues on which we don't see any proposals 3 from you in any of the documents which are before the 4 Commission in respect of how things should be handled going 5 forward. Do you have any proposals in relation to 6 recommendations that this Commission may make in respect 7 of, firstly, maintenance of helicopter video equipment and 8 secondly, procurement specs for helicopter video equipment? 9 KOLONEL VERMAAK: Voorsitter – 10 CHAIRPERSON: May I interrupt you? Is 11 this going to be, are you going to be some time in making 12 your proposal because I was proposing to take the tea 13 adjournment at quarter to 12 but one has to bear in mind 14 that if you sit long hours as we do, you have to take 15 adjournments from time to time to assist everybody. So 16 would you prefer giving us your proposals after we've taken 17 the tea adjournment? 18 KOLONEL VERMAAK: I think we can take 19 tea, thank you, Chair. 20 CHAIRPERSON: We'll take the tea 21 adjournment. 22 [COMMISSION ADJOURNS COMMISSION RESUMES] 23 [12:31] CHAIRPERSON: The Commission resumes. Ek 24 herinner u dat u nog steeds gebonde is deur die plegtige 25 bevestiging –</p>
<p style="text-align: right;">Page 25565</p> <p>1 Dan het ek net hier gesit, "Colonel Vermaak must hand this 2 documentation in tomorrow and he will have to testify as 3 the commander of the air wing on these aspects." Ek het 'n 4 antwoord teruggekry van kolonel Ndongwa af, sy antwoord 5 was, "Kindly take note that we have a contract in place for 6 BK117, the 105, the AS350B2 and 3 with Armscor and Denel 7 Aviation. All the work in progress related to these 8 helicopters that was not approved by SAPS supply chain 9 management and will be diverted to Armscor/Denel Aviation. 10 This will include all the mission equipment that enables 11 the abovementioned helicopters to accomplish the mission. 12 The aerial engines will be directly dealt by Armscor 13 Turbomeca only when has been carried out by SAPS 14 technicians. All the outstanding work including mission 15 equipment is withdrawn from all the suppliers and will be 16 routed to Armscor/Denel Aviation. The office is currently 17 compiling the list of outstanding work in order to submit 18 to Armscor/Denel Aviation for rapid action. The MD500, the 19 R44 and King Air contract is still outstanding and will be 20 awarded as the SAPS management signs the Armscor offer." 21 This was the last correspondence that I received in this 22 regard, Mr Chair. 23 MS PILLAY: And Colonel, to date has it 24 been fixed? Has the video equipment been fixed? 25 KOLONEL VERMAAK: Not yet.</p>	<p style="text-align: right;">Page 25567</p> <p>1 SALMON JOHANNES VERMAAK: Dis korrek, ja. 2 VOORSITTER: - wat u gemaak het. 3 KOLONEL VERMAAK: Dis korrek, Voorsitter. 4 CHAIRPERSON: Ms Pillay, you've now 5 reached what looks like the last lap. 6 MS PILLAY: Literally the last question, 7 Chair. 8 CHAIRPERSON: Is that then not correct? 9 Does that cover more laps? Anyway, carry on. 10 EXAMINATION BY MS PILLAY (CONTD.): 11 Colonel, before the tea break we left it at a question on 12 whether you have any proposals as to recommendations the 13 Commission may make in respect of procurement and 14 maintenance of helicopter video equipment. 15 KOLONEL VERMAAK: Voorsitter, ja, 'n paar 16 jaar terug was dit 'n geval gewees, ons het basies, jou 17 Eurocopter produk is jou Squirrel helikopter. Ons het 'n 18 direkte kontrak gehad met Eurocopter om die helikopters te 19 diens. Die laaste kontrak wat nou in plek is, as ek reg, 20 onder korreksie praat, is vir drie-jaar tydperk. Volgens 21 die kontrak gaan die – die eerste lyn is Armscor. Dan 22 handel Armscor met Denel wat die dienste doen, en dan sit 23 jy met Eurocopter wat die parte moet voorsien, waar ons in 24 die verlede direk van polisie na Eurocopter toe gewerk het. 25 So die probleem is die tydsverloop vandat die helikopter</p>

<p style="text-align: right;">Page 25568</p> <p>1 ingaan, nou moet daar kwotasies gegee word op parte. Hy 2 kom van Eurocopter na Denel na Armscor terug na die polisie 3 toe. Op daardie stadium dan het die tydperk verval van die 4 kwotasie, so die hele ding moet weer herhaal word. Dit is 5 een van die grootste probleme wat tans ondervind word met 6 die dienste en die instandhouding van die masjiene en die 7 toerusting wat basies saam met dit loop.</p> <p>8 CHAIRPERSON: Are Armscor and Denel 9 effectively functioning as middlemen? Does the fact that 10 Armscor and Denel are involved, does that actually push up 11 the price?</p> <p>12 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>13 MS PILLAY: Thank you, Colonel. Chair, 14 those are our questions.</p> <p>15 CHAIRPERSON: Thank you. Shall I ask you 16 one question before you cross-examine, that is if this 17 helicopter, Robinson R44 helicopter had been functioning 18 fully together with the FLIR system, would it have had any 19 effect upon the amount of material that we would have had 20 before us, visual material, which would have assisted us to 21 make findings as to what actually happened?</p> <p>22 KOLONEL VERMAAK: Ja definitief, 23 Voorsitter, want jou kamera werk jy basies met 'n 24 "joystick" van die boordbemanning af. So jy het die 25 heelyd waar jy hom wil op fokus hou jy hom. Al draai jy</p>	<p style="text-align: right;">Page 25570</p> <p>1 CHAIRPERSON: - on the 22nd of February 2 2012 and since then it's not been operational again. 3 That's correct, is it?</p> <p>4 KOLONEL VERMAAK: Dis korrek. Ons het – 5 CHAIRPERSON: Now, so if the B105 6 helicopter had been functional, what would have happened 7 then in relation to alerting – or would the videos it took, 8 it would have taken –</p> <p>9 KOLONEL VERMAAK: Voorsitter, daar – 10 CHAIRPERSON: - would they have been 11 transmitted to the JOC?</p> <p>12 KOLONEL VERMAAK: Ja. 13 CHAIRPERSON: So the JOC would have known 14 what was happening all the time?</p> <p>15 KOLONEL VERMAAK: Dis korrek. 16 CHAIRPERSON: So there's a suggestion for 17 example that if the people in the JOC had known immediately 18 what had happened at scene 1 they could have ordered that 19 the operation cease, which would have meant that scene 2 20 wouldn't have happened. There's evidence to that effect. 21 I'm not sure what the effect of it is, and by mentioning it 22 I'm not necessarily accepting it at this stage. But if the 23 B105 helicopter had been operational then the people in the 24 JOC should have known what had happened as soon as scene 1 25 took place. Is that what you're telling us?</p>
<p style="text-align: right;">Page 25569</p> <p>1 nou in die rondte hy neem die heelyd af daar waar jy die 2 kamera fokus. So jy hoef nie fisies uit te kyk en die 3 toneel dop te hou nie. Die toneel is die heelyd op die 4 skerm waar die boordbemanning dan nou die heelyd dit kan 5 opneem. So daar is dan definitiewe voordele daarin dat dit 6 meer materiaal beskikbaar sal stel.</p> <p>7 CHAIRPERSON: That would obviously have 8 related both to scene 1 and scene 2.</p> <p>9 KOLONEL VERMAAK: Dit is korrek. 10 CHAIRPERSON: Now the videos taken by the 11 system, is there a means whereby they can be transmitted to 12 the JOC immediately?</p> <p>13 KOLONEL VERMAAK: Nee, op die R44 is dit 14 nie moontlik nie. Daardie fasiliteit is nie daar nie. Dis 15 slegs op die 105 wat ons daardie fasiliteit het wat 'n 16 "link" opgestel word. Die eenheid is uitgereik met die 17 volle toerusting wat die "link" opgestel kan word en dies 18 meer, maar weens die feit dat dit nie funksioneer nie was 19 dit nie moontlik nie.</p> <p>20 CHAIRPERSON: Yes, well in paragraph 4 of 21 exhibit HHH5 you refer also to the B105 helicopter.</p> <p>22 KOLONEL VERMAAK: Dis korrek. 23 CHAIRPERSON: And you mention it was 24 booked in at the SAPS technical division for a service – 25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25571</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 CHAIRPERSON: And they would therefore 3 have been in the position to make operational decisions 4 which could have been conveyed to the commanders in the 5 field.</p> <p>6 KOLONEL VERMAAK: Dis korrek. 7 CHAIRPERSON: Is that correct? 8 KOLONEL VERMAAK: Dis korrek, Voorsitter. 9 CHAIRPERSON: And then of course as you 10 know there's a great deal of uncertainty, and somebody said 11 controversy about what happened at scene 2 and there were a 12 number of incidents at scene 2 where various people were 13 killed. At scene 1 everyone who died seems to have died 14 within the space of a few seconds. But as far as scene 2 15 was concerned there were a number of isolated incidents. 16 Now would we be in a better position to ascertain what 17 happened at those particular incidents if we had firstly 18 the R44 helicopter operating fully – 19 KOLONEL VERMAAK: Ja. 20 CHAIRPERSON: The answer to that is yes, 21 is it?</p> <p>22 KOLONEL VERMAAK: Voorsitter ja, as die 23 105 beskikbaar was met sy kamera sisteme op sou ons 'n baie 24 beter beeld gehad het want sy, hy het 'n baie wyer hoeklens 25 op wat dan wyer area kan dek wat hy opneem terwyl jy dan</p>

