

INQUIRY IN TERMS OF SECTION 29

HELD AT

DURBAN

ON
3 OCTOBER 1997

MICHAEL ADRIAAN VAN DEN BERG

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CHAIRMAN: Before we start we'll have to swear in the technicians and the interpreting staff, because they're not permanent members of the Commission. Could the technician, Kevin, and the two interpreters please come forward and just take the oath.

TECHNICIAN AND INTERPRETERS SWORN IN

CHAIRMAN: Just before I read the introductory comments I think we should swear in your client. Mr van den Berg, if you could just take the oath.

MICHAEL ADRIAN VAN DEN BERG (Sworn, States) (Through Interpreter)

CHAIRMAN: This is an inquiry in terms of section 29 of the Promotion of National Unity and Reconciliation Act of 1945. It is not a hearing, it's a closed, investigative inquiry. No findings are made at this inquiry.

I will briefly outline the duties and obligations of the parties present here today. The person subpoenaed is Mr Michael Adrian van den Berg. He has the right to legal representation, and he is represented here today by Advocate Toweel of the Pretoria Bar, and Ms Coetzee of the firm - just help us there, Ms Coetzee.

MS COETZEE: (Inaudible)

CHAIRMAN: In terms of section 31 of the Act any person subpoenaed to give evidence shall be compelled to answer any questions put to him, notwithstanding the fact that the answer to that question may incriminate him. There are conditions applicable to this section, and they are as follows. There must have been consultation with the regional Attorney-General. The Chairperson of the inquiry must be satisfied that the request for

information is

/reasonable

reasonable, necessary and justifiable in an open and democratic society, and the witness of course must have refused to answer the particulars question. The Act also provides that any incriminating evidence obtained at an inquiry of this nature is not admissible against the person concerned in a criminal court, or in any other institution established by law. There is one proviso to this, and that is that any evidence obtained at this inquiry may be used against the person giving the information where the person is charged with perjury arising out of the making of conflicting or untrue statements to the Commission.

I also finally just wish to draw your attention to the offences section. In terms of the Act it is an offence in terms of section 39 as follows:

"Any person who hinders the Commission, or Commissioner or staff member of the Commission, in the exercise or the performance of his or their duties or powers under the Act shall be guilty of an offence, or any person who wilfully furnishes the Commission, or Commissioner or staff member of the Commission, with information which is false or misleading shall commit an offence,"

and there are appropriate penalties for that - imprisonment for a period not exceeding two years, and a fine, or both.

The panel here today is myself, Mr R Lyster, and
Mr I Lax, both of the Human Rights Violations Committee
/for this
for this region.

Mr Toweel, before we start are there any issues
which you want to put on the table, or ...
(intervention)

MR TOWEEL: Nothing for now, Sir.

CHAIRMAN: ... put on your side of the stage?

MR TOWEEL: Nothing.

CHAIRMAN: Your client is not going to make any sort of
pre or opening statement, or ... (incomplete)

MR TOWEEL: Mr Chairman ... (intervention)

CHAIRMAN: He's certainly not obliged to, but I mean it
has been the case with other people who have been
subpoenaed in the past. They've made a short statement.

MR TOWEEL: Mr Chairman, we've decided that our client,
except for the fact that he is obliged to answer all the
questions, and wants to answer the questions, and he
awaits your questions, we've got no opening statement.

CHAIRMAN: Okay, what - in order to give us a picture
of who you are, and where you fit into the structures of
the military, we would like you to briefly give us a
sketch of your career, your career in the South African
Defence Force, up to such time as you were appointed as
a senior staff officer in Operation Marion. So, we
would expect you to briefly go through your - what
positions you held in the Defence Force prior to this
date, including the role that you played in the other
DST project, which was the LLA project. We are aware
that there's a statement that you have made to that
effect. I know we haven't posed questions relating to

LLA, but you have certainly made statements to the SAP concerning your role in that, and we expect you just to provide us with some background, as I say, up to and including - or up to your appointment

/as senior as senior staff officer on Operation Marion. So, do it in your own time, and, you know, if you try and do it in chronological sequence, and if there are things that you've left out or forgotten please feel free to come back and fill in what ever gaps you feel have been left.

