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 270 8 AUGUST 2014 PAGES 34302 TO 34402



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Marikana Commission of Inquiry

	Page 34302		Page 34304
1	[PROCEEDINGS ON 8 AUGUST 2014]	1	MR WESLEY: Yes.
2	[09:08] CHAIRPERSON: The Commission resumes. Mr	2	CHAIRPERSON: I see.
3	Wesley, are you going to call the next witness?	3	MR WESLEY: Chair, for the housekeeping
4	MR WESLEY: Yes, thank you, Chair.	4	there's a bundle which has been prepared for the
5	Chair, before we swear the witness in, he is Mr Janse van	5	Commissioners. Some copies of it have been handed out to
6	Vuuren –	6	the parties. We're having more printed at the moment but
7	CHAIRPERSON: Is he prepared to be sworn	7	will also be made available electronically. The first
8	or does he affirm?	8	document in the bundle is a statement of Mr Van Vuuren,
9	MR WESLEY: Prepared to be sworn. Maybe	9	Marikana case 109/08/2012, a PDF. The number that's been
10	if you would like to do it –	10	assigned or the letters that have been assigned to this
11	CHAIRPERSON: Let's swear him in now and	11	witness are GGGG, so if that could be GGGG1.
12	get it over with.	12	CHAIRPERSON: What do I call it?
13	MR WESLEY: Very well, Chair.	13	MR WESLEY: Statement of Mr Janse van
14	CHAIRPERSON: Mr Van Vuuren, will you	14	Vuuren.
15	stand up please? I understand you're prepared to take the	15	CHAIRPERSON: Statement of Mr –
16	oath and not to affirm, is that correct?	16	[microphone off, inaudible].
17	MNR VAN VUUREN: In Afrikaans?	17	MR WESLEY: Sorry, Chair, I think you
18	MNR MAHLANGU: Is u bereid om die eed af	18	need to turn the microphone on, it's not –
19	te lê?	19	CHAIRPERSON: Sorry. The first exhibit
20	VOORSITTER: Jammer, Mr Van Vuuren, u	20	is GGGG1, it's a statement of the witness in CAS109/08/2012
21	verklaring was in Engels opgestel. Ek het gedink dat u van	21	dated 13 August 2012. The second exhibit is GGGG2,
22	plan was om in Engels te getuig, maar as u	22	statement of witness in CAS111/08/2012 also dated
23	Afrikaanssprekend is, as dit u huistaal is, u is daarop	23	13/8/2012. Then we have GGGG3 which is, it's a typed
24	geregtig om Afrikaans te gebruik as u wil. Ek verstaan u	24	statement, is it?
25	is bereid om te sweer. Dit is nie nodig dat u 'n plegtige,	25	MR WESLEY: That's correct, Chair.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	u is nie van plan om 'n plegtige bevestiging te maak nie, u is bereid om te sweer, is ek reg? MNR VAN VUUREN: Dit is so. MNR MAHLANGU: Is u bereid om die eed te neem, maar is u bereid om dit te neem? MNR VAN VUUREN: Ja. MR MAHLANGU: Prepared to take the oath. VOORSITTER: Sal u sweer dat die getuienis wat u gaan aflê die waarheid, voor hierdie Kommissie, die waarheid sal wees, die hele waarheid en niks anders as die waarheid nie? Lig u regterhand operation en sê, ek sweer, so help my God. MNR VAN VUUREN: Ek sweer – VOORSITTER: So help my God. MNR VAN VUUREN: So help my god. MNR VAN VUUREN: Ovore. VOORSITTER: No help my god. MNR JANSE VAN VUUREN: (v.o.e.) VOORSITTER: Dankie, u mag sit. Ja, mnr Wesley? MR WESLEY: Thank you, Chair. Sorry, I forgot to mention that the witness will be testifying in Afrikaans and there will be an English translation then. The questions will be posed in English but the answers will be given in Afrikaans. CHAIRPERSON: He is prepared to take	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	CHAIRPERSON: And that is dated the 30th June 2014. MR WESLEY: That's so, Chair. CHAIRPERSON: Then you have a series of photographs, seven photographs. They will be GGGG4.1, .2, .3, .4, .5, .6, .7. Then we have GGGG5 which is a medical certificate by Dr Bouwer. MR WESLEY: Chair, sorry, we seem to be, there's more than – CHAIRPERSON: Oh, I beg your pardon. I counted wrongly, there are eight. So it's GGGG4.1 through to .8. Then a medical certificate by Dr Bouwer is GGGG5. GGGG6 is PM report, post-mortem report regarding the late Mr Mabebe. MR WESLEY: Chair, that doesn't need an exhibit number, it's already part of exhibit A. CHAIRPERSON: Quite right. So what is that then? MR WESLEY: It's simply there, it was going to be referred to – CHAIRPERSON: No, it's A something, we'll give it – MR WESLEY: Yes, it's exhibit A – CHAIRPERSON: A what?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	u is nie van plan om 'n plegtige bevestiging te maak nie, u is bereid om te sweer, is ek reg? MNR VAN VUUREN: Dit is so. MNR MAHLANGU: Is u bereid om die eed te neem, maar is u bereid om dit te neem? MNR VAN VUUREN: Ja. MR MAHLANGU: Prepared to take the oath. VOORSITTER: Sal u sweer dat die getuienis wat u gaan aflê die waarheid, voor hierdie Kommissie, die waarheid sal wees, die hele waarheid en niks anders as die waarheid nie? Lig u regterhand operation en sê, ek sweer, so help my God. MNR VAN VUUREN: Ek sweer – VOORSITTER: So help my God. MNR VAN VUUREN: So help my god. MNR VAN VUUREN: On help my god. MNR JANSE VAN VUUREN: (v.o.e.) VOORSITTER: Dankie, u mag sit. Ja, mnr Wesley? MR WESLEY: Thank you, Chair. Sorry, I forgot to mention that the witness will be testifying in Afrikaans and there will be an English translation then. The questions will be posed in English but the answers will be given in Afrikaans.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	CHAIRPERSON: And that is dated the 30th June 2014. MR WESLEY: That's so, Chair. CHAIRPERSON: Then you have a series of photographs, seven photographs. They will be GGGG4.1, .2, .3, .4, .5, .6, .7. Then we have GGGG5 which is a medical certificate by Dr Bouwer. MR WESLEY: Chair, sorry, we seem to be, there's more than – CHAIRPERSON: Oh, I beg your pardon. I counted wrongly, there are eight. So it's GGG4.1 through to .8. Then a medical certificate by Dr Bouwer is GGG5. GGGG6 is PM report, post-mortem report regarding the late Mr Mabebe. MR WESLEY: Chair, that doesn't need an exhibit number, it's already part of exhibit A. CHAIRPERSON: Quite right. So what is that then? MR WESLEY: It's simply there, it was going to be referred to – CHAIRPERSON: No, it's A something, we'll give it – MR WESLEY: Yes, it's exhibit A –

1 you the - it's exhibit A pages 765 to 769. 1 affight, eK - 2 CHAIRPERSON: Thank you. Then we have 3 voORSTITER: Nee, maar ek verstaan u 4 the first is an aerial view of the area and the other is an aerial view of the parking area, Chair, three aerial 4 MNR VAM VUUREN: Ja, ek sal Afrikaans 6 MR WESLEY: And then there's a third one, 7 greegtig. 7 an aerial view of the parking area, Chair, three aerial 7 greegtig. NNR VAM VUUREN: Ja, ek sal Afrikaans 6 WEWSLEY: And then there's a third one, 7 greegtig. 8 NNR VAM VUUREN: Da eksaw 10 appear to be - 12 MR WESLEY: 40. 11 and on the 13th of August 2012. If you is cognise that document/? 12 MR WESLEY: Yes. 16 first shart photographs. 16 MR WESLEY: NR JANSE VAN VUUREN: That's correct, 14 those will go from 7.1 through to 7.40 and that's a tome made on the 13th of August 2012. If you look at the last 15 of Ka shart photographs. T		Page 34306		Page 34308
3 two aerial view of K4. 3 verkies om Afrikaans te praat. 4 the first is an aerial view of K4. MNR VAN VUUREN: Ja, ek sal Afrikaans 5 aerial view of K4. First San aerial view of K4. 6 MR WESLEY: And then there's a third one, an aerial view of the parking area, Chair, three aerial view of K4. First San Chair, three aerial view of K4. 7 an aerial view of K4. 6 VOORSTITER: U is ten volle daarop ran aerial view of k4. 9 CHAIRPERSON: So that's GGG6.3. Then appear to be – 10 form pages 1, 2 and 3, could you have a look at that? Do 10 you recognise that document? 12 MR WESLEY: 40. 12 MR JANSE VAN VUUREN: That's correct, 12 14 throes will go from 7.1 through to 7.40 and that's a bundle to first a so you look at the last 10 10 15 of K4 shaft photographs. 16 MR WESLEY: Yes. 11 16 MR WESLEY: This is, number 18 on the ist a wideo, it's already before the Commission, it is a video of the aftermath 24 18 MR WESLEY: And then if you go to page 4, 2 12 VMR WESLEY: This is a video of the aftermath 24 18 MR WESLEY: And then if you go to page 4, 2 16 MR WESLEY: That is so, but for the 4 <td< td=""><td>1</td><td></td><th>1</th><td>-</td></td<>	1		1	-
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6 MR WESLEY: And then there's a third one, a aerial view of the parking area, Chair, three aerial view of the parking area, three area numbers. 9 CHAIRPERSON: There are 40 of them, so this go from 7.1 through to 7.40 and that's a bundle of the 13th of August 2012. If you look at the last area of the same at look area that? 11 MR WESLEY: Yes. Then? 12 MR WESLEY: This is, number 18 on the view of the attack at the K4 shaft on the evening of the 12th. The same view of the view of the aftermath view. 12 CHAIRPERSON: Yes, is see. MR JANSE VAN VUUREN: That's correct, with you signature on the stat page, do you confirm that? 13 parpose of housekeeping. Fage 34307 14 MR WESLEY: That is so, Chair, that's the the two other exhibits that are already before the the two other exhibits that are already before the the two other exhibits that are already before the the two other exhibits that are already before the the two other exhibits that are already before the the two other exhibits that are alread	4	the first is an aerial view of the area and the other is an	4	
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1	Page 34310 MR JANSE VAN VUUREN: 100% correct, yes.	1	Page 34312 CHAIRPERSON: The right turn being
2	MR JANSE VAN VUUREN: 100% correct, yes. MR WESLEY: Do you recognise the area	2	5 5
	represented on that photograph?	2	roughly a quarter way up. MR WESLEY: A quarter way up.
3		3 4	MR WESLEY: A quarter way up. CHAIRPERSON: The bottom left hand corner
4		-	
5	Chairperson.	5	of the photograph –
6	MR WESLEY: Chair, for the record –	6	MR WESLEY: That's correct. He then
7	Craig, could we have it up on screen? It's item 14, Craig.	7	indicates that about a tenth of the way across, down the
8	I'll proceed in the meantime, Chair. It's not yet upon the	8	road one sees what appears to be some sort of boom or gate
9	screen but you'll see from the photograph, Chair, what	9	across the road and the witness indicated that the two
10	we've identified is - just to place, to orientate	10	white blocks just, or the white block just above that gate
11	everybody, you will see in the middle koppie 1 is	11	is a security hut, if I can use that word.