<p style="text-align: right;">Page 25572</p> <p>1 vlieg. So daar sal definitief 'n moontlikheid wees dat jy 2 meer inligting kan optel met die spesifieke kamera sisteem. 3 CHAIRPERSON: There's another aspect of a 4 scene 2 problem and that is, I asked you about it yesterday 5 and you said you weren't aware of the fact until a fairly 6 late stage that Major General Naidoo was operating on the 7 eastern side while I think Brigadier Calitz and others were 8 operating on the western side. You knew about Brigadier 9 Calitz and the Nyalas that, in respect of which you were 10 giving traffic directions, but you didn't know about Major 11 General Naidoo. 12 KOLONEL VERMAAK: Dis korrek. 13 CHAIRPERSON: And there's a suggestion – 14 again I don't know whether the suggestion is correct, it's 15 something that we will have to look at, but a good deal of 16 what was thought to be hostile fire from the strikers which 17 caused the members of the police to fire back as they 18 thought, was actually fire from police members on the other 19 side of the koppie. Now that's an allegation. Like I say 20 I'm not quite sure how true, how correct it is, that's 21 something that we'll have to explore, but if we had – if 22 you had had the R – it's the B105 helicopter – 23 KOLONEL VERMAAK: B105. 24 CHAIRPERSON: - functioning, would you 25 people have been in a better position at the time to have</p>	<p style="text-align: right;">Page 25574</p> <p>1 KOLONEL VERMAAK: Voorsitter ja, as jy as 2 boordbemanning, dit wat jy op die skerm sien is die beeld 3 wat na die JOC toe gestuur word. So hulle neem presies 4 waar wat in die helikopter waargeneem en opgeneem word dan. 5 COMMISSIONER HEMRAJ: Can I just ask you, 6 Colonel, the physical location of the camera on the 7 helicopter, what area would they cover? The area in front 8 of the helicopter or would you need to supplement it with 9 additional photographs from inside if you were covering a 10 wider area? 11 KOLONEL VERMAAK: Nee, dit word alles 12 beheer vanaf die kontroleboks binne-in die helikopter met 13 die boordbemanning, so die kamera kan 360 grade vanuit die 14 helikopter uit beheer word. So hy het nie net 'n 15 spesifieke area wat hy op kan konsentreer nie. So jy kan 16 vorentoe vlieg, kyk jy agtertoe. 17 CHAIRPERSON: Even if you hadn't had the 18 B105 helicopter but you had the Robinson R44 with 19 functional video equipment, of course you wouldn't have had 20 the advantage of transmitting the stuff back to the JOC 21 immediately, but would you also have been in a much better 22 position to pick up that there was this problem of two sets 23 of fire from different sides of the koppie? 24 KOLONEL VERMAAK: Jy sou, beter vir jou 25 gewees het. Ek is oortuig daarvan as jy die skerm voor jou</p>
<p style="text-align: right;">Page 25573</p> <p>1 picked up that there were in fact two sources of fire, one 2 from the west side of the koppie and one from the eastern 3 side of the koppie? 4 KOLONEL VERMAAK: Dit sou baie duideliker 5 gewees het met die spesifieke kamera, mnr die Voorsitter, 6 want soos ek verduidelik het die sterkte van die kamera as 7 sulks self gee vir jou 'n baie beter beeld en jy het die 8 heeldyd, het jy die skerm voor jou wat jy onmiddellik sien, 9 so jy hoef nie staat te maak op die helikopter wat in die 10 rondte draai nie. Jy fokus op een punt met daardie kamera 11 en dit is, dis wat jy die heeldyd sien. 12 CHAIRPERSON: Now when you're talking 13 about "you," you mean, you're referring to yourself in the 14 helicopter – 15 COLONEL VERMAAK: Myself. Ekskuus. 16 CHAIRPERSON: No, no, that's as we will 17 say in English, one would see, but of course if it was 18 being transmitted to the JOC the commanders in the JOC, the 19 members of the JOCCOM would also have seen immediately what 20 was going on. Is that correct? I know it's a leading 21 question. If it's wrong, please don't hesitate to correct 22 me, but would the people in the JOC have been aware of the 23 fact that there was this problem that two sets of SAPS 24 members firing in effect at each other from opposite sides 25 of the koppie?</p>	<p style="text-align: right;">Page 25575</p> <p>1 het, het jy die voordeel van jy hoef net op die skerm te 2 kyk. Jy hanteer die kamera van binne af, waar as jy nie 3 die kamera het nie maak jy staat op die helikopter se 4 beweging en dit gebeur dat jy dan partykeer fokus verloor 5 op 'n spesifieke toneel. 6 CHAIRPERSON: Thank you. Mr Bizos. 7 CROSS-EXAMINATION BY MR BIZOS SC: 8 Colonel, I want to [microphone off, inaudible] – 9 CHAIRPERSON: Mr Bizos, it would help if 10 you turned your microphone on for the benefit of your 11 professional – 12 MR BIZOS SC: I'm sorry – 13 CHAIRPERSON: - reputation. 14 MR BIZOS SC: Yes, I want to confirm in 15 the interests of truth and my professional dignity that I 16 never consulted with you. 17 COLONEL VERMAAK: Never, Sir. 18 MR BIZOS SC: You've been around for 32 19 years; I've been around quite as many. I don't know 20 whether we ever met. 21 COLONEL VERMAAK: No, Sir. 22 MR BIZOS SC: I don't recall ever meeting 23 you either. 24 COLONEL VERMAAK: No, never. 25 MR BIZOS SC: Now Colonel, I have read</p>

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1 the document that you sent to the Provincial Commissioner  
 2 on the 12th of December, HHH68. I have read your report,  
 3 OOO10. I have read the standing orders, and more  
 4 particularly paragraph 11. I want to put a question to  
 5 you. It seems to me that you must have been absolutely  
 6 shocked when you heard on the 16th that 34 people were  
 7 killed and a number - which turns out to be 76 but you  
 8 would not have known the number then – were seriously  
 9 wounded. Am I right in thinking that you were shocked?  
 10 KOLONEL VERMAAK: Dis positief,  
 11 Voorsitter.  
 12 MR BIZOS SC: It also appears to me, even  
 13 though I have not been here throughout your evidence, that  
 14 you are your own man and you say what you want to say and  
 15 what you believe to be the truth, irrespective of any  
 16 pressure that may be put on your by others. Am I correct  
 17 in that?  
 18 KOLONEL VERMAAK: Dit is korrek,  
 19 Voorsitter.  
 20 MR BIZOS SC: How long after you heard  
 21 that 34 people had been killed and a large number of people  
 22 have been wounded did you raise the question with your  
 23 senior colleagues? Immediately? The same day? The same  
 24 evening? The same night? The next morning? When did you  
 25 raise your reservations and your disenchantment that people

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1 were killed and seriously injured? How long after the  
 2 event?  
 3 KOLONEL VERMAAK: Voorsitter, die aand  
 4 nadat ons ingekom het met die helikopter wat die vlieënier  
 5 terug moes beweeg met die helikopter was ek op 'n stadium  
 6 in die JOC gewees en almal teenwoordig - en ek weet nie wie  
 7 almal daar was nie, daar was baie mense gewees – daar was  
 8 'n verslaentheid gewees oor wat daar gebeur het. Die mense  
 9 was regtig geskok gewees en ek dink nie dit was ooit verwag  
 10 nie.  
 11 MR BIZOS SC: I have read your record and  
 12 you were one of the police officers that was perhaps  
 13 fortunate to be a member of POPS in the early 90s when  
 14 there was a fundamental change as a result of the quasi end  
 15 of apartheid from 1990 on when there was cooperation in  
 16 relation to security matters between Mr de Klerk and Mr  
 17 Mandela and the people at CODESA. You know all about that.  
 18 KOLONEL VERMAAK: Dis korrek, Voorsitter.  
 19 MR BIZOS SC: And I have read in your CV  
 20 that you took the fundamental change that was proposed from  
 21 the early 90s seriously. Is that correct?  
 22 KOLONEL VERMAAK: Dit is korrek,  
 23 Voorsitter.  
 24 MR BIZOS SC: And you actually say that  
 25 you participated in some of the areas where there were

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1 protests and other trouble, but that very careful care was  
 2 taken that nobody got killed. Am I correct in that?  
 3 KOLONEL VERMAAK: Voorsitter, daar was 'n  
 4 insident, ek het gemeld dat by een van die insidente was  
 5 daar ongelukkig mense wat wel gesterf het in die optrede  
 6 van die kant waar die polisie opgetree het, en ook van die  
 7 kant van die “protesters” af gewees.  
 8 MR BIZOS SC: Which event have you got in  
 9 mind?  
 10 KOLONEL VERMAAK: Dit was by Stilfontein  
 11 waar die kontrakteurs, die werkers 'n probleem met die  
 12 werkgewer opgetel het in 1993.  
 13 MR BIZOS SC: But there were commissions.  
 14 You remember the Vaal Triangle. You remember a couple of  
 15 the others in the Ciskei and elsewhere where there were  
 16 killings, but one thing was clear; that in the new South  
 17 Africa that we envisaged the sanctity of human life was  
 18 above all else to be sought and that people should not be  
 19 killed.  
 20 [12:51] You were a believer in that and you still are?  
 21 KOLONEL VERMAAK: Dis korrek, sover as  
 22 moontlik was dit een van die punte wat altyd vermy sal  
 23 word, dat daar mense hulle lewens moet verloor.  
 24 MR BIZOS SC: There is one other aspect  
 25 as a way of – we have informed the evidence leaders that we

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1 would like to deal with you in relation to the statements  
 2 filed by Mr Hendrickx.  
 3 KOLONEL VERMAAK: Dis korrek, Voorsitter.  
 4 MR BIZOS SC: Have you had an opportunity  
 5 of having a look at those statements?  
 6 KOLONEL VERMAAK: Ek het dit gistermiddag  
 7 gekry en ek het dit gisteraand deurgegaan, Voorsitter.  
 8 MR BIZOS SC: You hadn't seen those  
 9 reports before?  
 10 KOLONEL VERMAAK: Dis negatief, ek het  
 11 dit nooit voorheen gesien nie. Gisteraand of gistermiddag  
 12 toe dit vir my gegee was, is dit die eerste keer wat ek  
 13 hierdie dokumente ontvang.  
 14 MR BIZOS SC: You know, to your credit Mr  
 15 – Colonel Vermaak, some of the criticisms made by Mr  
 16 Hendrickx in these reports are contained in your statement  
 17 or your letter of the 12th of December and in your report.  
 18 Do you agree with that?  
 19 KOLONEL VERMAAK: Dit is positief,  
 20 Voorsitter.  
 21 MR BIZOS SC: Was there anything in these  
 22 reports that you have read that you thought was incorrect  
 23 or outlandish?  
 24 KOLONEL VERMAAK: Voorsitter, die  
 25 dokumente wat ek deurgegaan het is baie goed vergelykbaar