MR TOWEEL: Mr Chairperson, I have heard of some questioning that took place for a certain period of time via legal representatives which objected. That's not my duty, but in terms of this question mention was made of the LLA, and I have not at all consulted Mr van den Berg on this issue because the section 29 notice didn't mention this. I will not object should he mention that he was involved, but any detail in my submission we should have been notified on that he is going to be asked on this issue, and, as I understood the section 29 notice, this was not part of the questioning, so I will raise objections if detail is requested in terms of LLA or Operation Endeavour.

CHAIRMAN: Ja, we don't want to go into the LLA in any detail at all. We just - as I say a statement has been made. I am not quite sure whether Mr van den - sorry, are you addressed as Mr or Colonel? --- Mr Chairperson, it doesn't matter to me. You can call me Mr.

(Inaudible) ... the ITU, but if he doesn't he can certainly have it to refresh his memory, but we don't

intend to go into any detail on LLA matters. So we will expect him certainly to briefly place on record what he has already placed on record in other documentation.

MR TOWEEL: No objection, Mr Chairperson.

CHAIRMAN: Mr van den Berg, then if you could then just give us a sketch of your career in the Defence Force up to

/your appointment

your appointment as senior staff officer in Marion, your qualifications, where you worked, your postings, and how you ended up at that particular point. ---

Mr Chairperson, it will take some time. I will try to do it chronologically, starting about 35 years ago in 1961. After I had finished my matric I attended the Gymnasium. May I just ask whether I am speaking at the right rate?

INTERPRETER: Yes. Yes, that's fine. --- During my year at the Gymnasium an opportunity arose to attend a young officer's course. I applied. I was accepted and attended the course. Another opportunity also arose to apply for military training at the Military Academy. I also applied for that and was accepted, which meant that in 1962 to 1964, for a period of three years, I obtained a degree, the B.Military degree at the Academy through the University of Stellenbosch. At the end of 1963 we were given a temporary commission appointment, and at the end of 1964, when I obtained my degree, we got a permanent commission appointment in the Defence Force, which meant at the end of 1964 I became a full lieutenant.

Thereafter I was posted to Infantry Battalion at Oudtshoorn, where I appointed or reported that I didn't

assume any service, because for the period that I was there I was continuously on some or other course. The 1965 period I was transferred to a different Infantry Battalion at Grahamstown. There I occupied different posts as a junior officer up to the end of 1969.

I was then promoted to the rank of major and I was transferred to Oudtshoorn, the South Cape command. There I fulfilled an administrative and logistic post. I cannot give you the exact title that I occupied. Approximately

/a year

a year later I was again transferred. It was not an area transfer, but to the Infantry School - it was at the same base - and there I served as a training officer. This position I occupied until the end of 1973.

At the end of 1973 I was transferred to Pretoria to the headquarters of the Defence Force, where I served for two years. During this period I attended the staff officers course, and I also held a training post at the Directorate of Infantry.

At the end of 1975 I was promoted to commandant, and I was transferred back to the Infantry School at Oudtshoorn, where, until the end of 1977, I was again appointed in a training capacity.

At the end of 1977 I was transferred to Potchefstroom, where I was appointed as commander of the South African Cavalry Centre. Chairperson, I think I might have skipped a year. I just want to collect my thoughts. (Pause) Chairperson, I cannot recall the year, but I was transferred to Potchefstroom and I was commander of the Cavalry Centre at Potchefstroom for a

year. After that I was appointed as commander of 3 South African Infantry Battalion, also at Potchefstroom, up to and including November or October of 1979.

Thereafter I was promoted as colonel and transferred to Pretoria's head office in the capacity of corporate director of the South African Military Police.

This position I held for two years. Thereafter I was appointed, still at the army headquarters, as senior staff officer for security. That was a post I occupied for two years.

In January of 1984 I was transferred or delegated to

/Military

Military Information Division in Pretoria, where I worked until I retired in November of 19 - I beg your pardon, it was August of 1992.