12	indicated. You'll see to the right of koppie 1 we indicate	12	MR JANSE VAN VUUREN: That's a security
13	where the Wonderkop hostel is. Below that one finds the	13	house, yes.
14	Rowland shaft. If one then moves to the left which is in	14	CHAIRPERSON: And this is just below a
15	fact in a westerly direction, one can see there I've	15	blue rectangle which is at the bottom left hand corner of a
16	indicated the field of the 13th of August. That's where the	16	building with a white roof or roofs.
17	confrontation happened on the 13th of August. Now above	17	MR WESLEY: In the shape of an L.
18	that on the photograph one finds an area which is the K4	18	CHAIRPERSON: A series of – well, yes, in
19	concentrator and then above that is the K4 shaft. Mr Van	19	the shape of an L. I take it it's white roofs and just
20	Vuuren, do you confirm where we've indicated K4 shaft?	20	below that, bottom left hand corner of that L.
21	That is the K4 shaft?	21	MR WESLEY: Mr Van Vuuren, from there you
22	MR JANSE VAN VUUREN: 100% correct,	22	arrived at that gate. Just remind the Commissioners what
23	Chair.	23	did you do at that gate?
24	MR WESLEY: If you can then go over to	24	MR JANSE VAN VUUREN: When I arrived at
25	the next photograph, item 15 Craig. That is an aerial view	25	the gate the security officer told me not to get into the
	Page 34311		
1	of the KA shaft is that correct? Sorry you must answer	1	Page 34313 area Then Lreversed back and phoned my foreman. Mr
1	of the K4 shaft, is that correct? Sorry, you must answer.	1	area. Then I reversed back and phoned my foreman, Mr
2	MR JANSE VAN VUUREN: That's correct,	2	area. Then I reversed back and phoned my foreman, Mr Jacques Potek, to ask him what is going on, the security –
2 3	MR JANSE VAN VUUREN: That's correct, sorry.	2 3	area. Then I reversed back and phoned my foreman, Mr Jacques Potek, to ask him what is going on, the security – MR MAHLANGU: He said we should not go
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1	at the gate, the rotating gate I had to stop to clock in.	1	is that they trampled flat?
2	MR WESLEY: Sorry, I think he meant, he	2	MR VAN VUUREN: The wire, Mr Chairperson,
3	said the sliding gate and if I can indicate that –	3	is in that line he indicated with the – just on the, next
4	MR JANSE VAN VUUREN: Ja.	4	to those buildings.
5	MR MAHLANGU: Sliding gate.	5	CHAIRPERSON: Yes, what the witness has
6	MR JANSE VAN VUUREN: One has got to	6	indicated is what we described earlier as an L, on the
7	clock in order to have it opened.	7	western side of the L running up from that blue roof that's
8	MR WESLEY: For the record, the witness	8	been described to the top of the L, that's where the wire
9	is indicating if one travels along the road that he took,	9	was and that was the area that was trampled flat and
10	if you carry on down the road at the security gate, the	10	through which the people came. He also indicated earlier
11	building to the left-hand side, the white roof, there's a	11	before that that he pushed his vehicle back from the area
12	gap in it. Just below that is an area where he indicates	12	covered by the blue roof to a position more or less in line
13	there's a security gate and that's where he entered into	13	with the rectangle which is on the eastern side of the L
14	and that's the parking area, is that correct?	14	and he was there at the time that this incident he's now
15	MR JANSE VAN VUUREN: 100% correct, yes.	15	talking about happened, when these people trampled the
16	MR WESLEY: And then where did you go?	16	fence flat and came rushing through.
17	MR JANSE VAN VUUREN: I went through the	17	MR WESLEY: Is that right?
18	gate, turned left as I indicate with the pointer, drove	18	MR VAN VUUREN: It is 100% correct,
19	straight to where that blue roof is at the corner. My van,	19	Chairperson.
20	my bakkie was overheating and then - I drove under that	20	MR WESLEY: Let's just carry on. You say
21	roof, I took out my tools. I phoned my other foreman who	21	the people pushed the fence down in the area where you've
22	was on duty to tell them I'd be a bit late. I then started	22	indicated. What did you do then? Where did you move next?
23	repairing the pipe, the water pipe that was leaking.	23	MR VAN VUUREN: I drove from there,
24	[09:28] MR WESLEY: You finished repairing the	24	Chairperson, between those two buildings. It was at the
25	water pipe, what did you see then?	25	point that I was between the end of the one building then
25	water pipe, what did you see them	25	point that I was between the end of the one building them
	Page 34315		Page 34317
1	Page 34315 MR VAN VUUREN: After repairing the water	1	Page 34317 they started throwing stones at me. It was about 15 people
1 2	•	1 2	5
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1	Page 34318 MR VAN VUUREN: That's correct. It is	1	Page 34320 After some time when I heard the starting of the
2	parking areas, Mr Chairperson, that have got roofing up but	2	motorcycles I stood up. I then realised that all the
3	no walls in between.	3	lights in that area, the lighting had gone off and I saw
4	CHAIRPERSON: They're really extended	4	motor vehicles which were on fire. I came down in the
5	carports, aren't they?	5	direction in which I'm indicating, Chairperson –
6	MR VAN VUUREN: That's correct –	6	MR WESLEY: Southerly direction.
7	CHAIRPERSON: But it's much longer than	7	MR VAN VUUREN: That is in a southerly
8	that.	, 8	direction. About where the pointer is now, in that
9	MR VAN VUUREN: Ja, these are long	9	vicinity –
10	extended parking areas.	10	CHAIRPERSON: About halfway down in a
11	MR WESLEY: Chair, just for the record,	11	southerly direction.
12	there are photographs which I'll be referring to which	12	MR WESLEY: Chair, on the photograph one
13	would show what they look like close up. You parked at the	13	can see a small black smudge almost, that's the point that
14	northern area that you've indicated. Where do you go next?	14	he's indicating.
15	MR VAN VUUREN: They were still throwing	14	MR VAN VUUREN: Where there's that black
16	stones at me, Chairperson, and at a stage I shout at the		mark there, Chairperson, I saw a person lying there.
17	people "Stop now with your nonsense."	16 17	
17	MR MAHLANGU: As he says in English, "I	17 18	Whilst coming down, as I indicate in a southerly direction, the vehicle was already on fire. I realised that the
19	shouted at them to stop the nonsense."	10	person had been chopped on his face and he was lying
20	MR VAN VUUREN: Stop your nonsense.	20	between the burning cars and I realised I had to drag him
20	Whilst they were still throwing at me I went into that	20	away from there –
22	point where I'm pointing, in the middle of those parking	21	CHAIRPERSON: He also said –
22	areas. Under that roof building, at that point,	22	MR VAN VUUREN: Because I was –
23	Chairperson, there is what we call a mine turnstile where	23 24	CHAIRPERSON: Sorry to interrupt you. He
24	we clock. One has got to clock there and then proceed	24 25	also said there was blood on his face.
25	we clock. One has got to clock there and then proceed	23	
	Page 34319		Page 34321
1	inside into the change - that is the area where we, it's an	1	MR VAN VUUREN: Yes.
2	ablution block, Mr Chairperson. I tried to clock in there	2	MR MAHLANGU: He said there was blood on
3	but I was unable to. The turnstile wasn't functional. I	3	his face and lying between the burning cars.
4	tried it. I left it and came in that direction which I've	4	MR VAN VUUREN: I realised I had to drag,
5	indicated, there is a shorter parking space over there.	5	I had to pull him away from there. I was also afraid of
6	That's where I came to. There was a motorcycle parked	6	the attackers, but they was not attacking me again because
7	there and behind it was a wall, a brick wall. I then hid	7	they was now here busy with this guys with the motorbikes.
8	behind the wall. I was lying there for some time,	8	MR MAHLANGU: As he says in English.
9	Chairperson, I didn't look at my watch, and then at that	9	CHAIRPERSON: What he indicated was that
10	time I heard in that direction which I'm indicating	10	the people who had been attacking him earlier, they were at
11	somebody starting up a motorbike.	11	the –
12	CHAIRPERSON: He indicates near the	12	MR VAN VUUREN: But they were not
13	southern extension, easterly extension at the bottom of the	13	attacking me anymore.
14	L between that parking garage and the parking garage	14	CHAIRPERSON: - eastern end of the
15	immediately above it. That's where, it's from there that	15	easterly extension of the L, at that point and that's where
16	he heard the motorcycle started up.	16	they were busy with the people with the motorbikes.
17	MR VAN VUUREN: Correct, Chairperson.	17	MR MAHLANGU: Yes, Chairperson. He also
18	Over there where I'm indicating that's where the brick wall	18	indicated that "At that stage they were not attacking me
19	is. In that area there is also a security razor wire.	19	anymore."
20	Some of the people that were parked in this parking area	20	MR VAN VUUREN: That's correct,
21	went over this razor wire to the other side.	21	Chairperson. In the meantime they had attacked and hit the
22	MR MAHLANGU: He points in an easterly	22	person with the motorbike with a pipe, and that guy on the
	direction towards –	23	motorbike is Chris Kuiter, I know him personally. He is
23			
24	MR WESLEY: Easterly direction.	24	Kuiter. Ja, Chris Kuiter. The other person, Nico
24 25		24 25	Kuiter. Ja, Chris Kuiter. The other person, Nico Greyling, was in that area between those two buildings in

		I I	
	Page 34322		Page 34324
1	the L-shape with his bike.	1	loaded in together with Mr Kuiter and Nico Greyling and we
2	CHAIRPERSON: Yes, to the south of the	2	were taken to the mine hospital. I think its name, if I
3	first person he mentioned.	3	remember well, is Saffy Hospital.
4	MR VAN VUUREN: South of the end of the	4	CHAIRPERSON: Andrew Saffy.
5	L-shape, yes. Somewhere in that vicinity, Chairperson,	5	[09:48] MR WESLEY: If I can just interject
6	there's also the razor wire and there's also a turnstile	6	there, Mr Van Vuuren, the remainder is covered in your
7	there. Mr Kuiter climbed over the fence, Mr Kuiter. While	7	affidavit. If I can ask you to go to the bundle. I want
8	he was climbing over the fence they – I don't know if it	8	you please just to assist us in identifying photographs.
9	was a "mes" or a screwdriver or something, they puncture	9	Could you go the 13th page, page 13?
10	him in his rear end.	10	MR JANSE VAN VUUREN: That's correct, I
11	MR MAHLANGU: He spoke of a "mes" or a	11	have it.
12	screwdriver.	12	MR WESLEY: What is that photograph?
13	MR VAN VUUREN: They stabbed him on his	13	MR JANSE VAN VUUREN: That is the photo
14	buttocks with the instrument. Mr Greyling who was in the	14	of my Volkswagen caddy bakkie which was hit with an iron
15	lower area [as he indicates] also ran in the direction	15	pipe whilst I was trying to drive away.
16	upwards. There were also in that vicinity on the southern	16	MR WESLEY: It's in fact the windscreen
17	side of the end of the L-shape people who were stopping	17	is it not?