<p style="text-align: right;">Page 25580</p> <p>1 met die dokumente wat ek opgestel het en kan ek nie werklik 2 enige groot verskille waarneem waar spesifieke probleme 3 deur mnr Hendrickx geïdentifiseer was nie. Dit is, dit is 4 in beginsel basies dieselfde.</p> <p>5 MR BIZOS SC: I want to put the vital 6 question to you. If you agree with Mr Hendrickx and the 7 views that you have expressed in your documents correspond, 8 had you been in charge of the operation of the 16th would 9 there have been 34 deaths and 76 injuries?</p> <p>10 KOLONEL VERMAAK: Voorsitter, die vraag 11 was deur die polisie se regsspan, terwyl ek onder die 12 indruk was dat hulle my nog steeds verteenwoordig ook, 13 dieselfde vraag was aan my gestel waarop my antwoord aan 14 hulle was dat uit ondervinding wat ek deur die jare opgetel 15 het met my dienste in die openbare orde polisie sou ek dit 16 anders gehanteer het, soos wat ek voorstelle gemaak het, 17 dat ons eerder die hostelle voor die tyd moet deursoek om 18 die gevaarlike wapens daar te verwyder. Daar is die 19 voordeel van dit dat sou jy dit doen, sal die publiek 20 dadelik besef dat die polisie nie gaan sit en wag dat iets 21 moet gebeur nie. Ons het altyd met baie groot sukses, en 22 destyds praat ek van hostelle wat tot 20 000 mense 23 gehuisves het, het ons die hostelle, as die geringste 24 inligting daar was dat daar konflik verwag kan word, het 25 ons die hostelle deursoek, ons het groot hoeveelhede</p>	<p style="text-align: right;">Page 25582</p> <p>1 Voorsitter. En het ek vir hulle gesê ek glo dat as ons dit 2 gedoen het en ons het die koppie vroeg in die oggend so gou 3 as moontlik oorgeneem, mense gearresteer, beslag gelê op 4 mense wat met wapens soontoe kom, dan kon ons moontlik 'n 5 ander tipe van insident gehad het, daar kan moontlik 6 volgens my nie soveel lewensverlies gewees het nie. Die 7 verdere argument wat aan my gestel was, is dat die vrees 8 was dat die werkers sal op 'n plundertog in die woongebiede 9 ingaan. Ek het aan hulle verduidelik dat hulle moet in 10 gedagte hou hierdie werkers kom uit daardie informele 11 settlements, dis hulle huise. Hoekom sal hulle, hulle eie 12 huise gaan plunder? In die verlede – en as ek sê verlede 13 dan kan ek terugverwys 2012 Januarie waar daar ook groot 14 onluste was – is dit die normale gebruik dat jou protesters 15 eerder gaan om myneïendom te beskadig. Hulle sal na 'n 16 afdak toe gaan op die mynperseel waar daar 'n klomp 17 voertuie staan en dit aan die brand steek om 'n punt te 18 bewys. Ek het nog nie eenkeer gehad dat hulle, hulle eie 19 mense aangeval het nie. Daar was insidente gewees waar, by 20 ander gevalle waar daar wel van ons buitelanders, 21 besigheidsmense en ek dink hier aan spesifiek in Sondela in 22 Rustenburg waar hulle hierdie mense se besighede geplunder 23 het, maar dit was enkel gevalle gewees en met die 24 hoeveelheid polisiemane wat ons daar beskikbaar gehad het, 25 glo ek sou dit moontlik gewees het om hierdie buitelanders</p>
<p style="text-align: right;">Page 25581</p> <p>1 tradisionele wapens, myneïendom, gevaarlike wapens, is 2 somtyds werklikwaar vragmotor vragte vol verwyder van 3 daardie persele af. So my eerste stap as bevelvoerder sou 4 gewees het om 'n deursoekingsaksie te loods en van daar af 5 dan, soos wat ek netnou vermeld het, sou jy arrestasies 6 uitgevoer het deur behoorlike ondervraging van verdagtes, 7 kan jy op daardie manier meer inligting bekom wat jy dan 8 vorentoe kan gebruik om verdere operasies te beplan. Die 9 vraag was vir my gevra kan ek die versekering gee dat daar 10 volgens daardie plan nie mense sal doodgaan nie, gesien in 11 die lig dat daar reeds 10 mense op daardie stadium oorlede 12 was wat in die tydperk vermoor was, ek het hulle geantwoord 13 dat definitief kan ek nie die versekering vir hulle gee dat 14 daar so 'n groot, of dat daar nie beseerdes of moontlike 15 lewensverlies kan wees nie. En ek het vir die regsspan 16 gesê dat in my hart het ek geglo dat sou daardie aksies 17 geloods geword het en daar was reeds dokumente opgestel 18 deur die regsbeampte kolonel Moolman vir 'n 19 deursoekingsaksie –</p> <p>20 CHAIRPERSON: Is this the cordon and 21 search that you're talking about?</p> <p>22 KOLONEL VERMAAK: Dis korrek.</p> <p>23 CHAIRPERSON: They actually got the 24 cordon and search order but it was never implemented.</p> <p>25 KOLONEL VERMAAK: Dit is korrek,</p>	<p style="text-align: right;">Page 25583</p> <p>1 se eiendom ook dan moontlik te kon beskerm het.</p> <p>2 CHAIRPERSON: I'm going to take the lunch 3 adjournment now but just before I do that I want to 4 summarise what my understanding is of your answer because 5 it was a rather long answer to a short question. The 6 question was if you'd been the commander in charge, would 7 there have been the 34 deaths and the 70-odd people who 8 were seriously injured? Your answer, as I understand it, 9 is there would not have been. You couldn't guarantee there 10 would have no deaths, you couldn't guarantee there would've 11 been no people injured but the number of people killed, if 12 there were people killed and the number of people wounded, 13 if there were people wounded, would have been significantly 14 smaller than the amount that we actually have. Is that a 15 fair summary of your answer?</p> <p>16 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>17 CHAIRPERSON: Mr Bizos, you can continue 18 the cross-examination after the lunch adjournment.</p> <p>19 MR BIZOS SC: The examination, not cross- 20 examination in this case, Chairman –</p> <p>21 CHAIRPERSON: You're not cross-examining, 22 you're not examining in anger, you're merely examining.</p> <p>23 We'll take the lunch adjournment on that note.</p> <p>24 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>25 [14:18] CHAIRPERSON: The Commission resumes.</p>

<p style="text-align: right;">Page 25584</p> <p>1 I'm sorry, we had some housekeeping to attend to in 2 chambers which took longer than I'd expected. So I 3 apologise to those we kept waiting. The Commission 4 resumes. Luitenant Kolonel, ek herinner u dat u nog 5 gebonde is aan u plegtige bevestiging. 6 SALMON JOHANNES VERMAAK: Dis positief, 7 Voorsitter. 8 CHAIRPERSON: Mr Bizos. 9 CROSS-EXAMINATION BY MR BIZOS SC (CONTD.): 10 Thank you. Colonel, you've already told us that you 11 expressed your shock to your colleagues shortly after the 12 event in which 34 people were killed and a great number 13 were injured. Did you keep it a secret that you disagreed 14 with it and you thought that it was wrong, or did you 15 express those views openly to your colleagues? 16 KOLONEL VERMAAK: Voorsitter ja, dit is 17 veral binne die afdeling waarin ek werk, die Lugvleuel, 18 soos ek gesê het ons het teruggekom, ons was vinnig in die 19 JOC gewees en ons het gesorg dat die helikopters terugkeer 20 na die basis toe en ek het genoem dat almal in die JOC was 21 verslae gewees ten opsigte van die gebeure daar. So ja, 22 dit was 'n skok en dit was 'n hartseer dag gewees. 23 MR BIZOS SC: But your views as a senior 24 officer and as a POP expert were made known to your 25 colleagues?</p>	<p style="text-align: right;">Page 25586</p> <p>1 and said that they were to be congratulated for the good 2 work that they had done. 3 KOLONEL VERMAAK: Dit het ons wel in die 4 media waargeneem, mnr die Voorsitter, want ons het 5 aangegaan met die lug steun dienste. Daar was nog steeds 6 aktiwiteite in die omgewing rond gewees, so ons was nooit 7 blootgestel veral op my vlak aan daardie tipe konferensies 8 en vergaderings nie. Ons was maar in die veld gewees en 9 ons het daardie taak bly verrig totdat ons dan nou in 10 Desember klaar was. 11 MR BIZOS SC: On the basis of your 12 evidence and your expressed view to them, those statements 13 made that the police had done nothing wrong were false. 14 KOLONEL VERMAAK: Mnr die Voorsitter, ek 15 wil nie my uitlaat oor op grond waarvan hulle mediaberigte 16 gemaak het en wat hulle siening rondom dit was nie. Soos 17 ek gesê het, vir my was dit, persoonlik was dit 'n 18 skokkende dag gewees. Omdat ek alreeds by vorige kere by 19 insidente betrokke was waar mense hulle lewens verloor het, 20 alhoewel nie deur optrede van polisie direk nie, is dit nie 21 iets wat jy graag weer wil sien in jou lewe nie. So ja, 22 daaroor was ons regtig geskok gewees, was teleurgesteld 23 gewees in die sin van dat daar nie aandag gegee was aan die 24 skrywes wat gerig was en sekere kwelpunte wat geopper was 25 nie.</p>
<p style="text-align: right;">Page 25585</p> <p>1 KOLONEL VERMAAK: Dis korrek, Voorsitter. 2 MR BIZOS SC: Did any of them take you 3 seriously and agree with you? 4 KOLONEL VERMAAK: Ek sal nie spesifiek 5 kan sê 'n spesifieke individu het enigsins direk ten 6 opsigte daaroor, met my daaroor gepraat nie, maar soos ek 7 sê, die hele gevoel binne-in die JOC was gewees dat dit, 8 dis nie 'n aangename dag gewees nie. 9 MR BIZOS SC: And they knew your views? 10 KOLONEL VERMAAK: Dis korrek, hulle het 11 geweet. 12 MR BIZOS SC: Now from the same night to 13 the next day the South African Police did the following. 14 They made a public statement. You remember that? 15 KOLONEL VERMAAK: Ek het agterna verneem, 16 dis positief. 17 MR BIZOS SC: They drafted a report which 18 they sent to the President. 19 KOLONEL VERMAAK: Ten opsigte van daardie 20 was ek nie deel van daardie opstel van daardie verslag aan 21 die President nie. Ek het eers agterna, 'n paar dae 22 agterna gehoor dat daar aan die President ook 'n 23 voorlegging was. 24 MR BIZOS SC: And the National 25 Commissioner sang the praises of the South African Police</p>	<p style="text-align: right;">Page 25587</p> <p>1 MR BIZOS SC: You know you've gone very 2 far, Colonel, in not considering yourself a disciplined 3 member, right or wrong, which is an unfortunate dictum, so 4 to speak, which some policemen believe in, and I'm not 5 including you in that because of your evidence. But it 6 wasn't only the victims, it wasn't only the public of South 7 Africa as a whole, it was the world at large that condemned 8 this tragedy. 9 KOLONEL VERMAAK: Dis korrek. 10 MR BIZOS SC: And how is it that no-one 11 publicly expressed among the police, until you did so 12 later, that the true version and the correct version was 13 not being given to the people of South Africa and to the 14 victims? 15 KOLONEL VERMAAK: Mnr die Voorsitter, ek 16 kan nie namens iemand anderste 'n mening lug nie. Ek kan 17 nie sien, ek kan nie sê hoekom is daar nie sekere inligting 18 beskikbaar gemaak ten opsigte van die skrywes byvoorbeeld 19 wat ek aan die nasionale bestuur en provinsiale bestuur 20 gestuur het nie. Mnr Bizos meld dat dit nou ongelukkig is 21 dat ek die offisier is, of die persoon is wat sodanige 22 skrywes gerig het en navraag gedoen het en dies meer, maar 23 vandag ek in die polisie in 1981 ingekom het, het ek basies 24 drie reëls gehad waarvolgens ek gewerk het. 25 My eerste punt was ek is in die polisie om die</p>