Can you just briefly go back to your appointment - you said you were appointed in January 1984 to Military Information. Military Intelligence, sorry. That's how it was translated. What was your role there? What was your - first of all what was your rank, and what ... (incomplete) --- I was colonel. The post was called SSO Log Ops, which stands for senior staff officer, Logistic Operations, at the Directorate of Special Tasks of Military Intelligence. That was a position I held for three years.

(Inaudible) ... time that you spent as a logistics officer at Ferntree? --- No, that was afterwards. It was after '84.

(Inaudible) --- Mr Chair, that is not entirely correct. As logistics officer I was also involved with Ferntree, in the sense that I was responsible for all

aspects of the Directorate of Logistical Services.

However, if we speak particularly of Endeavour, that was after this particular time span. I was not directly involved with Endeavour until 1984.

MR LAX: I am misunderstanding you here. I understood the question to be what did you do after you were transferred to Military Intelligence Division from January 1984, and I understood your answer to be that in fact for three years from January 1984 you were in charge of - senior staff officer, logistics, in the Directorate of Special Tasks. Is that correct, because then in that period the next question was, during that time were you

/then involved then involved in Ferntree at all, and your answer just implied that before 1984 you weren't involved in Ferntree. So there just might be some misunderstanding.

Maybe we can clear that up. --- Mr Chairperson, it is a misunderstanding. In January '84 I started at Intelligence for the first time in the capacity that I mentioned.

(Inaudible) ... repeat Mr Lyster's question again then. After January '84 you would have had some involvement with Ferntree, and what - just for our own purposes, what role did you play in that regard, just as a staff officer? What were your duties there? We don't want to go into details about Ferntree per se, but - as we've already discussed it. --- Fine, Mr Chairperson. There were different operations which were run by DST. As the logistics officer I had to see to the logistical needs as identified and demanded by different operations. I don't know if you want me to

elaborate on this. What I wanted to state is that I only knew that such operations existed such as the Endeavour operation. I didn't know where Ferntree was, or what it was. Allow me to explain. If I was given a request for logistics then I knew that the information required for Operation Endeavour, and I would take the necessary steps to see that the person who had lodged this request would get the information.

You seem to be implying that you didn't have any detailed knowledge of any of these operations, you just simply received requests for resources of one kind or another. Is that right? --- That was during the first three years from January '84 until the end of '86 - actually just after '86.

/How would

How would you have been able to assess as a logistics officer whether that was a real need, or whether there was anything irregular perhaps in the requests, if you didn't have a fuller knowledge of those operations? --- Chairperson, I would not have known this, but as far as I was concerned it was a normal logistics system which we ran. Although it's not exactly the same as used in the army, but it was a recognised and legally accepted system, so there was no reason to assume that anything was irregular because it concerned military equipment needed for approved operations.

(Inaudible) ... not implying that anything was unlawful at all at this stage. What I am saying though is in order to evaluate the request you would have had to know something about the activities of the operation, so that you could assess as a senior logistics officer

that what they were asking for in the nature of resources was reasonably necessary in relation to that kind of project. One would expect that to be your responsibility. Do you see what I am really asking you? I am saying you would have needed some detailed knowledge of those operations in order to be able to do that.

CHAIRMAN: In fact if I could just interrupt there. According to the statement which you made, which we have here, and of course you're entitled to a copy of it, you said that you had,

"I had no insight into the execution and planning of these operations."

According to your statement it seems as though you had a fairly detailed knowledge of what the infrastructure of the operation at Ferntree consisted of. You've given a /fairly fairly detailed account of where the place was, what it consisted of, how many people were there, the nature of the accommodation, etcetera, is that correct?

MR TOWEEL: Chairperson, I am not going to repeat my objection, but I do want to point out that you are asking Colonel van den Berg in terms of '84 to '86, and I see that in the statement he says that although he knew about these operations he didn't have any insight in the planning and execution of these operations. And then he says,

"Only from 1987 did I become involved in these operations,"

so my submission is that it's not a fair question to put where the colonel has stated that he just had a logistical duty up to '86, and only from '87 did he

become more involved.