18	those people with the motorbikes from getting away.	18	MR JANSE VAN VUUREN: That's correct,
19	CHAIRPERSON: That is the position you	19	that is the windscreen, the main windscreen.
20	previously showed us was where the sliding gate was.	20	MR WESLEY: And page 14, the next page?
21	MR VAN VUUREN: Yes. Just as fast as	21	MR JANSE VAN VUUREN: It's also the same
22	they came in, Chairperson, they went through the gates and	22	photo.
23	ran away. After some time somebody came to the turnstiles	23	MR WESLEY: Well it's a different photo,
24	and he broke the key, the lock. My nightshift foreman	24	but it shows the same thing.
25	after the breaking of the lock then called me, that's Mr	25	MR JANSE VAN VUUREN: It shows that it
	Page 34323		Page 34325
1	Page 34323 Snyman.	1	Page 34325 was hit very hard.
1 2		1 2	-
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Snyman. CHAIRPERSON: Engelbrecht. MR VAN VUUREN: Engelbrecht. MR MAHLANGU: I'm sorry. I'm sorry. Engelbrecht. MR VAN VUUREN: And he said we must use the fire extinguishers under the, onder die afdakke om die kar te extinguishers under the, onder die afdakke om die kar te extinguishers under the, onder die afdakke om die kar te extinguishers to extinguish the burning cars. We tried to blast with two fire extinguishers his vehicle. The fire was burning fiercely, we could not extinguish it. The others cars under the parking areas were also alight, they were burning. I did not see, I did not witness how they set the vehicles alight. After our endeavours there I was taken away to the Murray & Roberts workshops in that area. CHAIRPERSON: Slightly to the left of the K4 Shaft as it's marked on the photograph. MR VAN VUUREN: That's correct, Chair. Whilst we were there we waited for a very long time for the securities and the ambulances to come. Whilst I was under the parking shacks, trying to pull Mr Mabebe away, I looked for first aid boxes in order to assist him. There were	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	was hit very hard. MR WESLEY: Page 15? That's another photograph of the windscreen isn't it? MR JANSE VAN VUUREN: Yes it was a photo taken from the side, Chairperson. MR WESLEY: Of the windscreen. MR JANSE VAN VUUREN: That's right. MR WESLEY: Page 16? MR JANSE VAN VUUREN: The left window which was broken with a stone. MR WESLEY: And one can see - on the right-hand side of the photograph one can see the remnants of what appears to be a window. MR JANSE VAN VUUREN: That's correct, Chairperson. MR WESLEY: The next page, page 17, what's that a photograph of? MR JANSE VAN VUUREN: The right window and the stone which was used for breaking the window. MR WESLEY: When you say it's the right window is that the glass from the right window? MR JANSE VAN VUUREN: The window on the left-hand side together with the stone that hit that

	Page 34326		Page 34328
1	left-side seat.	1	going to do next. It wasn't a good experience, it wasn't a
2	MR WESLEY: That's a stone that was	2	good feeling. I must also say I mentioned to the doctor
3	thrown at you.	3	that I wasn't happy about – she gave me tablets to calm me
4	MR JANSE VAN VUUREN: It was thrown	4	down. I'm still on that kind of treatment, tablets.
5	whilst I was driving.	5	CHAIRPERSON: Tranquilisers.
6	MR WESLEY: The next page is page 18,	6	MR JANSE VAN VUUREN: Ja, tranquilisers.
7	that's a similar photograph to page 17. The stone and the	7	CHAIRPERSON: You said she gave it. Is
8	glass on the –	8	it a lady doctor.
9	MR JANSE VAN VUUREN: It is also correct,	9	MR JANSE VAN VUUREN: Yes it is a female
10	yes.	10	doctor.
11	MR WESLEY: The next page is page 19.	11	CHAIRPERSON: She prescribed
12	Could you tell the Commission what is that? It's a	12	tranquilisers for you.
13	photograph of your left shoulder.	13	MR JANSE VAN VUUREN: Ja.
14	MR JANSE VAN VUUREN: That's correct,	14	CHAIRPERSON: You're still having to use
15	Chairperson.	15	them today.
16	MR WESLEY: The next page, page 20 in the	16	MR JANSE VAN VUUREN: That's correct,
17	bundle?	17	Chairperson.
18	MR JANSE VAN VUUREN: That is my left	18	CHAIRPERSON: Have you been given
19	shin, heel. Whilst I was going through the turnstile they	19	counselling as well?
20	throw me with a rock on my heel. But a stone was thrown on	20	MR JANSE VAN VUUREN: Murray & Roberts
21	my left heel.	21	has a program yes, Chairperson, I was part of the program
22	MR WESLEY: We go to the next document,	22	and we spoke about all these things and so on.
23	item 12, Craig. Would you identify what that is?	23	CHAIRPERSON: So was this a counselling
24	MR JANSE VAN VUUREN: That is a sick note	24	program that lasted for quite some time, for how long did
25	given to me by Doctor Bouer. The following day after my	25	it last?
	Page 34327		Page 34329
1	Page 34327 discharge from the hospital –	1	Page 34329 MR JANSE VAN VUUREN: It was only two or
1 2		1 2	s
	discharge from the hospital –		MR JANSE VAN VUUREN: It was only two or
2	discharge from the hospital – MR WESLEY: If I can assist you maybe,	2	MR JANSE VAN VUUREN: It was only two or three sessions.
2 3	discharge from the hospital – MR WESLEY: If I can assist you maybe, you went to go and see Doctor Bouer.	2 3	MR JANSE VAN VUUREN: It was only two or three sessions. CHAIRPERSON: Two or three sessions.
2 3 4	discharge from the hospital – MR WESLEY: If I can assist you maybe, you went to go and see Doctor Bouer. MR JANSE VAN VUUREN: That's correct,	2 3 4	MR JANSE VAN VUUREN: It was only two or three sessions. CHAIRPERSON: Two or three sessions. MR JANSE VAN VUUREN: Ja.
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	Page 34330		Page 34332
1	looked like in the days following that attack?	1	I had you at 52 please, page 52? Do you see it?
2	MR JANSE VAN VUUREN: 100% correct,	2	MR JANSE VAN VUUREN: 100%, I've got it.
3	Chair. These were burnt cars, this is the aftermath of	3	MR WESLEY: That vehicle, can you
4	what happened.	4	identify that vehicle?
5	MR WESLEY: Could you go to page 52?	5	MR JANSE VAN VUUREN: It's a Toyota
6	CHAIRPERSON: Before we get there, Mr	6	Avanti.
7	Wesley just for the sake of clarity perhaps we could look	7	MR WESLEY: You mentioned in your
8	at 32 which I think is quite a useful photograph of the	8	statement the Toyota Avanti, is that the Toyota Avanti that
9	covered parking area which he called the afdak. I was	9	you were talking about?
10	looking for the correct English but I suppose covered	10	MR JANSE VAN VUUREN: 100% correct,
11	parking area is the best that we can do. That shows it	11	Chair.
12	quite clearly I think.	12	MR WESLEY: There are photographs of that
13	MR WESLEY: Mr van Vuuren, the photograph	13	Toyota Avanti up until page 56 of the bundle. If you could
14	at page 32, do you see that?	14	then please go to page 58 of the bundle. That's what a
15	MR JANSE VAN VUUREN: I have it, yes	15	Toyota Avanti looks like, Chair we got this for interest
16	that's correct, Sir.	16	sake. One knows a Toyota Avanti, the vehicle was burnt
17	MR WESLEY: That shows the parking area	17	out, but one knows it from the distinctive outline of the
18	and the covers that are in the parking area.	18	roof, at the rear quarter of the motor vehicle. Thank you,
19	MR JANSE VAN VUUREN: That's 100% and you	19	Craig. If we could go to page 58.
20	see in the background along the length of the parking cover	20	MR JANSE VAN VUUREN: I have it.
21	there's razor wire.	21	MR WESLEY: Craig, I think it's 17, 7.30
22	MR WESLEY: Craig, at 17.3 if it will	22	if I'm not mistaken, Craig. Go to the following photograph
23	assist you, just to orientate you, if you look at that	23	please, the next one. It might be clearer, okay one back,
24	photograph, Mr Van Vuuren, in the middle of the photograph	24	there we go.
25	there's an area just below a roof, one sees what looks like	25	CHAIRPERSON: That's 58.
1	Page 34331 a tower part of a tower sticking out Do you see that?	1	Page 34333 MR WESLEY: That's correct. Chair. 58.
1	a tower, part of a tower sticking out. Do you see that?	1	MR WESLEY: That's correct, Chair, 58.
2	a tower, part of a tower sticking out. Do you see that? I'm pointing to it now on the screen.	2	MR WESLEY: That's correct, Chair, 58. Mr van Vuuren, you told me, you explained to me the Toyota
2 3	a tower, part of a tower sticking out. Do you see that? I'm pointing to it now on the screen. MR JANSE VAN VUUREN: It's 32, yes.	2 3	MR WESLEY: That's correct, Chair, 58. Mr van Vuuren, you told me, you explained to me the Toyota Avanti is in fact more or less – the person who took the
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	Page 34334		Page 34336
1	MR JANSE VAN VUUREN: 100% correct,	1	When my windscreen was hit with the pipe I thought they
2	Chairperson.	2	were going to hit my head with the steel pipe.
3	MR WESLEY: HHW778 –	3	MR TIP SC: If your windscreen had not
4	MR JANSE VAN VUUREN: 100%.	4	been able to withstand that blow it would have struck you
5	MR WESLEY: Chair, thank you. That's all	5	on the head, is that right?
6	I have to ask him.	6	MR JANSE VAN VUUREN: Yes, it was right
7	COMMISSIONER HEMRAJ: Mr van Vuuren, are	7	where my head was.
8	you able to tell us how many security guards were on duty	8	MR TIP SC: The Commissioner has just
9	when you arrived there?	9	asked you about the security, was the security present that
10	MR JANSE VAN VUUREN: There was only one	10	evening any different from the security present on previous
11	security officer on duty, Commissioner.	11	nights?
12	COMMISSIONER HEMRAJ: Was that at the	12	MR JANSE VAN VUUREN: No it's always one.
13	security gate when you first arrived?	13	The place is manned by one security officer.
14	MR JANSE VAN VUUREN: That's positive, at	14	MR TIP SC: So no additional security was
15	the gate at which I stopped.	15	present anywhere in the vicinity.
16	COMMISSIONER HEMRAJ: Thank you.	16	MR JANSE VAN VUUREN: Not at all, I
17	CHAIRPERSON: Was that a lady or a man?	17	didn't see anything.
18	MR JANSE VAN VUUREN: A black –	18	MR TIP SC: Can I ask you to go to your
19	CHAIRPERSON: I'm not interested in the	19	statement, GGGG3? If we could get that on, thank you. Mr
20	race –	20	Janse van Vuuren, in paragraph 2 you describe that you were
21	MR JANSE VAN VUUREN: A male.	21	scheduled to go on shift at the K4 shaft and then in the
22	CHAIRPERSON: Do you know whether he was	22	second sentence you say prior to 12 August 2012 we had been
23	armed?	23	briefed by Lonmin and by Murray & Roberts management about
24	MR JANSE VAN VUUREN: Ekskuus, Meneer.	24	the strike that was taking place and we were warned that we
25	CHAIRPERSON: Do you know whether he was	25	must be on the lookout for strikers who were walking around
	Dem: 14005		Dama 24027
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	Page 34338		Page 34340
1	might be danger to you?	1	had taken place on me, sir.