<p style="text-align: right;">Page 25588</p> <p>1 gemeenskap te dien, ongeag wie die gemeenskap is. Die 2 gemeenskap van Suid-Afrika. Ek gee terugvoering aan my 3 seniors en my verantwoordelikheid lê teenoor my Skepper, en 4 op daardie basis kan ek nie die waarheid weerhou ten 5 opsigte van wat ek deel van was nie.</p> <p>6 MR BIZOS SC: No, we appreciate your 7 frankness. I want to know whether you were at 8 Potchefstroom where exhibit L was put together.</p> <p>9 KOLONEL VERMAAK: Verwysende na Roots 10 toe, dis –</p> <p>11 MR BIZOS SC: Yes.</p> <p>12 KOLONEL VERMAAK: Dis positief, 13 Voorsitter.</p> <p>14 MR BIZOS SC: You were there.</p> <p>15 KOLONEL VERMAAK: Dis korrek.</p> <p>16 MR BIZOS SC: What was the purpose of 17 that meeting?</p> <p>18 KOLONEL VERMAAK: Soos ek gister 19 verduidelik het, dit het gegaan oor om basies die legkaart 20 – ek dink dis die regte woord – om die legkaart inmekaar te 21 sit; sou daar enige verdere inligting wees wat oorgesien 22 was, dat dit kon aangespreek word en dat dit by die 23 voorlegging bygewerk kon word.</p> <p>24 MR BIZOS SC: Did you participate in the 25 deliberations?</p>	<p style="text-align: right;">Page 25590</p> <p>1 verder enigsins betrokke geraak by die vergaderings direk 2 nie.</p> <p>3 MR BIZOS SC: The people, the senior 4 people that put exhibit L together for presentation to the 5 Commission knew about your strongly-held views about the 6 rights and wrongs of the 16th?</p> <p>7 KOLONEL VERMAAK: Dit is korrek, 8 Voorsitter. Ek het net na die insident het ek die skrywes 9 weer na Kolonel Scott en na Generaal Annandale se e-pos 10 adresse toe gestuur, so hulle was bewus van my gevoel 11 rondom die aangeleenthede.</p> <p>12 MR BIZOS SC: Were your views ignored by 13 those who put exhibit L together?</p> <p>14 KOLONEL VERMAAK: Dis positief, 15 Voorsitter.</p> <p>16 MR BIZOS SC: Could you identify the 17 persons that you know who were putting up exhibit L but 18 ignored your views?</p> <p>19 KOLONEL VERMAAK: Die samesteller 20 aanvanklik wat die primêre samestelling gedoen het was 21 Kolonel Scott. Op 'n latere stadium was Kolonel Visser 22 ingebring, maar ek dink dit was meer om net behulpsaam te 23 wees om die inligting te verwerk. Hy was glad nie betrokke 24 by Marikana self nie. Hy was op 'n baie laat stadium was 25 hy ingebring om Kolonel Scott behulpsaam te wees met die</p>
<p style="text-align: right;">Page 25589</p> <p>1 KOLONEL VERMAAK: Ek het gemeld dat ek 2 deel was van 'n werksgroep waarvan Generaal Mpembe deel was 3 op die 5de September en dat daar 'n argument tussen my en 4 hom en van die ander lede plaasgevind het en nadat ek my 5 onttrek het van daardie gesprekvoering af het ek nêrens 6 verder deelgeneem in dit behalwe op 'n stadium wat ek 7 uitgewys het dat die tye nie ooreenstem met sekere foto's 8 wat ek geneem het nie.</p> <p>9 MR BIZOS SC: I just want clarity. Did 10 you express the views at that meeting that you expressed in 11 your letter of the 12th of December, or similar views?</p> <p>12 KOLONEL VERMAAK: Voorsitter ja, ek het 13 veral verwysende na die insident op die 13de waar ons as 'n 14 groep bymekaargekom het om maar net weer die insette van 15 die lede af te kry wat daarby betrokke was, of dan die 16 bevelsgroepe, het ek dit wel genoem en dit was deel van die 17 rede tot konflik wat plaasgevind het tussen myself en 18 Generaal Mpembe.</p> <p>19 MR BIZOS SC: And what about the 16th? 20 You've expressed views in exhibit HHH6 about the 16th. Did 21 you express those views at Potchefstroom?</p> <p>22 KOLONEL VERMAAK: Voorsitter, ek het, 23 daarna het ek nie verder deelgeneem aan enige werksgroepe 24 nie. As daar 'n spesifieke vraag vir my gevra was oor 'n 25 foto dan het ek daardie vraag geantwoord, maar ek het nie</p>	<p style="text-align: right;">Page 25591</p> <p>1 opstel van die verslag elektronies.</p> <p>2 MR BIZOS SC: Colonel Scott was not the 3 only one that knew about your views and reservations about 4 what happened. Who else was there that was taking part in 5 putting exhibit L together?</p> <p>6 KOLONEL VERMAAK: Daar was 'n groot 7 hoeveelheid persone gewees, Generaal Annandale, Generaal 8 Naidoo, Generaal Mpembe was daar gewees. Dan was daar 'n 9 brigadier van Regsdienste van hoofkantoor wat as 10 fasiliteerder opgetree het. Die provinsiale hoof van die 11 Regsdienste was ook teenwoordig gewees. So ja, dit is 'n 12 wye veld van mense wat ek mee gepraat het en aspekte aan 13 hulle genoem het.</p> <p>14 MR BIZOS SC: In your view would it be 15 unfair of us to describe exhibit L charitably as an 16 incomplete version, if not false version, of what happened 17 on the 16th?</p> <p>18 KOLONEL VERMAAK: Voorsitter, ek sal nie 19 sê dis 'n vals weergawe nie. Daar is inligting wat in die 20 verslag is wat korrek is.</p> <p>21 MR BIZOS SC: Yes, well –</p> <p>22 KOLONEL VERMAAK: Sekere inligting is wel 23 uitgelaat, wat dit nie maak dat dit 'n valse weergawe is 24 nie. Dis miskien 'n weergawe wat daar tekortkominge aan 25 is.</p>



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1 MR BIZOS SC: Well, there are degrees of  
2 truth. It's certainly not the whole truth.  
3 KOLONEL VERMAAK: Dis korrek.  
4 MR BIZOS SC: Now in terms of the  
5 standing orders, which you know well and which Mr Scott  
6 told us that he didn't know and you confirmed it, after any  
7 such a momentous event there has to be a post mortem, has  
8 there not?  
9 KOLONEL VERMAAK: Dis korrek. Dis  
10 spesifiek verwysende na die dokumentasie wat ek in een van  
11 my verslae verwys het na.  
12 MR BIZOS SC: Ja.  
13 KOLONEL VERMAAK: Die  
14 nabetrachtingsdokumente wat voltooi moet word deur die  
15 seksiebevelvoerders, wat dit weer dan oorhandig aan die  
16 pelotonbevelvoerders en dan sal dit dan nou na die  
17 bevelvoerder, of die operasionele bevelvoerder en dan in so  
18 'n groot operasie op die einde by die oorhoofse  
19 bevelvoerder eindig.  
20 MR BIZOS SC: Order 13, paragraph 13 of  
21 SSS2, the Standing Orders General 262 for the complete, may  
22 I read it to you?  
23 KOLONEL VERMAAK: U kan voortgaan.  
24 MR BIZOS SC: "The CJOC must ensure that  
25 debriefing takes place after each event or gathering and

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1 that record is kept thereof. Every level of command must  
2 debrief the levels below," and then they are set out. You  
3 know the orders.  
4 KOLONEL VERMAAK: Dis korrek.  
5 MR BIZOS SC: Did you know them when you  
6 were in Potchefstroom?  
7 KOLONEL VERMAAK: Dis korrek, Voorsitter.  
8 MR BIZOS SC: I would have thought that  
9 before preparing a document for the Commission, once you  
10 were all together it was an excellent opportunity to  
11 debrief. Did a debriefing take place?  
12 KOLONEL VERMAAK: Voorsitter, ek het op  
13 daardie stadium 'n punt bereik waar ek my weerhou het van  
14 kommentaar. Gesien in die lig van die skrywes wat ek  
15 alreeds van 2011 af aan bestuur gestuur het waar die  
16 probleme deur my persoonlik geïdentifiseer was, aanduiding  
17 die argument wat ons gehad het tussen my, Generaal Mpembe,  
18 en van die lede wat betrokke was op die insident van die  
19 13de, het ek geen verdere insette gelewer ten opsigte van  
20 die verrigtinge daar nie. Ja, soos u dit stel sal dit die  
21 gulde geleentheid gewees het om al daardie nodige dokumente  
22 te bekom.  
23 MR BIZOS SC: I can understand what you  
24 are saying, Colonel, but did anyone else of the senior  
25 officers there say in terms of the standing orders we have

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1 to have a debriefing? Did anybody say that?  
2 KOLONEL VERMAAK: Nie sover ek kan onthou  
3 nie, Voorsitter.  
4 CHAIRPERSON: Mr Bizos, you are departing  
5 somewhat from the topics in respect of which you applied  
6 for permission and were given permission.  
7 MR BIZOS SC: Yes.  
8 CHAIRPERSON: I've allowed you some  
9 latitude, but I think you must try to bring it to the  
10 topics –  
11 [14:38] MR BIZOS SC: I try and –  
12 CHAIRPERSON: Before you do that, let me  
13 ask a question that flows from the question you asked -  
14 MR BIZOS SC: It's not completely –  
15 CHAIRPERSON: No, no.  
16 MR BIZOS SC: It's not completely  
17 irrelevant, Mr Chairman.  
18 CHAIRPERSON: I understand. You'll fit  
19 it in under 1.3, I should imagine.  
20 MR BIZOS SC: Yes.  
21 CHAIRPERSON: But Lieutenant-Colonel, did  
22 you know that while the Roots operation, the Roots exercise  
23 was being done, there was a parallel operation going on  
24 involving Brigadier Mkhwanazi and a number of other  
25 officers who were doing a kind of appraisal as to what

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1 happened on the 16th? Did you know about it?  
2 KOLONEL VERMAAK: Ek dra kennis van dit,  
3 Voorsitter. Ek was een dag ingeroep deur die komitee, as  
4 ek dit so kan noem, na die Elgro Hotel toe waar hulle my  
5 ondervra het ten opsigte van die gebeure en rondom my  
6 siening ten opsigte van wat ek ervaar het. Die dag wat ek  
7 ingeroep is, was die 11de September 2012.  
8 CHAIRPERSON: You say you gave them your  
9 view of what had happened. Did you express it in the  
10 strong terms that you've done to this Commission?  
11 KOLONEL VERMAAK: Dis korrek.  
12 CHAIRPERSON: And in the letters you  
13 wrote –  
14 KOLONEL VERMAAK: Dis korrek.  
15 CHAIRPERSON: The letters you wrote to  
16 the National Commissioner.  
17 KOLONEL VERMAAK: Dis korrek.  
18 CHAIRPERSON: I see, thank you. Sorry,  
19 Mr Bizos, I suggest you round this point off. I won't stop  
20 you completely but I would appreciate it if you could move  
21 to the specific topics I gave you permission on.  
22 MR BIZOS SC: Thank you, Mr Chairman.  
23 The reason why I'm –  
24 CHAIRPERSON: You don't have to explain  
25 yourself. You don't have to explain yourself.