MR LAX: Mr van den Berg and Mr Toweel, I hear your objections. Really in the way I originally framed the question it wasn't a detailed one, it was simply to try and understand your original answer, and perhaps we can just leave it at that level, where - just for the risk of repeating myself again, just so we can be clear what we are all talking about. As I said before, one accepts that you would not necessarily have had a detailed knowledge of the projects, but you certainly would have had to be familiar with what they might reasonably require, otherwise what would be your role as a senior logistics officer at all? --- Chairperson, just to clarify matters - Mr Toweel has to a certain extent done this already - I just want to make sure that from '87 onwards, or let me state it this way. What I've said in the



/statement

statement is information obtained after I became involved directly in the operations after '87, but the period before that as logistics officer you are partially right. I knew the name of the operation, I knew broadly what these operations were about. For example, Endeavour, I would have known that it concerned Lesotho. I would have known there's a place called Ferntree. I didn't know where it was, or in detail who was there and what was being done there. A lot of the information was my own deduction. If a person, for example the officer in control of Endeavour, would ask for food provisions, then I knew it's going to Ferntree because I provided vehicles to get it to Ferntree, but I was never told, "This is the situation at Ferntree." So

you are right in saying that I did have broad understanding of the operations, but no detailed understanding.

Which other operations, as senior staff officer, logistics, would you have been responsible for in that capacity? I understood you to say all the operations, if I understood you correctly, at that stage, but maybe you can just expand. Endeavour was just one of them. What were the others at that time, '84 onwards? --- Chairperson, the names have changed since. I cannot give you all the names. There was Operation Marion, as we've already established, Endeavour. There was one that concerned Angola, and there was on dealing with Mozambique. Those are the main ones I can remember. There were smaller ones. I can't recall them. They weren't really of a strong logistical nature.

(Inaudible) ... projects in Mozambique, that's Lesotho Liberation Army, Unita, Renamo, were external DST

/projects.
projects. I mean this is all common - it's been commonly discussed. And Marion was an internal DST project. --- Correct.

(Inaudible) ... logistics officer for all of those projects, so if you got a request to supply trucks or weapons to be delivered to Mozambique, or to Renamo, that would be your function to ensure that those items, whatever they were, were properly supplied. Was that your role as a logistics officer? --- That is correct. And naturally within the framework of the available ability, logistical ability that we had. And I had to make sure that the procurement was done on army

level by institutions that made the deliveries. We didn't have our own supplies.

CHAIRMAN: You were there from January 1984 for approximately three years, you said. You would have been based in Pretoria at that time, is that correct?

--- Correct.

Specifically that would have been at Staines, is that right, or which base? --- It wasn't in a base.

I provided assistance at the chief staff - in Military Intelligence headquarters in the city.

After that three year period what happened next? Sorry, before you go on can I just find out - in your statement which you made to the police you talked about the infrastructure and the logistics as you knew it, as far as you knew it, about Operation Endeavour. When did you gain that knowledge? Was it between 1984 and 1986, or was it after 1986? Because you've given a detailed account of what the base camp for Operation Endeavour, that is Ferntree - you've given a detailed account of what

/it consisted it consisted of. When did you gain that knowledge? -- Chair, that was during the beginning - or after the beginning of 1987. As I have mentioned earlier there were little things I knew, for instance, that this was a base somewhere in Natal. But that I just came to know through the exercise of my normal tasks.

Okay, if you will then, as per Mr Lax' question, deal with the situation after the end of 1986. --- I can't remember in detail, but from the beginning of 1987 I was appointed in a different capacity. My previous position was filled by another person, and I was

appointed in what we called an operational capacity or position, where I then became directly involved in Operation Endeavour. An operational posting I presume.

And what did that involve? --- It involved bringing myself fully up to scratch on what was involved in the operation. I then had to manage the operation in terms of the guidelines that were in effect for the operation at that time.