2	MR JANSE VAN VUUREN: No.	2	MR TIP SC: Alright, thank you. And on
3	MR TIP SC: Did you at any time, from	3	your way to K4 shaft that evening, did you at any time come
4	anybody, before you went on shift on 12 August, learn that	4	across Lonmin security personnel?
5	it might be risky to report to work?	5	MR JANSE VAN VUUREN: Not at all, sir.
6	MR JANSE VAN VUUREN: Before the evening	6	MR TIP SC: Thank you. I want to ask you
7	of the attack Murray and Roberts –	7	a few questions now about Mr Mabebe and, Mr Chair, I would
8	CHAIRPERSON: Management.	8	like just first of all to put on record some basic details
9	MR MAHLANGU: Management.	9	which are to be found in the post-mortem report which is at
10	MR JANSE VAN VUUREN: The manager who was	10	page 22 of the bundle. Mr Janse van Vuuren, I am just
11	working on shaft 4.	11	going to –
12	CHAIRPERSON: What he says is it's the	12	CHAIRPERSON: Before we carry on –
13	manager of Murray and Roberts who was working on the	13	MR TIP SC: Yes.
14	contract at shaft 4.	14	CHAIRPERSON: Is Mrs Mabebe in the
15	MR JANSE VAN VUUREN: Ja.	15	chamber? Or if there's anybody in the chamber who is
16	MR MAHLANGU: That's correct.	16	related to or a friend or loved one of Mr Mabebe, who feels
17	MR JANSE VAN VUUREN: The contract	17	that hearing the details of the injuries he sustained will
18	manager of Murray and Roberts.	18	be painful and distressing, I give such person or persons
19	MR JANSE VAN VUUREN: I don't remember	19	an opportunity to leave the chamber. Mrs Mabebe, I see
20	his name. He was a new man there, Chairperson. He walked	20	you're sitting in the chamber. Do you wish to leave or do
21	about with a gun, a firearm. He had the firearm in a	21	you wish to stay?
22	pouch.	22	MR TIP SC: Chair, may I suggest – I
23	MR MAHLANGU: He indicates on his right	23	don't have any instructions from the family of Mr Mabebe
24	hip.	24	but I had hoped to have an opportunity before we started
25	MR JANSE VAN VUUREN: Me and the other	25	just to spend two minutes with Mr Mabebe's sister, who is
	Page 34339		Page 34341
1	Page 34339 colleagues were surprised, why he walks about with a gun	1	Page 34341 present, and I wonder if it might be indicated that I have
1 2		1 2	-
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2	colleagues were surprised, why he walks about with a gun and we are supposed to report on duty, we must come to work. MR TIP SC: Yes, but nothing specific	2	present, and I wonder if it might be indicated that I have that chance –
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Marikana Commission of Inquiry

Pretoria

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1	Page 34342 HERMANUS ANDRIES JANSE VAN VUUREN:	1	Page 34344 the record. Now Mr Janse van Vuuren, what I want to see
2	[s.o.e. deur tolk]	2	what you can give us by way of assistance is just some
3	VOORSITTER: Mnr Tip.	3	details as best you can recall them on what took place in
4	MR TIP SC: Thank you, Chair, and may I	4	relation to the assistance given, the medical assistance
5	also say a particular word of gratitude to the Commission	5	given to Mr Mabebe after this awful event.
6	for the adjournment which provided an opportunity to	6	MR JANSE VAN VUUREN: Is it at the
7	discuss the position with a family representative and I	7	hospital, Sir?
8	just want to put on record what the position is there and I	8	MR TIP SC: But I'm going to take you
9	do so in a negotiorum gestor capacity.	9	through it step by step and as I say it doesn't depend on
10	The elder sister of Mr Mabebe has been in	10	medical knowledge on your part, just to see how far you can
11	attendance, is here today. She is Ms Esther Mabebe. She	11	help us. First of all it's clear from your statement that
12	in fact because of family circumstances as a teenage girl	12	you are the first person who went to the assistance of Mr
13	undertook the raising of Mr Mabebe, so has had an	13	Mabebe.
14	especially close relationship with him. She has elected	14	MR JANSE VAN VUUREN: That's correct,
15	not to attend the next few minutes where there will be some	15	Chair.
16	discussion about what took place that evening. It is very	16	MR TIP SC: You pulled him away from a
17	difficult for her. Mrs Fundi will convey to her afterwards	17	burning car to prevent him from being burnt as well.
18	just what took place and to the extent necessary I will see	18	MR JANSE VAN VUUREN: It's 100%, Chair.
19	that any supplementing of information is transmitted. So	19	MR TIP SC: And at that stage Mr Mabebe,
20	we can continue on that basis.	20	although he had been severely injured he was still
21	CHAIRPERSON: I understand you told me	21	conscious?
22	during the adjournment that I was wrong in thinking that Mr	22	MR JANSE VAN VUUREN: 100% correct, Sir.
23	Mabebe was married; he wasn't married, so there isn't a Mrs	23	MR TIP SC: And indeed he was still able
24	Mabebe here. The lady I thought was Mrs Mabebe is in fact	24	to speak to you?
25	the elder sister to whom you've referred.	25	MR JANSE VAN VUUREN: Yes, he mentioned
	Page 34343		Page 34345
1	CROSS-EXAMINATION BY MR TIP SC (CONTD.):	1	that he was having serious pain.
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	Page 34346		Page 34348
1	MR JANSE VAN VUUREN: That's 100%	1	working on the stitch on my right of my forehead,
2	correct, yes.	2	Chairperson, he was stitching the wound without using any
3	MR TIP SC: Again I just want to know	3	anaesthetics to –
4	whether you can give us any assistance with a realistic	4	CHAIRPERSON: I think the word is
5	assessment of how long that time was.	5	"temple." You indicated to the right –
6	MR JANSE VAN VUUREN: If I was to guess I	6	MR JANSE VAN VUUREN: On the temple.
7	would say between an hour, an hour and a half or two hours.	7	CHAIRPERSON: - was where the injury was
8	MR TIP SC: Alright, how many ambulances	8	where you received stitches without any anaesthetic.
9	came to the scene?	9	MR JANSE VAN VUUREN: Yes, he was using
10	MR JANSE VAN VUUREN: The ambulance that	10	the stitches without putting any anaesthetic. I asked him
11	removed me, there was only one.	11	why he was doing that. He said because I am diabetic that
12	MR TIP SC: And were you able to observe	12	he could not inject me.
13	how Mr Mabebe was moved from there to the hospital?	13	MR TIP SC: Alright. Mr Janse van
14	MR JANSE VAN VUUREN: No, first Mr Mabebe	14	Vuuren, thank you for that detail about yourself. In
15	was loaded into it and then they drove to the back of the	15	relation to Mr Mabebe are you able to tell us anything
16	workshop and picked me up.	16	about his situation or the treatment he got other than that
17	MR TIP SC: Are you saying that Mr Mabebe	17	a mask was put on his face?
18	was taken to the hospital and that the ambulance then came	18	MR JANSE VAN VUUREN: No, there were no
19	back for you, or did you all go in the ambulance in one	19	drips or any machines to which he was connected to Mr
20	trip?	20	Mabebe.
21	MR JANSE VAN VUUREN: We go in one trip	21	MR TIP SC: This was just an ordinary
22	with the ambulance and the security was guarding the	22	ward facility, correct?
23	ambulance.	23	MR JANSE VAN VUUREN: That's 100%
24	MR TIP SC: So you went together with Mr	24	correct, Chair.
25	Mabebe and the other people who had been injured, Mr Kuiter	25	MR TIP SC: I suppose you're familiar
<u> </u>	Page 34347		Page 34349
1	and so on?	1	with what an intensive care unit is more or less?
2	MR JANSE VAN VUUREN: That's correct,	2	MR JANSE VAN VUUREN: 100% correct,
3	everybody was at the back.	3	Chair.
4	MR TIP SC: In the back of the ambulance?	4	MR TIP SC: And if I understand you
5	MR JANSE VAN VUUREN: Correct, Chair.	5	correctly none of the equipment that one would find in an
6	MR TIP SC: Were you able to observe	6	ICU was in this facility?
7	whether Mr Mabebe was still alive at that stage?	7	MR JANSE VAN VUUREN: I did not see any
8	MR JANSE VAN VUUREN: I did not observe	8	such machines there, Chairperson.
9	that. I did not look.	9	MR TIP SC: You've also described in your
10	MR TIP SC: Was he on a stretcher?	10	statement about how it was you who drew the attention of
11	MR JANSE VAN VUUREN: Yes, he was	11	the medical staff to your view that Mr Mabebe had died.
12	fastened to a stretcher.	12	MR JANSE VAN VUUREN: That's correct.
13	MR TIP SC: And when you got to the	13	After putting the stitches on me, Mr Chairperson, I went to
14	Andrew Saffy Hospital where you received some treatment?	14	Mr Mabebe. I felt on his feet with my hand. I felt that
15	MR JANSE VAN VUUREN: Correct,	15	his feet were ice cold.
16	Chairperson.	16	MR TIP SC: Alright, and just to
17	MR TIP SC: Can you tell us whether Mr	17	summarise, you drew the attention of some medical personnel
18	Mabebe was still alive at that stage?	18	to that. They said, they apparently were angry with you
19	MR JANSE VAN VUUREN: Mr Mabebe was lying	19	and said well you're not a doctor.
20	on top of the bed. Over his nose was a gas mask. I saw	20	MR JANSE VAN VUUREN: That 100% correct,
21	some steam coming out of that gas mask. The people working	21	Chairperson.
22	there, I don't know whether it was doctors or who, were	22	MR TIP SC: And that about 15 minutes
23	putting us on the computers. After putting us onto the	23	later a person in a white coat came, apparently a doctor,
24	computers they then came to stitch our wounds. They were	24	who then confirmed that Mr Mabebe had died.
25	stitching my wound on the right. The person who was	25	MR JANSE VAN VUUREN: 100% correct,
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1	Page 34350 Chairperson.	1	Page 34352 in respect of the NMF meeting of the 15th of August, and
2	MR TIP SC: And at that time the mask was	2	over the page, which I propose we make page 36 7.1 and 37
3	still over his face?	3	7.2, 7.2 is the properties of those audio files. Then on
4	MR JANSE VAN VUUREN: 100%, Chair.	4	page 38 there is a table of properties of audio files of
5	MR TIP SC: Thank you, Mr Janse van	5	NMF meetings in 2012, which will be HHHH8. On page 41
6	Vuuren. Thank you, Chair.	6	there is an email from Brigadier Mahlalela to Major Lethoko
7	CHAIRPERSON: Thank you, Mr Tip. Any re-	7	on 29 August 2012, that will be HHHH9. On the following
8	examination, Mr Wesley?	8	page 42 is a printout of the file attached to the email
9	MR WESLEY: Chair, none.	9	that was HHHH9.
10	CHAIRPERSON: Thank you. Baie dankie,	10	CHAIRPERSON: Will this be 9.1 –
11	mnr Janse van Vuuren, vir u getuienis. U word verskoon.	11	MR CHASKALSON SC: I think that should be
12	MR JANSE VAN VUUREN: Thank you,	12	10.
13	Chairperson.	13	CHAIRPERSON: That makes sense.
14	[NO FURTHER QUESTIONS – WITNESS EXCUSED]	14	MR CHASKALSON SC: Keep it separate.