<p style="text-align: right;">Page 25596</p> <p>1 MR BIZOS SC: Yes.</p> <p>2 CHAIRPERSON: You can carry on.</p> <p>3 MR BIZOS SC: Yes.</p> <p>4 CHAIRPERSON: Along the lines that I've</p> <p>5 indicated.</p> <p>6 MR BIZOS SC: Yes, well, I'll leave it</p> <p>7 there. You know that part of the request by the President</p> <p>8 in relation to the appointment of the Commission, that it</p> <p>9 was to investigate what had happened and to go into the</p> <p>10 question of what ought to be done in the future in order to</p> <p>11 avoid repetition. Did you and your colleagues know that</p> <p>12 whilst you were at Potchefstroom?</p> <p>13 KOLONEL VERMAAK: Dit is positief,</p> <p>14 Voorsitter.</p> <p>15 MR BIZOS SC: Was there any discussion as</p> <p>16 to whether the latter part, what went wrong and what did we</p> <p>17 have to do in the future, was that discussed at all?</p> <p>18 KOLONEL VERMAAK: Negatief, dit was nie</p> <p>19 deel van daardie bespreking waar ek was nie. Die enigste</p> <p>20 wat werklik daarna gewys het is toe ek by Brigadier</p> <p>21 Mkhwanazi-hulle was, wat dan op 'n skaalmodel wat jy moes</p> <p>22 gewys het wat jy gesien het en hulle sou dan 'n aanbeveling</p> <p>23 maak na die Nasionale Kommissaris toe rondom hulle</p> <p>24 inligting wat hulle gekom het, Voorsitter.</p> <p>25 CHAIRPERSON: Did you ever see the</p>	<p style="text-align: right;">Page 25598</p> <p>1 moontlike "reaction of the group to actions of the police,"</p> <p>2 daar het kolonel Merafe volgens inligting wat ons gekry</p> <p>3 het, het hy die dae voor dit sy diskresie gebruik hoe om</p> <p>4 sekere insidente te hanteer.</p> <p>5 MR BIZOS SC: Well, we don't want to</p> <p>6 enter into great detail on your quarrel about the 13th but</p> <p>7 there is sufficient evidence before the Commission that</p> <p>8 without any warning the police took action which enraged</p> <p>9 the crowd. Do you agree with that?</p> <p>10 KOLONEL VERMAAK: Voorsitter, ek was nie</p> <p>11 op die grond gewees nie. Ek was wel in die lug gewees, so</p> <p>12 ek kan nie kommentaar lewer of die polisie waarskuwings</p> <p>13 gegee het of nie waarskuwings gegee het nie. As ek daarop</p> <p>14 kommentaar lewer dan is dit nie my eie ervaring nie, dan is</p> <p>15 dit gebaseer op hoorsê getuïenis.</p> <p>16 MR BIZOS SC: Well, if in fact the</p> <p>17 evidence is true that no warning was given and that there</p> <p>18 were no grounds to believe that the crowd would go to the</p> <p>19 shacks in order to attack people and if there is no</p> <p>20 evidence that there was a warning, as an expert would you</p> <p>21 say that that was a provocation –</p> <p>22 CHAIRPERSON: I'm sorry, sorry, Mr Bizos.</p> <p>23 That question was put, unclear. You're not indicating at</p> <p>24 what stage you say the warning should have been given and</p> <p>25 it wasn't given. I assume you mean no warning was given</p>
<p style="text-align: right;">Page 25597</p> <p>1 recommendations that they made?</p> <p>2 KOLONEL VERMAAK: Dis negatief,</p> <p>3 Voorsitter.</p> <p>4 MR BIZOS SC: You see, you have agreed</p> <p>5 with me originally that you agree with what Mr Hendrickx</p> <p>6 said in his statement, his first statement GGG2. Do you</p> <p>7 remember that?</p> <p>8 KOLONEL VERMAAK: Ek het gesê ek stem</p> <p>9 saam met sekere aspekte wat hy in sy verslag vermeld.</p> <p>10 MR BIZOS SC: Do you agree with the</p> <p>11 following as appears in paragraph 21, 21.4 of that exhibit?</p> <p>12 I'll read it. "Platinum, risk increasing not de-escalating</p> <p>13 the conflict, in particular the plan did not seem to have</p> <p>14 taken into account one of the realities of gatherings, that</p> <p>15 is that the police usually play a significant role in</p> <p>16 forestalling or provoking disorder and explore the possible</p> <p>17 reaction of the crowd to the actions of the police." Would</p> <p>18 you –</p> <p>19 CHAIRPERSON: This is on page 15 of –</p> <p>20 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>21 MR BIZOS SC: Do you agree that Mr</p> <p>22 Hendrickx is correct?</p> <p>23 KOLONEL VERMAAK: Voorsitter, ek sal nie</p> <p>24 sê die hele stelling wat hy maak is korrek nie. Daar is</p> <p>25 definitief punte wat die polisie na gekyk het. Die</p>	<p style="text-align: right;">Page 25599</p> <p>1 before the barbed wire was uncoiled from –</p> <p>2 MR BIZOS SC: I'm not talking about the</p> <p>3 16th, I'm talking about the 13th.</p> <p>4 CHAIRPERSON: The 13th? Oh, I see.</p> <p>5 MR BIZOS SC: You don't know whether any</p> <p>6 warning was given?</p> <p>7 CHAIRPERSON: I'm sorry, Mr Bizos. The</p> <p>8 passage we're looking at now at 21.4 talks about Operation</p> <p>9 Platinum and Operation Platinum, as I understand it, is the</p> <p>10 plan or the series of plans which Colonel Scott drew up. I</p> <p>11 don't know that it's correct to describe what happened on</p> <p>12 the 13th –</p> <p>13 MR BIZOS SC: Yes.</p> <p>14 CHAIRPERSON: - which is a very much</p> <p>15 improvised operation, I'm not sure it's accurately</p> <p>16 described as Operation Platinum, so I'm not sure that Mr</p> <p>17 Hendrickx in this passage is talking about the events of</p> <p>18 the 13th. I'm open to correction if you can show me that</p> <p>19 I'm wrong on that but I must tell you my impression is that</p> <p>20 he is talking about the events of the 16th –</p> <p>21 MR BIZOS SC: Well, in 21 point –</p> <p>22 CHAIRPERSON: Because he says in 21.3,</p> <p>23 "Operation Platinum was devised on Tuesday, 14 August."</p> <p>24 MR BIZOS SC: Yes.</p> <p>25 CHAIRPERSON: And in fact my impression</p>

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1 is that this was his first statement and this was the  
 2 statement that he made at the time when the police version  
 3 was that the disperse and disarm and arrest operation was  
 4 already in existence from Tuesday.  
 5 MR BIZOS SC: Yes.  
 6 CHAIRPERSON: That contention was  
 7 eventually abandoned by Colonel Scott when he was in the  
 8 witness box and his evidence was that the DDA plan in fact  
 9 only was tabled at the JOC after 1:30 on the Thursday but  
 10 up to then the other plan was the plan, which was the  
 11 encirclement one. So the impression I got on reading this  
 12 statement again was that Mr Hendrickx gave this statement  
 13 we're busy with now on the basis of inaccurate information  
 14 which he'd been given by the police, which is contained in  
 15 exhibit L and so therefore – and it seems clear anyway from  
 16 21.3 that he's not talking about the 13th, he's talking  
 17 about the events after that.  
 18 MR BIZOS SC: Yes.  
 19 CHAIRPERSON: But when he comes of course  
 20 we will discover presumably more fully what he says on  
 21 this, but – and I'm not even sure that in his second  
 22 statement he has sufficiently been apprised of the volte  
 23 face by Colonel Scott in the witness box but anyway, sorry,  
 24 I think the question you asked –  
 25 MR BIZOS SC: Let me put it in general

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1 terms –  
 2 CHAIRPERSON: - requires possibly a  
 3 little bit of reformulation.  
 4 MR BIZOS SC: Yes. Taking action against  
 5 a crowd without a warning is a great provocation to a  
 6 crowd.  
 7 KOLONEL VERMAAK: Voorsitter, dit hang af  
 8 van omstandighede af. Daar is somtyds wel omstandighede  
 9 wat dit nie toelaat dat jy vooraf 'n waarskuwing kan gee  
 10 nie, dan is daar ook omstandighede wat dit toelaat dat jy  
 11 vooraf genoegsame tyd kan waarskuwings gee wat die polisie  
 12 se aksiestappe volgende gaan wees en wat die gevolge dan  
 13 ook daaruit sal voortspruit.  
 14 CHAIRPERSON: Mr Bizos, you remember the  
 15 question I asked you was, when you say the police took  
 16 action without giving a warning, what action were you  
 17 referring to? Your original answer to me was the 13th, the  
 18 action on the 13th.  
 19 MR BIZOS SC: Yes.  
 20 CHAIRPERSON: I don't think that's quite  
 21 right although action certainly was taken, the firing of  
 22 the teargas canister for example, which this witness saw  
 23 from the air.  
 24 MR BIZOS SC: Yes.  
 25 CHAIRPERSON: Which appears to have taken

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1 place without any warning, that's right?  
 2 KOLONEL VERMAAK: Dis korrek, Voorsitter.  
 3 CHAIRPERSON: And the firing of the stun  
 4 grenades which was also done without any warning.  
 5 KOLONEL VERMAAK: Dis korrek.  
 6 CHAIRPERSON: But as far as the 16th is  
 7 concerned, if the question is related to the 16th I think  
 8 you should tell the witness what the action was which you  
 9 say took place without a preceding warning and to get his  
 10 views on that because I think the question at the moment is  
 11 a little bit vague.  
 12 MR BIZOS SC: It's different,  
 13 particularly on the 16th - I will come to it – it was, it  
 14 started off with the, putting out the barbed wire according  
 15 to – but let me keep to the text so that we can –. In  
 16 paragraph 22 Mr Hendrickx says, "The objectives of the  
 17 tactical intervention stage, dispersal, disarmament and  
 18 arrest, are problematic. I would not try to engage a  
 19 perceived armed crowd of 3 000 protesters with these  
 20 objectives when there were other options available. The  
 21 purpose of an operation and the site of a gathering  
 22 determine the number of police required. For a defensive  
 23 operation the accepted international ratio is three  
 24 protesters to every one police. For an offensive, that is  
 25 arrest, operation, the ratio is one protester to every

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1 three police. There were approximately 750 police and  
 2 3 000 protesters at Marikana on the 16th, insufficient, not  
 3 for an operation of this nature." Do you agree with that?  
 4 KOLONEL VERMAAK: Voorsitter, ja. Ek het  
 5 getuig dat een van die besware was dat hulle eers wag tot  
 6 daar 'n groot groep mense op die koppie vergader het en was  
 7 die voorstel gewees dat die koppie vroeg in die oggend  
 8 oorgeneem moet word terwyl daar genoeg mannekrag is en  
 9 terwyl daar nie so baie protesters is wat alreeds dan  
 10 bymekaar gekom het met gevaarlike en tradisionele wapens  
 11 nie. In beginsel stem ek saam met sy bevinding.  
 12 MR BIZOS SC: Yes. You also told us that  
 13 you would have gone to the shacks earlier on and searched,  
 14 seize their arms and arrest the people.  
 15 KOLONEL VERMAAK: Dis korrek, Voorsitter.  
 16 MR BIZOS SC: Isn't there another way of  
 17 having avoided the tragedy? The people didn't come there  
 18 en masse, they came there in small groups, did they not?  
 19 KOLONEL VERMAAK: Dis korrek, Voorsitter.  
 20 MR BIZOS SC: I know that you had nothing  
 21 to do with the plan but would you not agree that if, early  
 22 in the morning, on the roads between the shacks and the  
 23 mountain there were police that stopped small armed groups,  
 24 disarmed them, arrest them if they thought that they had  
 25 evidence to justify a charge and – either arrest them or if