Mr Toweel, your client, as you pointed out earlier on, didn't - he wasn't told that he was required to answer questions on the Lesotho Liberation Army, and I accept that he may not have refreshed his memory during these last couple of weeks on that particular project. It's very useful for us to obtain his understanding and his appreciation of what the LLA was about, and what it intended to do. Now, if he's not prepared to answer those questions now we can, of course, give him an opportunity to refresh his memory, and if necessary to bring him back here, simply by amending the wording of our subpoena. We don't necessarily want to do that, it's a waste of time

/and money.

and money. So, I don't know whether you want to talk to your client. He clearly has a fairly detailed understanding, insofar as a logistics officer can have understanding of an operation, of what that project was about, and he can give us that information either now, or later after lunch, but it's useful for our purposes to have his verbatim comments on record as to what this project was about. He's just informed us that when he was - he got this new posting he was brought up to scratch on what the project was about, and we would like

to have his comments on that before we move on to Operation Marion. So, I don't know whether you want to break for a few minutes to consider that, or whether he wants to do it at a later stage.

MR LAX: Could I, just before you reply, make a suggestion. What might be useful is when we take the lunch adjournment to possibly canvass that with him, and really his reply won't take very long, in the generalised sense that we're just wanting to know what did he understand this project to be, what were its aims, etcetera. It doesn't require a very, very detailed answer, and perhaps if you had an opportunity to help him refresh his memory - if necessary we can give him a copy of the statement, I've think you've got it already - and then after lunch we could just take that, and we can maybe now move on, to not waste time now.

MR TOWEEL: Mr Chairman, my suggestion would have been that we carry on with Marion now. I can place on record that we do have a copy of the statement, but I also want to place on record that because we had no notice that questions would be asked concerning Endeavour no

/preparation preparation whatsoever was done. But I am prepared to take it up with Colonel van den Berg during the luncheon interval. If I don't think that the issues are too contentious then we could come back and answer. It's possible that I come back and I say, "We got no proper notice. We would want to come back, because there are things that I would want to prepare with the colonel," but if he can satisfy me that his rights will not be affected, and that not too much detail might be asked,

and that he can help the Commission, we could very well be in a position after lunch to answer your questions.

CHAIRMAN: With respect, Mr Toweel, it's for you to satisfy him that his rights won't be affected.

MR TOWEEL: Ja, I am sorry. Well, it depends what he knows and what he doesn't know, because, like I say, I have not consulted with the client.

CHAIRMAN: (Inaudible)

MR TOWEEL: Okay. But we'll take it up during the lunch hour interval.

CHAIRMAN: Can you then go on to tell us about your posting as senior staff officer with Operation Marion.

MR LAX: Sorry, if I can just intervene there, just before you do that, just to clarify so we're clear on the record. How long were you involved with Endeavour in this operational post, and was there anything between that and when you got involved with Marion? Just so we can be clear and complete the duty picture, so to speak.

--- Chairperson, I was involved in Operation Endeavour from about January of '87. That's the only operation I handled. At around May in that same year Operation Marion was also allocated to me, which meant I had to run both of

/them jointly them jointly for a certain period, in fact until Endeavour came to an end. It will be difficult for me to give you a date without looking at the statement. It would have been in about 1986, possibly beginning of '87, but that's just an approximate date.

CHAIRMAN: So, from May '87 approximately you became involved in both projects. We're not quite sure when you ceased being involved in Ferntree, but did you

assume any other projects until the time that you retired? I just want to complete the full picture. I don't want us just to go and jump into Marion and then leave that unanswered, so let's just finish this side of the question and then we can move into detail on Marion as per the full details of the subpoena. It's just a big period of five years approximately from May '87 to November '92. I'd just like to complete that, so if you can just take us through that last bit please. ---

Fine. At this stage I would like to mention after Operation Endeavour had come to an end I was only handling Operation Marion until Marion came to an end. That was in about 1991, the beginning of that year more or less. Although I didn't have other operations I did have numerous other tasks, but they weren't operationally related. They were mainly of a logistical nature and administrative nature. Do you want examples?