15	CHAIRPERSON: Mr Chaskalson, I understand	15	CHAIRPERSON: Printout of attachment to
16	you'll be leading the next witness, cross-examining and	16	ННН9.
17	leading the next witness. Is that correct?	17	MR CHASKALSON SC: That's correct, and
18	MR CHASKALSON SC: Yes, Chair. Maybe if	18	then on the following page as 10A is the properties of the
19	we could attend to some housekeeping while we're waiting	19	file that is printed out at -
20	for the next witness to arrive.	20	CHAIRPERSON: [Microphone off, inaudible]
21	CHAIRPERSON: I take it she will be HHHH,	21	should we not make it 10.1 and 10.2? That's what we've
22	will she? Or rather her distinctive letters of her	22	done up to now.
23	exhibits will be HHHH. Is that correct?	23	MR CHASKALSON SC: 10.1 and 10.2 is fine,
24	MR CHASKALSON SC: That's correct, Chair,	24	Chairperson.
25	and the witness is Major Lethoko. HHHH.A is her statement,	25	[10:59] CHAIRPERSON: So, it is the properties
	Page 34351		Page 34353
	5		
1	which is on the first page of your bundle. 1. 1. HHHH2	1	you say, of?
1 2	which is on the first page of your bundle. 1. 1. HHHH2 is the statement of, it's the Matthys statement. I forget	1 2	-
			you say, of?
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2 3	is the statement of, it's the Matthys statement. I forget – Cedric Matthys –	2 3	you say, of? MR CHASKALSON SC: Of the file that is printed out at 10.1. And then on page 44, which will be HHHH11, let's make it 11.1, is a document entitled "South African Police Service minutes – National management Forum
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	is the statement of, it's the Matthys statement. I forget – Cedric Matthys – CHAIRPERSON: Hang on, before we get there, page 3 of the bundle, that's part of HHHH1 then, is it? MR CHASKALSON SC: It is. It's annexure A to HHHH1. CHAIRPERSON: So Cedric Matthys' statement is then HHH2. MR CHASKALSON SC: That's correct, Chair. Then Colonel Smith's statement is HHHH3 at page 6. Brigadier Mahlalela's statement is HHHH3 at page 13. Kagiso Tlale's statement is HHHH5 at page 15. From page 16 is an extract from Brigadier Mahlalela's cell phone records over the period 15 to 21 August 2012. CHAIRPERSON: Is that going to be HHHH6? MR CHASKALSON SC: That's correct, Chairperson. CHAIRPERSON: So how does one describe that? MR CHASKALSON SC: Extract from cell phone records of Brigadier Mahlalela from 15 to 21 August	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	you say, of? MR CHASKALSON SC: Of the file that is printed out at 10.1. And then on page 44, which will be HHHH11, let's make it 11.1, is a document entitled "South African Police Service minutes – National management Forum Extraordinary Session, 15 August 2012." And at page 47 we have the properties of that document. CHAIRPERSON: Would that be HHHH11.2? MR CHASKALSON SC: Yes. COMMISSIONER HEMRAJ: Mr Chaskalson, page 43 is properties of which file? I seem to have missed that. MR CHASKALSON SC: It's properties of the file that is printed out on page 42, which was attached to the e-mail on page 41 so – CHAIRPERSON: I've recorded it as properties of file printed at HHHH10.1. MR CHASKALSON SC: That's correct, Chairperson. COMMISSIONER HEMRAJ: There's no 10.1. CHAIRPERSON: Yes, 10.1 is the printout of the attachment to HHHH9. COMMISSIONER HEMRAJ: No, that's HHHH10.

	Page 34354		Page 34356
1	MR CHASKALSON SC: The witness is on her	1	MR CHASKALSON SC: You should just have
2	way, Chairperson, she'll just be a minute or so.	2	been given a bundle of documents which is paginated. These
3	CHAIRPERSON: Is there a set of the	3	are your documents which your legal representatives should
4	documents for her duly marked?	4	have given to you to peruse beforehand. Are you familiar,
5	MR CHASKALSON SC: There is. It hasn't,	5	do you want quickly to check that there are no documents
6	they haven't been given the exhibit names but I'll be able	6	there that you haven't seen before?
7	to refer her to bundle numbers.	7	MAJOR LETHOKO: Okay. No, I have all the
8	CHAIRPERSON: Yes.	8	documents, thanks.
9	MR CHASKALSON SC: And I'm told that the	9	MR CHASKALSON SC: The first document in
10	witness will be testifying in Sesotho – oh, Zulu. So we'll	10	that bundle, which we've called HHHH1 is an affidavit that
11	need to interpret.	11	you deposed to on 26 February 2014. Are you familiar with
12	CHAIRPERSON: Is she prepared to receive	12	that affidavit?
13	questions in English?	13	MAJOR LETHOKO: Yes.
14	MR CHASKALSON SC: Yes, she's prepared to	14	MR CHASKALSON SC: And can you confirm
15	receive questions in English.	15	for the Commission that the contents of that affidavit are
16	CHAIRPERSON: Thank you. Major Lethoko,	16	correct?
17	are you - I understand you're prepared to receive questions	17	MAJOR LETHOKO: True yes, they are
18	in English but you wish to give your evidence in Zulu, is	18	correct.
19	that correct? Can I swear you in, in English, or would you	19	MR CHASKALSON SC: I'm sorry, Major –
20	like Mr Mahlangu to do it in Zulu?	20	MAJOR LETHOKO: They are correct, yes.
21	MAJOR LETHOKO: No, you can say them in	21	MR CHASKALSON SC: They are correct,
22	English, I understand.	22	thank you. Then the second document in that bundle is an
23	CHAIRPERSON: Are you prepared to swear	23	affidavit of Mr Cedric Matthys which is HHHH2. The third
24	or do you wish to make an affirmation?	24	is an affidavit of Colonel Smith, HHHH3. The fourth is an
25	MAJOR LETHOKO: An affirmation.	25	affidavit of Brigadier Mahlalela HHHH4, and the fifth is an
1	Page 34355	1	Page 34357
1	CHAIRPERSON: Sorry?	1	affidavit of Kagiso Tlale, HHHH5. Have you read these
2	CHAIRPERSON: Sorry? MAJOR LETHOKO: An affirmation.	2	affidavit of Kagiso Tlale, HHHH5. Have you read these affidavits of Mr Matthys, Colonel Smith, Brigadier
2 3	CHAIRPERSON:Sorry?MAJOR LETHOKO:An affirmation.CHAIRPERSON:You want to make an	2 3	affidavit of Kagiso Tlale, HHHH5. Have you read these affidavits of Mr Matthys, Colonel Smith, Brigadier Mahlalela and – sorry, is it Mr or Mrs, Ms Tlale?
2 3 4	CHAIRPERSON: Sorry? MAJOR LETHOKO: An affirmation. CHAIRPERSON: You want to make an affirmation?	2 3 4	affidavit of Kagiso Tlale, HHHH5. Have you read these affidavits of Mr Matthys, Colonel Smith, Brigadier Mahlalela and – sorry, is it Mr or Mrs, Ms Tlale? MAJOR LETHOKO: Mr Tlale.
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	Page 34358		Page 34360
1	correct?	1	yourself?
2	MAJOR LETHOKO: Yes, it is.	2	MAJOR LETHOKO: No.
3	MR CHASKALSON SC: And to whom do you	3	MR CHASKALSON SC: We understand from the
4	report?	4	affidavits of, I think Mr Matthys and possibly Colonel
5	MAJOR LETHOKO: To Brigadier Mahlalela.	5	Smith that this is done by SAPS IT support –
6	MR CHASKALSON SC: And that's been the	6	MAJOR LETHOKO: Mm-mm.
7	case or that was also the case in August 2012?	7	MR CHASKALSON SC: And occasionally by
8	MAJOR LETHOKO: True.	8	independent service providers who are brought in for that
9	MR CHASKALSON SC: And unbroken since	9	purpose, is that correct?
10	then.	10	MAJOR LETHOKO: Yes.
11	MAJOR LETHOKO: Up until July this year.	11	MR CHASKALSON SC: Now how does that
12	MR CHASKALSON SC: July this year, okay,	12	recording work? Are you aware of the system that is
13	and what happened in July this year?	13	employed in that regard? When you want to get a recording
14	MAJOR LETHOKO: I'm no longer working in	14	at a later stage - well, let's take a step back, let's ask
15	the office of the National Commissioner.	15	the first question. I'm not looking for technical details
16	MR CHASKALSON SC: Okay. Where is your	16	but physically what happens in terms of that recording
17	office physically?	17	during the meeting?
18	MAJOR LETHOKO: Pretorius Street.	18	MAJOR LETHOKO: I don't know how the
19	MR CHASKALSON SC: And is it in the same	19	system works but what I know is that immediately after the
20	building as Brigadier Mahlalela's?	20	meeting we are given a recording of that meeting which is
21	MAJOR LETHOKO: Yes.	21	either recorded on a CD or a memory stick.
22	MR CHASKALSON SC: Same floor?	22	MR CHASKALSON SC: And who would give,
23	MAJOR LETHOKO: Same floor, yes.	23	when you say we, who –
24	MR CHASKALSON SC: And has, was the same	24	MAJOR LETHOKO: I mean we, members of the
25	in 2012?	25	executive secretariat from the office of the National
	Page 34359		Page 34361
1	MAJOR LETHOKO: True.	1	Page 34361 Commissioner.
1 2	MAJOR LETHOKO: True. MR CHASKALSON SC: One of your functions,	1 2	Commissioner. MR CHASKALSON SC: Does it go to any
	MAJOR LETHOKO: True. MR CHASKALSON SC: One of your functions, we understand, is to take minutes of executive meetings of		Commissioner. MR CHASKALSON SC: Does it go to any member of the secretariat or –
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1	Page 34362	1	Page 34364
1	MR CHASKALSON SC: So you are aware of	1	because I'm going to use it maybe and then I then keep it
2	that practice?	2	in a file which is in our office, locked up in our office. MR CHASKALSON SC: And is there any
3	MAJOR LETHOKO: Mm-mm.	3	5
4	MR CHASKALSON SC: Now, presumably	4	register in relation to these sticks that records who is in
5	because of the confidentiality of the materials, there must	5	possession of them at any particular time?
6	be a system in place for the safeguarding of the memory	6	MAJOR LETHOKO: No, we don't have a
7	stick that records these meetings, is that correct?	7	register.
8	MAJOR LETHOKO: Ja, like I said, the	8	MR CHASKALSON SC: And who has access to
9	people from IT that support us at these meetings, they give	9	the cabinet in which they are kept?
10	it to either myself or anyone from executive secretariat	10	MAJOR LETHOKO: It's myself, Brigadier
11	and they know that they can only give it to anyone from	11	Mahlalela and Colonel Mtombeni in our office, only the
12	executive secretariat, no-one else.	12	people who work with the minutes.