<p style="text-align: right;">Page 25604</p> <p>1 they wanted to go on, they would have gone on without their 2 arms. Wasn't that a sensible option?</p> <p>3 KOLONEL VERMAAK: Ek het reeds getuig dat 4 dit deel van my insette was dat daar eerder moet gekyk word 5 om die mense te stop voordat hulle in so 'n groot groep 6 vergader en dan deur middel van sodanige optrede sal jy ook 7 die boodskap dan nou uitdra dat jy nie gaan toelaat dat reg 8 in eie hande geneem gaan word nie. Dit kom weer eens by my 9 verwysing in my skrywes dat dit gaan oor, volgens my 10 mening, dat die mense nie altyd alle wetgewing wat 11 beskikbaar is gebruik om voorkomend op te tree nie.</p> <p>12 MR BIZOS SC: Would you agree with what 13 Mr Hendrickx says in paragraph 22.3, "After the incident on 14 Monday, the 12th August 2012, where members of the SAPS and 15 protesters had died, the probabilities were that dispersal, 16 disarmament and arrest would not work and even if the 17 protesters had laid down their arms and surrendered, there 18 were probably not sufficient personnel and resources in 19 place to process them." Would you agree with that?</p> <p>20 KOLONEL VERMAAK: Voorsitter, in die 21 eerste plek, ek dink die datum is verkeerd.</p> <p>22 CHAIRPERSON: No, that's clearly wrong, 23 it's Monday the 13th.</p> <p>24 KOLONEL VERMAAK: Ja. Die feit dat ek 25 vooraf waarskuwing uitgereik het of hulle in kennis gestel</p>	<p style="text-align: right;">Page 25606</p> <p>1 eenhede nie meer by onluste of skarebeheer aangewend mag 2 word nie, so hulle het nie opleiding in skarebeheer nie. 3 En dan dieselfde met die tactical response team, hulle lyn 4 van verantwoordelikheid is heeltemal iets anders as 5 openbare orde polisie.</p> <p>6 MR BIZOS SC: Then we'll go to paragraph 7 25, "The designation of Nkaneng settlement as a negative 8 attraction point in Operation Platinum was a mistake. A 9 positive attraction point is defined on page 16 of the 10 national instruction, paragraph 2010. Crowd regulation and 11 management during public gatherings and demonstrations at 12 page 450 of the SAPS hard drive as the area where 13 participants would most likely move to and, in my 14 understanding of the photographs and documents shown to me, 15 that the road to Nkaneng settlement was the main route used 16 by protesters approaching and leaving the gathering for 17 many days." Do you agree with the view expressed on the 18 basis of the facts set out?</p> <p>19 KOLONEL VERMAAK: Dis korrek, Voorsitter. 20 MR BIZOS SC: Paragraph 26, "Operation 21 Platinum did not explore all possibilities and provide for 22 all eventualities, many of which were foreseeable." Would 23 you agree with that?</p> <p>24 KOLONEL VERMAAK: Voorsitter, ja. Weer 25 eens teruggekom na die skrywes wat ek gerig het en dan ook</p>
<p style="text-align: right;">Page 25605</p> <p>1 het dat uit ondervinding uit die mense nie vrywilliglik 2 hulle wapens sal neerlê nie en dat daar definitief 'n 3 versetaksie sou plaasvind van die protesters af, het – glo 4 ek moes in aanmerking geneem geword het.</p> <p>5 MR BIZOS SC: Well, let's go to paragraph 6 23. "There should not have been so many different police 7 units in the operation." I think that you've already 8 agreed to that, that you can't have hijacking experience 9 that will serve you well in dealing with crowd control.</p> <p>10 KOLONEL VERMAAK: Dis korrek, Voorsitter. 11 MR BIZOS SC: He says at 23.1, "They have 12 specialised training in crowd management which the other 13 units apparently do not have." Do you agree with that?</p> <p>14 [14:58] KOLONEL VERMAAK: Dit is korrek. 15 MR BIZOS SC: "The majority of the 16 members of the SAPS involved at Marikana were neither 17 screened nor adequately trained in crowd management." Do 18 you agree with that?</p> <p>19 KOLONEL VERMAAK: Voorsitter, ek het nie 20 die presiese getalle rondom die verhouding van openbare 21 orde polisieledede, TRT en K9 nie, so ek sal nie kan sê dat 22 die oorgrote meerderheid nie die opleiding gehad het nie, 23 maar die feit dat daar wel mense is wat nie die opleiding 24 gehad het nie, byvoorbeeld die K9 eenhede is baie jare 25 terug, is daar 'n nasionale instruksie uitgereik dat honde-</p>	<p style="text-align: right;">Page 25607</p> <p>1 die SMS en die BBM boodskappe wat ek uitgestuur het 2 voorafgaande die 16de, kan ek bevestig dat volgens my mening 3 daardie paragraaf korrek is.</p> <p>4 CHAIRPERSON: Lieutenant-Colonel, if we 5 can go back to a question which Mr Bizos asked you a little 6 earlier, he put to you paragraph 23.2 of Mr Hendrickx's 7 report and you said you couldn't answer it because you 8 didn't know how many of the particular units were there.</p> <p>9 KOLONEL VERMAAK: Dis korrek, Voorsitter. 10 CHAIRPERSON: Now, I've done a rough 11 calculation from the figures provided in exhibit L from 12 paragraph 136 and following – sorry, slide 136 and 13 following, where the various units are set out and it is 14 said how many people were NIU and how many people were POP. 15 Now the rough calculation I get is as follows. If my 16 arithmetic is wrong I'm sure I will be corrected, but 176 17 POP, 154 TRT, 20 STF, 111 NIU and 38 K9. So you've got 176 18 POP, of which you have – against 154 TRT plus 20 STF plus 19 111 K9 plus 38 K9 and 20 STF.</p> <p>20 KOLONEL VERMAAK: Voorsitter, die POP en 21 die NIU kan 'n mens saam sit vir crowd management want NIU 22 het ook ondervinding van crowd management insidente. 23 CHAIRPERSON: Alright, so we put the POP, 24 POP is 176 and we add to that 111 NIU which gives us 187, 25 sorry, 287 and then the other lot are, it looks like about</p>

<p style="text-align: right;">Page 25608</p> <p>1 212, adding up quickly. So there were slightly more POP 2 and NIU people versus the others. 3 KOLONEL VERMAAK: Dis korrek. 4 CHAIRPERSON: In the light of that, 5 what's your comment in relation to paragraph 23.2? 6 KOLONEL VERMAAK: Voorsitter, ek kom 7 terug na die skrywe, 28ste Mei toe, waar ek dit uitgelig het 8 dat dit nie 'n aanvaarbare praktyk is om TRT by onluste 9 insidente te gebruik nie. Die K9 lede kan verduidelik word 10 vir die opspoor van as daar moontlike vuurwapens en 11 werklike voorwerpe is wat dalk in die veld lê, is hulle 12 gewoonlik behulpsaam met die vee van die area om dan 13 daardie bewysstukke bymekaar te maak, maar nie by die 14 werklike fisiese aanwending van openbare orde polisie nie. 15 MR BIZOS SC: [Microphone off, inaudible] 16 – "plan did not fully comply with the principles of the 17 SAPS crowd management model and POPS regulatory framework." 18 Do you agree? 27, paragraph. 19 KOLONEL VERMAAK: Daar is definitief 20 leemtes in die beplanning volgens my gewees, Voorsitter. 21 MR BIZOS SC: I want to ask you this 22 question. In all this, did anybody raise that we've got a 23 crowd control expert in our province, Colonel Vermaak, if 24 you need a plan why do we have to ask a Colonel with 25 experience about hostage taking to do the plan? Was that</p>	<p style="text-align: right;">Page 25610</p> <p>1 Alhoewel ek by die lugvleuel geplaas is en 'n mens 16 jaar 2 van jou lewe gedeel het met openbare orde polisie, is dit 3 iets wat naby aan my hart sal bly. 4 CHAIRPERSON: I take it it's also fair to 5 say that in your air wing work you also were involved with 6 public order policing because a lot of the time, I should 7 imagine, you were involved as an eye in die sky, for 8 example, in public order policing operations. Would that 9 be correct? 10 KOLONEL VERMAAK: Dis korrek, Voorsitter. 11 Wat ons wel gedoen het, daar was somtyds maar bietjie 12 negatiewe gevoel rondom dit gewees, is dat omdat ek die 13 ander lede op die lugvleuel verder probeer ontwikkel het en 14 dat ek hulle ervaringsvlak wyer wou maak, het ek hierdie 15 lede gestuur op fotografie kursus waarop hulle op 16 spesifieke goed konsentreer. Ek het baie met hulle gepraat 17 oor my ervaring by die openbare orde en op spesifieke dinge 18 wat hulle moet aandag gee, sou ons lugsteun gaan gee. En 19 ons het baie keer foto's geneem wat ons dan nou agterna aan 20 die cluster bevelvoerder of die provinsiale hoof sou 21 oorhandig het, waar ons geïdentifiseer het dat 'n situasie 22 miskien anders kon gehanteer geword het, maar somtyds het 23 van die lede dit negatief opgeneem, hulle het dit gesien in 24 die lig van ons is daar uit om hulle te verkla, wat nie die 25 bedoeling was nie. Die bedoeling was om regstellende</p>
<p style="text-align: right;">Page 25609</p> <p>1 question raised? 2 KOLONEL VERMAAK: Negative, Voorsitter. 3 Ek het vroeër getuig dat die beplannings of die offisiere 4 wat gewoonlik vir Brigadier Calitz ondersteun met 5 beplannings van major events, onder andere kaptein 6 Mooketsi, nie geken was in hierdie beplanningsfase van 7 Marikana nie. Daar is ook op geen stadium vir my gevra ten 8 opsigte van my kennis en ervaring om behulpsaam te wees met 9 die beplanning nie. Ek dink hulle het meer na my gekyk as 10 die lugvleuel bevelvoerder en die feit geïgnoreer van die 11 kennis wat jy deur die jare opgetel het in ander afdelings. 12 MR BIZOS SC: Were you close to the 13 Provincial Commissioner and did she know about your 14 background? 15 KOLONEL VERMAAK: Dis positief, 16 Voorsitter. Ek het 'n baie goeie werksverhouding met my 17 Provinsiale Kommissaris. Die skrywes wat ek na vermeld het 18 wat na die provinsiale hoofkantoor toe gestuur was, het 'n 19 uiteensetting gegee van my ervaring in die openbare orde 20 polisdienste. Ek het dit juis so vervat in die verslag dat 21 hulle kan sien dat dit nie net gaan oor dat 'n mens wil 22 negatiewe kritiek lewer teenoor die polisie nie, maar dat 23 dit gaan oor die ervaring wat jy het en jy dit wil deel met 24 bestuur om dan op die einde van die dag 'n meer 25 professionele openbare orde polisdienste daar te stel.</p>	<p style="text-align: right;">Page 25611</p> <p>1 aksies te neem om soortgelyke insidente te voorkom. 2 MR BIZOS SC: Did General Annandale know 3 about your talents? 4 KOLONEL VERMAAK: Hy het geweet daarvan. 5 Ek het dit aan hom persoonlik oorgedra al in Februarie se 6 onluste wat ons in Rustenburg omgewing gehad het. Daar was 7 'n insident waar hy en generaal Mawela ook uitgevlieg het 8 na Sondela toe, waar daar probleme was. Ek het met hom 9 gepraat, ek het vir hom verduidelik ten opsigte van my 10 betrokkenheid by die openbare orde polisie voordat ek 11 geplaas is lugvleuel toe. 12 MR BIZOS SC: Sorry, was this before or 13 after the 16th? 14 COLONEL VERMAAK: No, long before the 16th 15 – 16 CHAIRPERSON: It was in February. 17 COLONEL VERMAAK: In February. 18 MR BIZOS SC: Sorry, I didn't hear the 19 year. 20 CHAIRPERSON: February - 21 COLONEL VERMAAK: It was February in – 22 MR BIZOS SC: So he knew about your 23 expertise. Can you imagine any reason why he would not 24 want to involve you in the planning and execution of the 25 plan?</p>