I can furnish you with some. I just want to refer to my notes. (Pause) (Inaudible - end of Side A, Tape 1)

... practical situation was that it had been envisaged that there should be a chief director with two directors, and the specific directorate where I was had a brigadier, and I was one of the senior staff officers, but the point I am trying to get to is that from me down to the colonel below

/there was there was a big gap. Normally I would have had at least two SO1 posts in my sub organisation, which meant two commandants, with some majors, captains, lieutenants, and so forth. And also several clerks and other support staff, but this was not the case. I was the colonel. Under me there were very few persons. The next person I

had after me was an SO3 category, Opperman, and there were one or two lieutenants. So there was a big gap, and we were understaffed when we had to execute tasks. To get to the other tasks, from my previous experience which I had gained, and because there wasn't somebody else who could do the work, I was also tasked with the control of the vehicles of the Directorate, so I was the transport officer. I was involved in the internal budget of DST, responsible for routine administrative tasks, and I was also the security officer for fire and ... (inaudible) ... evacuating the building, but just in my specific division. These were not full-time tasks, but I do want to draw your attention to these tasks which I was responsible for. It occupied quite a bit amount of my time. Although they weren't particularly difficult ones they were time-consuming.

Did you have training in explosives and bomb disposal and stuff like that? --- I did do a course as a junior officer which dealt with these aspects, but I never obtained the certificate. I never used it, and I could never as a result carry out any such tasks.

(Inaudible) ... given you that certificate. ---

No, it was said to us, Chair, that it was quite a risk. I was considered to be a risk since I couldn't get the certificate.

/Okay. And

Okay. And these duties continued until you retired basically. --- That is correct. After the end of Operation Marion these loose tasks which I referred to continued until the time of my retirement.

Just one last question around this very general biographical sort of stuff, and that is from the period

1984, when you were transferred to this division, who were your commanding officers as far as you can remember? --- Would that be from joining MI, Military Intelligence?

Correct. --- I will not be able to link this to dates unfortunately, but upon my arrival was Brigadier Niels van Tonder, who was the director of Special Tasks. He would then have been my immediate head. The organisation was then changed at a later stage and Brigadier van Tonder was promoted to the rank of general, and he was appointed Chief Director Intelligence Operations, which was an extension of the then Directorate, and he had two directors added to his organisation. By implication this would mean that Brigadier Cor van Niekerk, who was then promoted from colonel to a brigadier, became my director. So that would then have been Brigadier van Niekerk as my new director, but in the same organisation we retained General van Tonder as the chief director.

All right. You said that underneath him there were two directors. Who was the other director? ---

Mr Chair, unfortunately I can't recall. I would have to think about it. I might well be able to recall at a later stage.

Did that structure, that second structure, stay in place until the time that you retired, or did it change at

/all? ---

all? --- It did change again. It was reduced to a single directorate at a later stage. What then happened was that General van Tonder received another appointment, and Brigadier van Niekerk remained as

Director Special Tasks, and so we then resumed our activities in a similar organisational manner when I arrived in the directorate initially.

I think we'll then move on. I think we've had enough of background unless there's anything else that you want to ... (incomplete)

MR TOWEEL: Mr Chairman, obviously I do not ask the questions. While we are busy with Colonel van den Berg's background it could be important later for the questions that will follow if whether he was part of this inlightings network or clan, and whether he had any inlightings courses, whether he had - like they've all got the Ls on their berets, whether he had the L on the beret, and how he fitted into this new organisation. It might help yourselves see the colonel in a certain light and not in a different light. I think it could be important if you want to ask him about that.

CHAIRMAN: Please, if you'll expand on that, Colonel.

--- I will gladly do so. From the background that I've sketched you will see that for my whole life I was an officer in the infantry corps. When I was transferred to Intelligence I entered a world of information which I had very little knowledge of in the intelligence sphere, and had training of a certain extent. The only exposure that I had to training was during my staff course in 1974, and that's in other words 10 years before, and the security background which I also obtained during my service at the

/army headquarters
army headquarters before I went to intelligence. So I did not have any formal intelligence training and a career pattern. Some of the members of the Intelligence

Corps, if I can call it that, did have. In other words members who were part of staff there, the chief of staff, intelligence, how they started their careers and their training, and the rest of their time there, as you are an army officer and you stay there for the rest of your career, it's a similar situation which existed at the staff positions of the army, on a logistical level. You'll find at a financial level also.