13	MR CHASKALSON SC: But when you have it	13	CHAIRPERSON: Let's get it clear, who are
14	what is then your, what is the system that is applied to	14	the people who work with the minutes? Brigadier Mahlalela?
15	safeguard the stick once it's been handed over either to	15	MAJOR LETHOKO: Mm-mm.
16	yourself or to Brigadier Mahlalela?	16	CHAIRPERSON: You and who is the third
17	MAJOR LETHOKO: Well, I keep it with	17	person?
18	myself until I get into the office and I lock it in a	18	MAJOR LETHOKO: Colonel Mtombeni.
19	cabinet in my office.	19	CHAIRPERSON: Only the three of you?
20	MR CHASKALSON SC: So you would have	20	MAJOR LETHOKO: Yes, yes.
21	sticks locked in a cabinet in your office?	21	CHAIRPERSON: Thank you.
22	MAJOR LETHOKO: Mm-mm.	22	MR CHASKALSON SC: And if you want to
23	MR CHASKALSON SC: And would every single	23	collect a stick to work on the minutes, you don't have to
24	stick from every NMF meeting be locked in the same cabinet?	24	sign for it or –
25	MAJOR LETHOKO: Not with every single	25	MAJOR LETHOKO: No, it's in my office so
1	Page 34363 stick. I don't have all of them. With this one, it was	1	Page 34365 I don't have to sign for it. It's in my office, I can just
2	given to Brigadier Mahlalela, she had it with her.	2	access it.
3	CHAIRPERSON: I don't think Mr Chaskalson	3	MR CHASKALSON SC: And Brigadier
4	is asking you about this particular stick at the moment,	4	Mahlalela and Colonel Mtombeni?
5	he's asking you about the system, what normally happens.	5	MAJOR LETHOKO: No, they don't have to
6	MAJOR LETHOKO: Mm-mm.	6	sign for it, they can just ask for and I will give it to
7	CHAIRPERSON: Now, that's why he asks	7	them but there was never a case where they had to ask for
8	you, apart from this one, you're going to be asked	8	it.
9	questions about this one in a moment but generally all the	9	MR CHASKALSON SC: And so the stick is
10	other sticks that have been prepared after meetings where	10	ordinarily kept in the cabinet in your office?
11	you were involved as the member of the secretariat, are	11	MAJOR LETHOKO: Mm-mm.
12	those all in this, locked away in this cabinet in your	12	MR CHASKALSON SC: And do you have any
13	office?	13	specific responsibilities for safeguarding the stick or the
14	MAJOR LETHOKO: Mm-mm. Ja, we kept them	14	sticks, plural?
15	in our office, yes, locked away in our office.	15	[11:19] MAJOR LETHOKO: To some extent, yes.
16	CHAIRPERSON: Locked away.	16	MR CHASKALSON SC: What would those
17	MR CHASKALSON SC: But are they all in	17	responsibilities be?
18	one central place? I mean if the system works, in that	18	MAJOR LETHOKO: To make sure that no one
19	cabinet should we be able to find every memory stick from	19	else has access to those recordings.
20	every NMF meeting?	20	COMMISSIONER HEMRAJ: And to ensure that,
21	MAJOR LETHOKO: What normally happens is	21	are they locked in the cabinets and do you have the only
and the second se			key?
22	sometimes we, from a meeting you can't go back to the	22	-
22 23	sometimes we, from a meeting you can't go back to the office, so you will keep it with you. You go home with it,	22 23	MAJOR LETHOKO: Yes, I'm the only one who
	h II provide Landa		-
23	office, so you will keep it with you. You go home with it,	23	MAJOR LETHOKO: Yes, I'm the only one who

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 34366 CHAIRPERSON: You weren't asked key to your office, the key for the cabinet. I don't think you understood the question. They locked the cabinet in your office. MAJOR LETHOKO: Yes. CHAIRPERSON: Are you only person that has the key to the cabinet in which the sticks are locked? MAJOR LETHOKO: I wouldn't know that, I cannot confirm that. MR CHASKALSON SC: So who else may have a key? MAJOR LETHOKO: Brigadier Mahlala might have, actually she is supposed to have, because sometimes when I'm not in the office and she needs to access to cabinet then, she's supposed to have. MR CHASKALSON SC: So just to recap, the system is then the sticks come in, they go into a cabinet in your office – MAJOR LETHOKO: In a file in a cabinet. The cabinet is locked, and when you're not in your office, presumably your office is also locked? MAJOR LETHOKO: It's locked, yes, but	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 34368 refer to this case, the memory stick did not belong to the office, it belonged Brigadier Mahlalela. So I had to take it back to her. MR CHASKALSON SC: The memory stick – sorry can you just clarify that? MAJOR LETHOKO: Okay. The memory stick that I was given for this one, actually I did not have it with me, so when I was preparing the minutes, I was informed that the memory stick was given to Brigadier Mahlalela. I had to contact her to give me the memory stick so that I can continue working on the minutes. She asked her secretary to collect it at home and bring it to me. When I received it, I loaded the files and I gave it back to the secretary. MR CHASKALSON SC: But why would you give it back to the secretary in those circumstances, why wouldn't you just lock it in the safe? MAJOR LETHOKO: Because I was told it was Brigadier Mahlalela's, or at the my assumption was it belonged to Brigadier Mahlalela. MR CHASKALSON SC: What was that assumption based on? MAJOR LETHOKO: Because she kept it with her, so I assumed, and when I got the memory stick, it's
24 25	they also have spare keys if they need access, maybe, if	24 25	quite a while back, I don't remember how it looked.
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Page 34367 they need to access the office and get documents. MR CHASKALSON SC: And they, I presume, is a reference to Brigadier Molalla and Colonel Mtombeni? MAJOR LETHOKO: Yes. MR CHASKALSON SC: Now, you mentioned earlier about copying audio files or copying the stick onto your machine. MAJOR LETHOKO: Yes. MR CHASKALSON SC: Can you describe for the Commission how do that copying exercise? Do you – let me put you two possibilities, do you play the audio files from your memory stick and resave them on your machine, or do you open the memory stick, as it were, and then copy across all the files from the memory stick to your machine?	1 2 3 4 5 6 7 8 9 10 11 12 13 14	Page 34369 Normally the memory sticks that we get are blue, but that one I got I don't remember whether it was blue or it was not, so I gave it back. So if it belonged to the company that was recording, she would have got it back, but it never came back to me. COMMISSIONER HEMRAJ: I'm sorry to interrupt you. The assumption that it belonged to her, was that because there was anything else on the memory stick that was personal to her? MAJOR LETHOKO: I think so, that's I'm saying it was a while back, maybe there were other files, hence I returned it, because I saw other files were not recordings of the meeting, it was just other documents.
 15 16 17 18 19 20 21 22 23 24 25 	MAJOR LETHOKO: That would the latter. I just open the memory stick, copy the files into my laptop. MR CHASKALSON SC: Right. And then once they're on your laptop, of course you can then listen to them at your convenience whenever you need to? CHAIRPERSON: Correct. MR CHASKALSON SC: But the memory stick is then put back in the locked cabinet? MAJOR LETHOKO: It depends. If it was a memory stick that belongs to us, yes, I do that. If it a CD or memory stick that belongs to us I do that. If I may	15 16 17 18 19 20 21 22 23 24 25	CHAIRPERSON: Do you remember that specifically? MAJOR LETHOKO: I don't remember specifically, but I'm just saying my assumption is that I could have returned it, because there were other files in that memory stick. CHAIRPERSON: So you could have, you can't say positively, under the terms of your affirmation, that that's what you remember and that's why you gave it back to her? You were actually guessing, is that correct? Or making an assumption, which amounts to a guess. MAJOR LETHOKO: I don't remember.

I CHAIRPERSON: It might be a correct guess, but and I stating? in accurately? I other documents, i don't from-but CHAIRPERSON: An I stating it accurately? I other documents can a memory slick which was specifically control documents can a memory slick which was specifically control documents can a memory slick which was specifically guessing, because its a long time ago, i returned it. 6 in that memory slick, that is why i returned it. 6 dor that memory slick, that is why i returned it. 7 guessing, because its a long time ago, i returned it. 6 dor grad. 8 because it had other files. CHAIRPERSON: Can you remember that specifically if there were other files? 9 CHAIRPERSON: Lang understand yource asking wourself why did you give it back to her, but you think to can't remember, is that the correct summary? 10 MIC CHENGO: As tog it doesn't tamper tamsferred, would we find any other documents on any of the other files in thero? 10 CHAIRPERSON: Is that right, maybe it had other files? 10 COMISSIONER HEMAN: In the transferring of the memory slick are not elide or changed at al? 11 Briggeder Mahalela's disc as opposed to a disc that had been - sorry, a slick, a slick findight Mahalela's tak worker provident by SAPS specifically for the sorrece provident or pass grad. 11 Major, we can place on record that we tok a corpy 014000; more and any other documents on any of the charsKALSON SC: Something about that it was sorrece providents or provided by SAPS specifically for the sorrece providents or provided by SAPS specifically for the purposes of recording the meeting? 11 MAOR LETHOKO: Corpect to the purpose of the acting		Page 34370		Page 34372
3 MAJOR LETHORO: Sorry? 3 a other documents onto a memory sitek with vas specifically 4 CHAIRPERSON: Am I statling it accurately? 5 before? 6 In that memory sitek, that is why I returned it, bull 'm 6 MAJOR LETHOKO: No. I don't remember 7 MAJOR LETHOKO: ChairPERSON: Can you remember that specifically 6 MAJOR LETHOKO: No. I don't remember 8 Decause It had other files. That we would need a memory sitek with we we lo 1 9 CHAIRPERSON: Can you remember that specifically 9 mean it belongs to us, so you can put other documents if 10 Interve were other files: 10 MAJOR LETHOKO: No. I man, it we were to 11 remember, cannot confilm member. 11 MACRAISON SC: If wait here recordings that are in the memory sitek. 14 yoursef why did you give it back to the Brigader. You 14 MR CHASKAISON SC: If wait here recordings that are in the memory sitek. 15 because maybe it had other files: 14 MAIOR LETHOKO: No. 16 that sort that dother files: 16 16	1	-	1	-
4 CHARPERSON: Am I stating it accurately? 4 recorded in NMF meetings? Have you encountered that ever 5 MAUGR LETHOKO: I don't remember what was 5 before? 7 guessing, because it's a long time ago, I returned it 7 dong that, but sometimes you would need a momory stick and 9 CHAIRPERSON: Can you remember that specifically 7 dong that, but sometimes you would need a momory stick and 9 CHAIRPERSON: Can you remember that specifically 9 mean it belongs to us, so you can put other documents if 10 If there ware other files? 10 MAUGR LETHOKO: No, I'm saying I don't 11 MAUGR LETHOKO: I can understand you're asking 13 with the recordual was file and the memory stick. 12 chAIRPERSON: Harper thac curve to the singulater. You 14 go to your, or what was your filing cabine before you were to 13 chAIRPERSON: Harper the curves that the correct summary? 14 memory stick and supplicit. The curves to you would weed an your ask 14 resorve and the files. 16 yousaid word you' was and the files. 15 optime RESSON: Harper than is that the correct summary? 14 MAUGR LETHOKO: No. 1	2	I stating it accurately?	2	MR CHASKALSON SC: Is it practice to put
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1	not?	1	meeting was being held to take the minutes if that had been
2	MAJOR LETHOKO: Yes.	2	considered necessary.
3	MR CHASKALSON SC: And you took minutes	3	MAJOR LETHOKO: Correct.
4	of that meeting on your laptop during the meeting?	4	CHAIRPERSON: Thank you.