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1 KOLONEL VERMAAK: Voorsitter, nee, ek kan  
 2 daardie ding nie verduidelik nie.  
 3 CHAIRPERSON: Mr Bizos, when it's  
 4 convenient for you we'll take the tea adjournment. I'm not  
 5 suggesting we must take it now. When it's convenient for  
 6 you –  
 7 MR BIZOS SC: I'll go to the next  
 8 paragraph as soon as we are back.  
 9 CHAIRPERSON: Yes, I'm in your hands. Do  
 10 you want to take the tea now?  
 11 MR BIZOS SC: Yes.  
 12 CHAIRPERSON: Alright, we'll take the tea  
 13 adjournment now.  
 14 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 15 [15:38] CHAIRPERSON: Once again I'm sorry, we  
 16 had some housekeeping which took longer than we thought.  
 17 Luitenant Kolonel, ek herinner u dat u nog steeds gebonde  
 18 is aan u plegtige bevestiging.  
 19 SALMON JOHANNES VERMAAK: Bevestig.  
 20 CHAIRPERSON: Mr Bizos.  
 21 MR BIZOS SC: I was told that there may  
 22 be an interruption, Chairman, by Mr Mpfu with an  
 23 application, but he's disappeared.  
 24 CHAIRPERSON: Well, you carry on and –  
 25 MR BIZOS SC: Yes. Yes, we're going to –

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1 CHAIRPERSON: Or perhaps I should say  
 2 something and just [microphone off, inaudible]. Mr Mpfu,  
 3 before Mr Bizos began he said we might have an interruption  
 4 from you.  
 5 MR MPOFU: Yes.  
 6 CHAIRPERSON: So keep it short. What's  
 7 the interruption?  
 8 MR MPOFU: Thank you, Chairperson. Yes,  
 9 I wouldn't call it an interruption, Chairperson, but I was  
 10 trying to find Mr Budlender.  
 11 CHAIRPERSON: He's immediately in front  
 12 of you. Oh, he's not. Oh sorry, I beg your pardon.  
 13 Anyway –  
 14 MR MPOFU: Yes, it's a matter which I was  
 15 hoping could be cleared, but I've not been able, I've asked  
 16 Ms Pillay and Mr Chaskalson, they knew nothing about it.  
 17 I've just been asked to raise an objection about the  
 18 apparent dissemination of our cross-examination questions.  
 19 CHAIRPERSON: I wasn't aware of the fact  
 20 that – no, the way it works is that normally –  
 21 MR MPOFU: And I've been –  
 22 CHAIRPERSON: - they're normally not  
 23 disseminated –  
 24 MR MPOFU: Yes.  
 25 CHAIRPERSON: And in fact even the

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1 approval normally just says paragraph so-and-so and so-and-  
 2 so of the application –  
 3 MR MPOFU: Correct.  
 4 CHAIRPERSON: And we certainly are not,  
 5 it's not supposed to happen that the party who calls the  
 6 witness, now in this particular case it's a bit awkward  
 7 because –  
 8 MR MPOFU: Of course.  
 9 CHAIRPERSON: - the evidence leaders are  
 10 calling the witness.  
 11 MR MPOFU: Yes.  
 12 CHAIRPERSON: But normally we don't  
 13 indicate what the topics are. The permission granted  
 14 normally says paragraph so-and-so and so-and-so.  
 15 MR MPOFU: Yes.  
 16 CHAIRPERSON: Let me see if I can find  
 17 your one. I don't know if it's been – has it been  
 18 disseminated? Or is that just an ill-founded rumour?  
 19 MR NTSEBEZA SC: Well, Mr Chair, that's –  
 20 this is now Ntsebeza speaking.  
 21 CHAIRPERSON: No, I recognise your voice.  
 22 MR NTSEBEZA SC: No, I had understood  
 23 also the position to be that the applications are being  
 24 sent to the Chair and then the Chair indicates which of the  
 25 questions the Chair approves or disapproves. So when I saw

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1 in my inbox something coming from Geoff, Mr Budlender, and  
 2 being an email to all –  
 3 CHAIRPERSON: Yes, no I see –  
 4 MR NTSEBEZA SC: - where, what the  
 5 families –  
 6 CHAIRPERSON: No, this is I'm afraid an  
 7 error. What normally happens is you'll see in most of the  
 8 cases the approval simply says paragraph so-and-so and so-  
 9 and-so of the application. But on this particular  
 10 occasion, in the case of the injured and arrested persons  
 11 there are six topics set out. Here comes Mr Budlender. If  
 12 they were sent out to parties –  
 13 MR NTSEBEZA SC: You're on time.  
 14 CHAIRPERSON: - which is unfortunate, the  
 15 main point of course is the witness shouldn't see them and  
 16 so that the witness will be taken by surprise by the  
 17 topics, but the normal procedures I've said which we will  
 18 endeavour to adhere to stick to in future is simply to  
 19 indicate in the approval the number in the application. It  
 20 hasn't happened no –  
 21 MR BUDLENDER SC: No Chair, can I explain  
 22 what has – may I explain what happened?  
 23 CHAIRPERSON: Yes.  
 24 MR BUDLENDER SC: Yesterday evening you  
 25 gave me, you told me what your decisions were in respect of

<p style="text-align: right;">Page 25616</p> <p>1 each of the applications. I then prepared a document in  2 respect of each party setting out that decision and  3 recording it as the decision of the Chairperson. I then  4 sent each party only their ruling. The rulings have not  5 been sent out to all persons. They've only been sent to  6 the parties, to each party which is affected, and the only  7 person that got all of the rulings is you, Chairperson.  8 CHAIRPERSON: Mr Ntsebeza says he got Mr  9 Mpfu's ruling –  10 MR BUDLENDER SC: No.  11 CHAIRPERSON: And he says – Mr Ntsebeza,  12 isn't that what you said?  13 MR NTSEBEZA SC: No, no, Mr Chair, I was  14 simply saying my eyes went to the sort of reply all from  15 Geoff Budlender to me, to Heidi Barnes, Lewis, Gotz, and  16 ja –  17 MR BUDLENDER SC: Only to members, only  18 to people who are on the SERI team.  19 MR NTSEBEZA SC: Oh, I see.  20 MR MPOFU: Okay.  21 CHAIRPERSON: Okay, so the problem falls  22 away. The objection withdrawn?  23 MR MPOFU: Yes, Chairperson.  24 CHAIRPERSON: No order as to costs?  25 MR MPOFU: Well, it wasn't an objection.</p>	<p style="text-align: right;">Page 25618</p> <p>1 operational centre (JOC) and operating units in the field  2 has been presented so far." Do you agree with that, and do  3 you agree that it is a difficulty?  4 KOLONEL VERMAAK: Voorsitter ja, ten  5 opsigte –  6 MR BIZOS SC: You agree. Let's go to the  7 next one. I think that because of your general agreement  8 in the beginning we should accelerate the pace. 28.2, "The  9 operational commander does not appear to have been in  10 charge of the operation. The rationale for the decision to  11 proceed to phase 3 and the timing of this intervention is  12 not apparent from the evidence." Do you agree?  13 KOLONEL VERMAAK: Ek stem saam.  14 MNR BIZOS SC: Stem saam. 28.3, "There  15 is no documented evidence of adequate briefing of and  16 guidance to the members of SAPS. It is critical that  17 police officers know who is able to give them a command to  18 fire, that is not only can they not shoot unless commanded  19 but it must be a command only from a specific agreed upon  20 person. This should have been made clear at the briefing."  21 KOLONEL VERMAAK: Dis positief.  22 MR BIZOS SC: Yes, now whilst we are  23 there and because of your experience I think that your 31  24 years and my 62 years put together may bear some weight.  25 Is it the habit since Sharpeville that there is no command</p>
<p style="text-align: right;">Page 25617</p> <p>1 CHAIRPERSON: Okay.  2 MR MPOFU: Or an interruption.  3 CHAIRPERSON: Okay.  4 MR BUDLENDER SC: May I be excused,  5 Chair, to get back into my other discussion?  6 CHAIRPERSON: You may be excused and Mr  7 Mpfu –  8 MR NTSEBEZA SC: Were you coming for  9 this?  10 CHAIRPERSON: Mr Mpfu's partly objection  11 has been withdrawn.  12 MR MPOFU: Yes, well I was looking for –  13 the reason I came in late was because I was looking for Mr  14 Budlender in the outside there, ja, and –  15 CHAIRPERSON: Ja, okay. No, I understand  16 that.  17 MR MPOFU: Ja.  18 CHAIRPERSON: Mr Bizos, would you like to  19 carry on with your cross-examination?  20 CROSS-EXAMINATION BY MR BIZOS SC (CONTD.):  21 Thank you, Mr Chairman. Colonel, can we please go to  22 paragraph 28.1 of exhibit GGG2, and I'll read it out;  23 "There was no evidence of good command and control –  24 important were there are several units operating at once,  25 since no record-keeping at the level of the joint</p>	<p style="text-align: right;">Page 25619</p> <p>1 to shoot because that is a way of avoiding responsibility?  2 Is that what happened in Sharpeville?  3 KOLONEL VERMAAK: Voorsitter, ek dink  4 Sharpeville is bietjie voor my tyd in die polisie –  5 MR BIZOS SC: Ja, but you know you're a  6 history of these things. You know you can't be a policeman  7 and not know what happened at Sharpeville.  8 KOLONEL VERMAAK: Nee, ek dra kennis,  9 Voorsitter. Ek kan net sê dat die algemene gebruik is dat  10 jy as bevelvoerder, hetsy dit die seksiebevelvoerder of die  11 pelotonbevelvoerder, afhangende in watter tipe optrede jy  12 optree, sal dan 'n opdrag gee dat daar 'n traanrook of 'n  13 skokgranaat of wat ook al afgevuur word om die bedreiging  14 dan nou te hanteer op daardie stadium.  15 MR BIZOS SC: No, what I'm putting to you  16 is this; that it has been the habit of police officers to  17 arrange for no order to be given, but in order to say we  18 acted in self-defence, all of us, hundreds of them in  19 Sharpeville, hundreds of them here, we didn't get an order  20 but we didn't need one because this was an attack and we  21 exercised our own discretion. What I am putting to you,  22 and you know it, Colonel, that since Sharpeville there has  23 been a stratagem on police violence against people not to  24 appoint anybody to actually be in control so that they can  25 say we were attacked and we raised our guns and we shot,</p>

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1 and if you want me to give you a list of cases where that  
 2 was said, I'm prepared to give it to you. I am asking you  
 3 to comment whether in this case there may have been the  
 4 same stratagem; don't let's appoint anybody that will give  
 5 a command, let us just avoid it. We have tried it before  
 6 and it has worked.

7 KOLONEL VERMAAK: Voorsitter nee, ek kan  
 8 nie sê dit is 'n gewoonte wat in die polisie is nie. In my  
 9 tyd wat ek in Openbare Orde was waar ek in bevel was, waar  
 10 ek aan operasies deelgeneem het was daar spesifiek aan elke  
 11 bevelvoerder sy taking uitgedeel. Hy het presies geweet  
 12 wat van hom verwag word en hy het verantwoordelikheid gevat  
 13 vir die opdragte en besluite wat hy dan met sy mense onder  
 14 sy bevel geneem het. Marikana kan ek nie kommentaar lewer,  
 15 alhoewel ons weet dat daar nie dokumente uitgedeel was met  
 16 die voorligting nie - dit is 'n feit, ons kan dit nie  
 17 wegredeneer nie - maar die feit dat dit 'n algemene gebruik  
 18 is in die polisie, daarmee kan ek nie saamstem nie.