5	MAJOR LETHOKO: Yes.	5	MR CHASKALSON SC: Now when you left did
6	MR CHASKALSON SC: Did you stay for the	6	you think that the meeting had finished?
7	extraordinary session that was held at the end of the	7	MAJOR LETHOKO: Yes.
8	ordinary meeting?	8	MR CHASKALSON SC: Did you not make any
9	MAJOR LETHOKO: No.	9	arrangements in relation to the memory stick that would
10	MR CHASKALSON SC: Do you recall what	10	recorded that meeting and that you would have needed to
11	time you left?	11	refer to when you were finalising your minutes?
12	MAJOR LETHOKO: Uh-uh.	12	MAJOR LETHOKO: Sorry, can I get that
13	MR CHASKALSON SC: The Protea Midrand	13	question again?
14	where the meeting was being held.	14	MR CHASKALSON SC: You left the meeting
15	MAJOR LETHOKO: I left the following day,	15	thinking that it was finished.
16	but I don't remember when the meeting ended. It ended	16	MAJOR LETHOKO: Mmmm.
17	late, but I don't remember the time.	17	MR TIP SC: Did you not make any
18	MR CHASKALSON SC: So you stayed over at	18	arrangements to get a memory stick of the meeting that you
19	the Protea Midrand on the night of the 15th?	19	thought had just finished?
20	MAJOR LETHOKO: Mmmm.	20	MAJOR LETHOKO: No, I did not at that
20	MR CHASKALSON SC: But you left the	20	time.
	-	22	MR CHASKALSON SC: Why not?
22	meeting before the extraordinary session was held on	22	MAJOR LETHOKO: Because I knew we will
23	approximately, or we've been told in the region of 9	_	
24	o'clock on the 15th. So you weren't present when the	24	get it from the IT guys who were assisting us in that
25	extraordinary session was held?	25	meeting.
	Page 34375		Page 34377
1	Page 34375 MAJOR LETHOKO: No.	1	Page 34377 MR CHASKALSON SC: So what is the usual
1 2	-	1 2	5
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2	MAJOR LETHOKO: No. MR CHASKALSON SC: Do you recall who from	2	MR CHASKALSON SC: So what is the usual practice, when do you get the stick from the IT guys?
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1	Page 34378	1	Page 34380
1	COMMISSIONER HEMRAJ: And if it's not	1	load to mine for compiling the minutes and for filing." Do
2	given to you directly –	2	you recall who – and it may be the same question that we
3	MAJOR LETHOKO: It would be given to	3	asked you earlier, but do you recall who told you by the
4	anyone of us, like personnel from Executive Secretariat.	4	17th that the memory stick had been given to Brigadier
5	COMMISSIONER HEMRAJ: And on those	5	Mahlalela?
6	occasions when it would not have been given to you directly	6	MAJOR LETHOKO: It's Sergeant Matthys.
7	after the meeting, when would it have been given to anyone?	7	MR CHASKALSON SC: Cedric Matthys?
8	MAJOR LETHOKO: It's usually given	8	MAJOR LETHOKO: Mmmm. Correct, yes.
9	immediately after the meeting, because we never see the	9	MR CHASKALSON SC: And when you sent that
10	service provider after that.	10	email at 1:06 on Friday the 17th, when was the last time you
11	COMMISSIONER HEMRAJ: I see.	11	had seen Brigadier Mahlalela?
12	MAJOR LETHOKO: And they have to delete	12	MAJOR LETHOKO: On the 15th.
13	the information from their system.	13	MR CHASKALSON SC: On the 15th, you say.
14	COMMISSIONER HEMRAJ: Yes, thank you.	14	MAJOR LETHOKO: Mmmm.
15	CHAIRPERSON: Is it normally done before	15	MR CHASKALSON SC: Was she not in the
16	you leave? In the past you've been at meetings –	16	office on the 16th?
17	MAJOR LETHOKO: Normally, yes.	17	MAJOR LETHOKO: No.
18	CHAIRPERSON: And normally you wait until	18	MR CHASKALSON SC: Were you in the office
19	the recording has been downloaded to a memory stick, I take	19	on the 16th?
20	it, normally?	20	MAJOR LETHOKO: If it was not a weekend,
21	MAJOR LETHOKO: Yes.	21	yes I was.
22	CHAIRPERSON: And you normally I would	22	MR CHASKALSON SC: It was a Thursday.
23	imagine as part of your duties make sure that the original	23	MAJOR LETHOKO: Then I was.
24	recording has been deleted by the contractor who's been	24	MR CHASKALSON SC: You see, we've looked
25	responsible for making the recording. Is that also right?	25	at Brigadier Mahlalela's cell phone records and you'll find
	Page 34379		Page 34381
1	MAJOR LETHOKO: It's not my	1	them, the relevant part, it's exhibit HHHH6, bundle pages
2	responsibility to ensure that they delete, but I –	2	17 to 18, and from those cell phone records it appears that
3	CHAIRPERSON: No, but you normally do	3	she was in the vicinity of the office from 12 to about 5 on
4	that, don't you? Or do you?		
-		4	the 16th. If you go to pages 17 and 18 you will see that
5	MAJOR LETHOKO: No, I don't wait for them	4 5	the 16th. If you go to pages 17 and 18 you will see that
5 6	MAJOR LETHOKO: No, I don't wait for them or make them record. I just receive a memory stick, that's		the 16th. If you go to pages 17 and 18 you will see that the cell phone tower that was transmitting her signals was
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6	or make them record. I just receive a memory stick, that's all.	5 6	the 16th. If you go to pages 17 and 18 you will see that the cell phone tower that was transmitting her signals was the cell phone tower at Skinner Street. Is Skinner Street nearby the office?
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	Page 34382		Page 34384
1	relation to the memory stick?	1	MAJOR LETHOKO: No.
2	MAJOR LETHOKO: No, we never had any	2	MR CHASKALSON SC: Now we know from
3	contact.	3	Brigadier Mahlalela's affidavit that the stick has now been
4	MR CHASKALSON SC: Now Brigadier	4	lost. Are you aware of that?
5	Mahlalela suggested that he could collect, that Kagiso	5	MAJOR LETHOKO: I read in the statement,
6	Tlale could collect the stick from her home. Is it	6	yes.
7	customary practice for memory sticks to be held at a home	7	MR CHASKALSON SC: Would we be correct
8	for – gosh, that would be four days after an NMF meeting.	8	that Brigadier Mahlalela would have been the person
9	MAJOR LETHOKO: No, it's not.	9	responsible for its safekeeping in the circumstances that
10	MR CHASKALSON SC: Did you expect that	10	have been described to us?
11	you would get the memory stick back on the Monday, which	11	MAJOR LETHOKO: Yes.
12	would be the 20th, after you received Brigadier Mahlalela's	12	MR CHASKALSON SC: And did you see it at
13	email?	13	any time again after you gave it back to Mr Tlale on the
14	MAJOR LETHOKO: Did I expect that?	14	21st of August?
15	MR CHASKALSON SC: That you would get the	15	MAJOR LETHOKO: No.
16	memory stick back the next working day, which was the	16	MR CHASKALSON SC: Are you aware of any
17	Monday?	17	other original memory stick of an NMF meeting that's been
18	MAJOR LETHOKO: Well, I sent the email	18	lost?
19	because she was not in her office. That is why I sent the	19	MAJOR LETHOKO: No.
20	email.	20	MR CHASKALSON SC: We were told by
21	MR CHASKALSON SC: But she said she would	21	Brigadier Mahlalela that the recordings of NMF meetings are
22	leave it for Kagiso to collect from her home.	22	so secret that we weren't allowed to listen to them and we
23	MAJOR LETHOKO: Mmmm.	23	weren't allowed to receive copies of minutes. Of course
24	MR CHASKALSON SC: Were you then	24	now that she's lost the memory stick with the audio files,
25	expecting to receive it on the Monday?	25	if any stranger finds that memory stick they'll be able to
	Page 34383		Page 34385
1	Page 34383 MAJOR LETHOKO: The 20th?	1	Page 34385 listen to this top-top secret information. Do you know if
1 2	-	1 2	
	MAJOR LETHOKO: The 20th?		listen to this top-top secret information. Do you know if
2	MAJOR LETHOKO: The 20th? MR CHASKALSON SC: The 20th, yes.	2	listen to this top-top secret information. Do you know if any disciplinary proceedings have been instituted against
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MAJOR LETHOKO: The 20th? MR CHASKALSON SC: The 20th, yes. MAJOR LETHOKO: Yes. MR CHASKALSON SC: But in fact it only arrived on the 21st. Is that correct? MAJOR LETHOKO: Correct, yes. MR CHASKALSON SC: Do you recall when on the 21st you received the memory stick from Kagiso Tlale? MAJOR LETHOKO: No. MR CHASKALSON SC: What your computer records is that the files were copied across sometime – let me get this accurate – in the region of 2 o'clock on Monday afternoon. Would that have been the time that you got the stick? Did you do the copying as soon as you got the stick? MAJOR LETHOKO: Possibly, yes. I might have received it earlier but maybe because I was busy with other things I only loaded it, the recordings at that time. MR CHASKALSON SC: And you then, we traversed this issue already, having made the copies you gave the stick back to Mr Tlale because you thought it was Brigadier Mahlalela's stick.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	listen to this top-top secret information. Do you know if any disciplinary proceedings have been instituted against Brigadier Mahlalela for losing the stick? MAJOR LETHOKO: No, I don't know. MR CHASKALSON SC: Do you know whether it's the practice of SAPS to conduct disciplinary proceedings when people responsible for classified material of such a secret nature lose that material? MAJOR LETHOKO: No, I don't know. MR CHASKALSON SC: And it's not just disciplinary proceedings because in our view it would also be a criminal offence under section 4(1)(did) of the Protection of Information Act 1982 to neglect or fail to take proper care of a memory stick of this nature. Do you know if any criminal proceedings have been instituted against Brigadier Mahlalela in this regard? MAJOR LETHOKO: Like I said, I don't know. MR CHASKALSON SC: Before we move further to subsequent matters relating to the minutes of the NMF extraordinary session I want to clarify one matter which needs to be set straight, and I'll do this very quickly.

		1	
	Page 34386		Page 34388
1	audio files that were on your hard drive for this meeting?	1	memory stick that was given to you, you wouldn't know about
2	MAJOR LETHOKO: Correct.	2	that. Do you confirm that?
3	MR CHASKALSON SC: And over the page on	3	MAJOR LETHOKO: No, I wouldn't. MR CHASKALSON SC: And now that the
4	7.2 is the properties of those files. Now if one looks at	4	
5	the properties of those files we see on each one of them,	5	original memory stick, which is the memory stick that was
6	if we look at the modified date, which is the date on	6	given to you, has been lost, we and our experts have no way
7	which, ordinarily in which they were last changed, that	7	of establishing whether there ever was another file on that
8	date is 21 August 2012 between 2:13:57 and 2:14:32.	8	memory stick because we can't examine that memory stick. I
9	Now ordinarily the last modified date of a file	9	want to move now to other matters relating to the minuting
10	reflects the time on which that file was last saved either	10	of that extraordinary session. I want you to go to exhibit
11	in its original state or in a changed state, and if you go	11	9 which is at page 41 of the bundle, exhibit HHHH9. That
12	to exhibit 8, which is a list of the properties of audio	12	is an e-mail that was sent from Brigadier Mahlalela to you
13	files from other NMF meetings, you will see that the last	13	on the 29th of August at 10:47. Now before we discuss the
14	modified date of these files corresponds broadly – well,	14	content, will you confirm that this e-mail was sent from
15	not broadly, corresponds to the date on which the meeting	15	Brigadier Mahlalela to you before you had circulated a
16	was held because the file gets saved at the meeting and	16	draft to the members of the NMF for their comments on the
17	that's the time that gets recorded on it. So that was an	17	draft minutes?
18	anomaly which we had to investigate. We have investigated	18	MAJOR LETHOKO: Correct.
19	it and there is an explanation for it which I need to put	19	MR CHASKALSON SC: And the text says,
20	on record because I've opened the matter in the first	20	"Please receive additional for inclusion in the minutes of
21	place.	21	the previously held meeting. The session took place
22	The explanation is that the recording equipment	22	shortly after the NMF with delegation as I have indicated
23	used by the service provider who was at the Protea Hotel	23	in the attachment." If we can go to the attachment which
24 25	was of a fairly primitive nature and didn't have its own	24	is exhibit HHHH10 at page 42 at 10.1, that is a minute of
25	internal clock in it. So when the memory stick was saved	25	the extraordinary session and in fact it is verbatim the
	Page 34387		Page 34389
1	Page 34387 on that machine at the Protea Hotel it was saved without a	1	Page 34389 same as the minute that was ultimately included in the
1 2		1 2	5
	on that machine at the Protea Hotel it was saved without a		same as the minute that was ultimately included in the
2	on that machine at the Protea Hotel it was saved without a time because the machine on which it saved did not have an	2	same as the minute that was ultimately included in the draft that was circulated to members of the NMF. Can you
2 3	on that machine at the Protea Hotel it was saved without a time because the machine on which it saved did not have an internal clock, and what our experts tell us in that regard	2 3	same as the minute that was ultimately included in the draft that was circulated to members of the NMF. Can you confirm that?
2 3 4	on that machine at the Protea Hotel it was saved without a time because the machine on which it saved did not have an internal clock, and what our experts tell us in that regard is that the first time thereafter that a memory stick gets	2 3 4	same as the minute that was ultimately included in the draft that was circulated to members of the NMF. Can you confirm that? MAJOR LETHOKO: Mm, it's true, yes.
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1	MAJOR LETHOKO: It depends.	1	the SAPS legal team to establish that and inform us? Now,
2	MR CHASKALSON SC: Well, are you aware of	2	if we can then move to JJJ177 which is the draft minute
3	any instance where this has happened before?	3	that you ultimately circulated in October 2012 to the
4	MAJOR LETHOKO: Yes.	4	meeting of the NMF. In fact we don't need to call that one
5	MR CHASKALSON SC: Can you give us an	5	up, let's rather call up LLL2 where we will need some
6	example?	6	detail but do you recall that the wording that we've just
7	MAJOR LETHOKO: Other documents that we	7	looked at that originated in that file "Extraordinary
8	deal with in our office, yes, she copies her.	8	session NATCOM/LONMIN" was then included in draft minutes
9	MR CHASKALSON SC: But can you give us a	9	that you prepared and circulated to the next meeting of the
10	specific example because we actually looked on your hard	10	NMF in October 2012, do you recall that?
11	drive and we were unable to find one. I'm not saying it	11	MAJOR LETHOKO: Yes, I did include it.
12	doesn't exist but – so maybe can you give us a specific	12	MR CHASKALSON SC: And in the minutes of
13	example, one you remember?	13	that October NMF meeting LLL2 under item 1.3 at the bottom
14	MAJOR LETHOKO: It could be a notice of a	14	of paragraph 7 under item point 3 it says, it says under 7,
15	meeting where she is also copied.	15	page 20, "Minutes must be adopted until page 19." The
16	MR CHASKALSON SC: But I'm talking about	16	minute we're talking about constituted the whole of page 20
17	0	17	and if we go over the page, "Lieutenant-General Ludiya
	draft minutes of NMF meetings which are copied to the		
18	National Commissioner before draft minutes are circulated	18	suggested that page 20 of the NMF minute be detached from
19	to other members of the NMF, that's what I'm asking about.	19	the minutes as they did not form part of the NMF. NATCOM
20	Has that ever happened before?	20	inquired that the minutes should be adopted up to page 19
21	MAJOR LETHOKO: I can't remember now.	21	and those who were part of the session will adopt. The
22	MR CHASKALSON SC: Well, can I ask you to	22	forum members agreed. NATCOM concluded the minute should
23	do this exercise? Like I say, we looked on the hard drive	23	be adopted up to page 19, the extraordinary session would
24	for that and couldn't find it.	24	adopt up to page 20." Were you present at the NMF meeting
25	MAJOR LETHOKO: Mm-mm.	25	in October 2012?
	Page 34391		Page 34393
1	MR CHASKALSON SC: If you can find an	1	Page 34393 MAJOR LETHOKO: No, I was not.
1 2	-	1 2	
	MR CHASKALSON SC: If you can find an		MAJOR LETHOKO: No, I was not.
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	Page 34394		Page 34396
1	after the meeting to which it related?	1	MR CHASKALSON SC: Were you aware that 9
2	MAJOR LETHOKO: This was after the	2	April 2013 was in a short break in the middle of the
3	meeting in October and I was then asked to separate these	3	National Commissioner's testimony before this Commission –
4	minutes, the extraordinary session, into a document that	4	at the time were you aware that the National Commissioner
5	represents minutes. So I compiled it as it is.	5	had testified up to 5 April 2013 and then the Commission
6	MR CHASKALSON SC: Well, who asked you?	6	took a short recess and she came back when the Commission
7	MAJOR LETHOKO: Brigadier Mahlalela.	7	resumed on the 16th of April 2013?
8	MR CHASKALSON SC: And when did she ask	8	MAJOR LETHOKO: No, I wasn't.
9	you?	9	MR CHASKALSON SC: Were you not aware
10	MAJOR LETHOKO: I can't remember but it	10	when the National Commissioner was testifying to this
11	could have been around April.	11	Commission?
12	MR CHASKALSON SC: Would you not have	12	MAJOR LETHOKO: Well, I was aware but I
13	been asked closer to October when the meeting took a	13	did not take note of the date.
14	decision that a minute had to be prepared for adoption	14	MR CHASKALSON SC: But on the 9th of April
15	specifically by the extraordinary session?	15	you would have been aware that the National Commissioner
16	MAJOR LETHOKO: It couldn't have been. I	16	had been testifying and was going to testify, would you
17	was on a course from September until December so I was not	17	not?
18	in the office.	18	MAJOR LETHOKO: I don't remember.
19	MR CHASKALSON SC: Can we assume that you	19	MR CHASKALSON SC: Can I get back to your
20	would have acted on the request fairly promptly when you	20	answer to a question a little earlier? You said Brigadier
21	received it, so that the request must have come sometime	21	Mahlalela indicated that you had to change the list of
22	shortly before 9 April 2013?	22	attendees because some of the people on your list weren't
23	MAJOR LETHOKO: Correct.	23	there.
24	MR CHASKALSON SC: And you hadn't	24	MAJOR LETHOKO: Mm.
25	previously received any request of this nature?	25	MR CHASKALSON SC: When did she do that?
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	Page 24205		Page 24207
1	Page 34395 MAJOR LETHOKO: No.	1	Page 34397 MR CHASKALSON SC: It could have been
1 2		1 2	-
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	Page 34398		Page 34400
1	MAJOR LETHOKO: Mm-mm.	1	CHAIRPERSON: No, no, no, you haven't
2	MR CHASKALSON SC: It says, "Responsible	2	answered my question. Let me ask it again. I take it if
3	person(s) and completion date" and it says there, "National	3	they had been confirmed while you were still in the office
4	Commissioner."	4	before you were transferred, you would have known about it.
5	MAJOR LETHOKO: I'm lost, which document	5	MAJOR LETHOKO: True.
6	are you referring to –	6	CHAIRPERSON: And you don't remember it
7	MR CHASKALSON SC: Sorry, exhibit 11.1.	7	ever having happened?
8	MAJOR LETHOKO: Which one is 11.1?	8	MAJOR LETHOKO: Mm-mm.
9	MR CHASKALSON SC: Let me ask the	9	CHAIRPERSON: Was this the first
10	question before – did you understand the National	10	extraordinary session of this kind that you'd ever come
11	Commissioner to be responsible for this extraordinary	11	across in the course of your duties?
12	session?	12	MAJOR LETHOKO: As far as I'm concerned,
13	MAJOR LETHOKO: She is the chairperson of	13	ja.
14	the management meeting, so I assumed she was responsible.	14	CHAIRPERSON: The first one where, at the
15	MR CHASKALSON SC: And so that's why you	15	next meeting of the National Management Forum, those
16	entered her name there?	16	present declined to confirm the minutes, the special
17	MAJOR LETHOKO: Mm-mm.	17	minutes of the extraordinary session and left them to be
18	MR CHASKALSON SC: I see also in respect,	18	confirmed by another extraordinary session if ever one were
19	annexed to "Purpose of the session" you put in a few	19	held? Is that, is this the first time you've ever come
20	question marks and said, "Brigadier, I'm thinking maybe	20	across that as well?
21	here the purpose of the session should be stipulated." Can	21	MAJOR LETHOKO: As far as I'm concerned,
22	you confirm that that was a comment that you made?	22	ja.
23	MAJOR LETHOKO: Correct.	23	CHAIRPERSON: Thank you.
24	MR CHASKALSON SC: And did the Brigadier	24	MR CHASKALSON SC: Major, when were you
25	ever revert to you to indicate what the purpose of the	25	transferred?
	Page 34399		Page 34401
1	Page 34399 session was?	1	Page 34401 MAJOR LETHOKO: Last month.
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3 CHAIRPERSON: A few days, thank you.	
4 MR CHASKALSON SC: Chairperson, I don't	
5 have any further questions.	
6 CHAIRPERSON: Thank you very much. Well	
7 thank you very much, Major, for coming. You'll be excused	
8 from further attendance. Thank you. The Commission will	
9 now adjourn and resume at 9am on Monday morning. SMSs ha	e
10 been distributed saying 9:30, but I've decided that we	
11 should make a point of starting at 9 o'clock because we may	
12 need all the time we can get. So I'd be grateful if	
another SMS could be sent out saying we'll start at 9	
14 o'clock on Monday morning. The next witness, I understand	
15 will be the deputy president.	
16 [COMMISSION ADJOURNED]	
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RealTime Transcriptions

Marikana Commission of Inquiry

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