19 CHAIRPERSON: I thought there's a simple  
 20 answer to it and that is in terms of standing order 262  
 21 force, which includes things short of life ammunition, like  
 22 teargas and stun grenades and so on, force can only be  
 23 applied on command of either the overall commander or the  
 24 operational commander. Presumably if you have units  
 25 operating, a whole lot of TRT people together, then the

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1 commander of the TRT group is the person who is the  
 2 appropriate person to give the order, and the only one who  
 3 can give the order. So I would have thought that that  
 4 defence couldn't apply. The fact that you don't mention  
 5 someone by name as a person able to give the order doesn't  
 6 matter because everybody should know who the senior person  
 7 is.

8 The problem of course that arises here is that  
 9 there wasn't an order given - or as far as we know there  
 10 wasn't, certainly at scene 1, I don't know about scene 2 -  
 11 because everybody purported to act in self-defence or  
 12 private defence.

13 Now the standing order makes a specific exception  
 14 in the case of self and private defence. Whether that  
 15 exception is being abused or not is a matter that may call  
 16 for decision, but that's what the standing order says, that  
 17 the -

18 KOLONEL VERMAAK: Dis korrek.

19 CHAIRPERSON: - shots can be fired in  
 20 self-defence or private defence without a command and that  
 21 does depend on the discretion of the member concerned, as I  
 22 understand it. That is right, isn't it?

23 KOLONEL VERMAAK: Dit is korrek,  
 24 Voorsitter.

25 MR BIZOS SC: Now let me give you the

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1 precise words of sub-order 5, 11.5 of SSS2, "Force may only  
 2 be used on the command or instruction of the CJCC or  
 3 operational commander, if appointed. Members may never act  
 4 individually without receiving a command from their  
 5 commander." Now they expected trouble, did they? You all  
 6 expected trouble on the 16th. Is that right?

7 KOLONEL VERMAAK: Ek dink nie daar is  
 8 verwag dat sou, wat sou gebeur het daardie betrokke dag  
 9 nie, alhoewel daar waarskuwings in die oggend was dat daar  
 10 verset verwag kan word.

11 MR BIZOS SC: You see, we know that no  
 12 command was given here. What we also know that within a  
 13 second or two of the first shots somebody shouted out,  
 14 "Cease fire." There was no-one to say "Fire." It was left  
 15 to the discretion, we don't know of how many people, and  
 16 they started firing and they killed at scene 1 18 people,  
 17 if I remember correctly. If you had been in charge, if you  
 18 foresaw that there may be an attack, would you have  
 19 appointed a person to give a command in terms of the order,  
 20 preventing people from using their own discretion in  
 21 relation to firing, if you were in charge?

22 KOLONEL VERMAAK: Voorsitter reg, as ek  
 23 in bevel was sou 'n spesifieke persoon aangewys gewees het  
 24 as die bevelvoerder van enige groep wat daar ontplooi word.  
 25 Die rede tot die afvuur van die vuurwapens kan ek nie

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1 kommentaar lewer nie, ek was nie op die grond nie. Ek weet  
 2 nie of daar so 'n bevel uitgereik was nie. Ons het net  
 3 gesien wat uit die lug uit gebeur het en wat later op die  
 4 TV beeldsend was, maar normaalweg, normale omstandighede  
 5 waar daar "crowd control" is word daar aan 'n bevelvoerder  
 6 opdragte uitgereik en hy bly verantwoordelik vir die  
 7 uitvoering van daardie opdragte.

8 MR BIZOS SC: Do you accept that the  
 9 police actually foresaw the probability that live  
 10 ammunition had to be used?

11 KOLONEL VERMAAK: Voorsitter, of die  
 12 beplanners rërig voorsien het dat hierdie gebeure gaan  
 13 plaasvind twyfel ek. Almal was -

14 MR BIZOS SC: You didn't think it was  
 15 probable that it would happen?

16 CHAIRPERSON: Mr Bizos, he's still  
 17 giving -

18 KOLONEL VERMAAK: Nee.

19 CHAIRPERSON: He's still giving his  
 20 answer. I think you should let him finish.

21 KOLONEL VERMAAK: Almal was verbaas en  
 22 geskok gewees ten opsigte van die gebeure daar. Volgens my  
 23 het hulle geen verwagting gehad. Alhoewel daar gesê was  
 24 hierdie mense gaan nie vrywilliglik oorgee nie, dink ek nie  
 25 het hulle enigsins 'n verwagting gehad van so 'n aard van



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1 teenstand wat plaasgevind het soos wat ons dit waargeneem  
2 het uit die lug uit nie.

3 MR BIZOS SC: The facts speak  
4 differently, Colonel. Who ordered 4 000 rounds of sharp  
5 ammunition, and why?

6 KOLONEL VERMAAK: Voorsitter, weereens ek  
7 was nie betrokke by daardie aangeleenthede nie. Ek was  
8 hoofsaaklik gekonsentreerd op die verantwoordelikhede van  
9 die Lugvleuel en my verantwoordelikhede as bevelvoerder van  
10 die Lugvleuel en die koördinering van hulle dienste.

11 MR BIZOS SC: Were you on JOC, a member  
12 of JOC?

13 KOLONEL VERMAAK: Ek was in die oggende  
14 in die JOC vergadering gewees maar dan het ek onmiddellik  
15 daarna die JOC verlaat om deel te wees van die bemanning op  
16 een van die helikopters.

17 MR BIZOS SC: Is it possible that the  
18 matter of the 4 000 rounds of sharp ammunition was ordered  
19 without the knowledge of one or more members of JOC?

20 CHAIRPERSON: In fact it's JOCCOM, Mr  
21 Bizos.

22 MR BIZOS SC: JOCCOM.

23 CHAIRPERSON: JOC is the centre.

24 MR BIZOS SC: Yes.

25 CHAIRPERSON: JOCCOM is the committee

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1 that sits there.

2 MR BIZOS SC: Yes.

3 KOLONEL VERMAAK: Voorsitter –

4 MR BIZOS SC: Was it possible that there  
5 was a group of people there that never mind what the  
6 leaders say, we are going to shoot, and they arranged for  
7 the 4 000 sharp ammunition?

8 [15:57] KOLONEL VERMAAK: Die feit dat rondtes  
9 laat kom is na Marikana toe, ek kan ongelukkig nie enige  
10 kommentaar daaroor lewer nie. Wat ek wel kan sê, die  
11 normale gebruik is as daar 'n insident was byvoorbeeld soos  
12 op die 13de, na jou skof beurt klaar is dan gaan jy die  
13 ammunisie na. Jy sien watter tekorte daar is, want as jy  
14 aan diens rapporteer, jou uitreikingstaat sê byvoorbeeld jy  
15 het 30 rondtes, nou gaan jy van diens met 15 rondtes, so  
16 daardie 15 rondtes moet weer vervang word. Wat die  
17 bedoeling was met die aanvul van die ammunisie, dit is die  
18 enigste afleiding wat ek kan maak was om te wees om die  
19 lede se ammunisie wat op die 13de afgevuur was weer te  
20 vervang. Hoekom die getal van 4 000? Ek dra nie kennis  
21 nie.

22 CHAIRPERSON: Mr Bizos, the evidence is -  
23 there's a dispute, as you know. Some of the evidence  
24 indicates that it was - evidential material perhaps more  
25 accurately - Brigadier Calitz who ordered it. There's

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1 another suggestion I think that it was – yes, that's right,  
2 Colonel Merafe says he ordered it at the request of  
3 Brigadier Calitz and Brigadier Calitz denies it. He says  
4 he didn't give the instruction. It was apparently ordered  
5 by Colonel Merafe either acting on his own or acting on the  
6 instructions of Brigadier Calitz, which Brigadier Calitz  
7 denies, or perhaps on the instructions of somebody else we  
8 don't know about. That's the evidence. It's not suggested  
9 that a group of people in the JOCCOM went off and decided  
10 to order this ammunition. In any event, as we know the  
11 ammunition was sent back, but –

12 MR BIZOS SC: Well, you as senior officer  
13 had nothing to do with it and it comes to you as a surprise  
14 that 4 000 rounds of ammunition –

15 KOLONEL VERMAAK: Ek het baie lank daar  
16 agterna het ek verneem van die kwessie rondom die  
17 addisionele ammunisie en die getal wat blykbaar aangevra  
18 was.

19 MR BIZOS SC: There were a number of  
20 mortuary vans that were arranged to come on the 16th. Who  
21 thought that people would die and mortuary vans would be  
22 needed?

23 KOLONEL VERMAAK: Voorsitter nee, ek kan  
24 ook nie vir u antwoord op wie daardie besluit geneem het om  
25 van die patologiese afdeling af voertuie aan te vra nie.

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1 Normaalweg waar daar so 'n operasie is waar openbare orde  
2 bedreig word, word daar voorsiening gemaak vir mediese  
3 personeel. As dit 'n baie groot byeenkoms is, byvoorbeeld  
4 as daar 'n groot sokkerwedstryd is dan sal jy die  
5 nooddienste op bystand sit. Jy sal die naaste hospitale op  
6 bystand sit sou daar enigiets moontlik gebeur, maar die  
7 kwessie rondom die patologiese voertuie wat daar ontplooi  
8 was kan ek ongelukkig nie kommentaar op lewer nie.

9 MR BIZOS SC: Well, we can expect we may  
10 need medical attention at soccer matches or even at  
11 marches, but mortuary vans –

12 KOLONEL VERMAAK: Dit is nie normale  
13 procedure of praktyk –

14 MR BIZOS SC: Does that not arouse your  
15 suspicion, Colonel, that there must have been some people  
16 there that may have thought today is D-day and we will  
17 teach them a lesson?

18 KOLONEL VERMAAK: Voorsitter, ek was nie  
19 bewus daarvan enigsins dat daardie voertuie op bystand  
20 geplaas is nie. Soos ek getuig het, het ek daardie  
21 betrokke dag oor die sewe ure in die lug spandeer, so  
22 nêrens was daar enigsins oor die radio 'n sitrap deurgegee  
23 dat so iets gedoen is nie. So in daardie konteks kan ek  
24 glad nie enige antwoorde gee ten opsigte van dit nie.

25 MR BIZOS SC: Doesn't it surprise you and

1 doesn't it make you suspicious –  
2 CHAIRPERSON: Mr Bizos, I don't think  
3 whether he's surprised or suspicious is something that can  
4 really help us answer our terms of reference. It's now  
5 already after 4 o'clock. I understood you were going  
6 through effectively topic 1.3 on your application.  
7 MR BIZOS SC: Yes.  
8 CHAIRPERSON: Presumably what you're  
9 doing by going through the various sub-paragraphs,  
10 paragraph 28 –  
11 MR BIZOS SC: Yes.  
12 CHAIRPERSON: - of Mr Hendrickx's first  
13 report. May I suggest you resume that on the morrow?  
14 MR BIZOS SC: Yes, it can wait.  
15 CHAIRPERSON: We adjourn until tomorrow  
16 morning at 9 o'clock.  
17 [COMMISSION ADJOURNED]  
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