(Inaudible) ... you're basically saying that you were like a fish in a new pond, in the sense that you were in a completely different milieu, with a very different ethos. I understand the intelligence section has a very different ethos to other aspects of the Defence Force, particularly the infantry. --- That is true. It's not easy to describe it in detail, but I can sum it up by saying that it's a cultural difference, as you have cultural difference between the fleet and the army and the air force, for example.

(Inaudible) ... the police, for example, the same sort of difference in approach. --- I would think that is the case, yes.

Ja. No, we're familiar - we're actually familiar with that. We're also familiar with some of the problems you experienced in that regard at Ferntree and in relation to Marion, for example, in having to deal with this different culture and a different approach. In some of the other statements of various other individuals that we have had access to they reflect on some of that -

/differences differences in approach, and so we are familiar with that. But thanks anyway. (Inaudible) ... where we're

going timewise. We aim to take the tea adjournment at about half past, just so you know we're not going on interminably, and then we'll take the lunch adjournment at about half past one, just so you can see where the tunnel's heading. Colonel, prior to being briefed by Colonel Moore - I think he was colonel then - what was your understanding and knowledge of Operation Marion?

--- Chairperson, the only thing that I knew about Marion was that training had been done during the operation, and in Caprivi - when I say Caprivi I want to add that it wasn't told me, it's a deduction which I arrived at from logistical requests that were lodged - I realised that it was going to be the northern part of the former South West Africa. Because there was activity in the Caprivi I then understood that that is where the training took place, but to be brief I knew that it concerned training, and that was all that I knew up to the point where I was appointed the staff officer directly concerned with this operation.

Is it correct then that Colonel Moore verbally briefed you on the operation, and that he handed you what he referred to in his evidence in court as the Marion file? Is that correct? --- Yes, that is correct, Chairperson. And I do want to add that Colonel Moore had been quickly transferred at that stage, and when I say quickly it was at short notice, to - I don't know where. I can't remember the detail, but he was transferred, and then the consultation between the two of us took place very quickly. He verbally informed me in a brief moment of time, and in broad outlines. He did give me the file,

/and said

and said that if I wanted more information I could familiarise myself with the contents of the file, which I did at a later stage.

Did you - what did you understand then, having been spoken to by Colonel Moore, and having looked at the file, what was your appreciation and understanding of Operation Marion? --- Chairperson, I established that Operation Marion concerned the training of a group of Zulus in the Caprivi, as I assumed at that time, and that their training had been completed. The persons had since returned to Natal, where they had been recruited for this training, and that the current position of the operation was that I would act as a liaison officer with a Mr Khumalo, who in turn represented the Chief Minister of KwaZulu. In other words my task was to be the link between Khumalo and, of course, the DST or the army as a whole.

(Inaudible) ... about that, but I want to go back to what I asked a couple of minutes ago, and that is what your understanding and appreciation was, as a senior military officer, of what this training was all about? You said to us that you established that it was the training of some Zulus. Now, that doesn't tell us anything at all. I want you to tell us, and I want you to be frank with us, what your understanding, after reading this file and after having been spoken to by colonel Moore, what was your understanding of the purpose of the training? --- Chairperson, the information which I gained really amounted to the following, that the training was motivated by a request of Chief Minister Buthelezi. He approached the Defence

Force, stating that he needed a

/paramilitary

paramilitary force which, amongst other things, could offer a protection service to him. And the motivation, it seemed, was that it had come to his knowledge that certain onslaughts were - either by the ANC or the UDF or jointly - being planned on his life, and some of the leadership elements in KwaZulu-Natal felt threatened by the unrest situation and the political turmoil in Natal at the time.

You said these were a group of Zulus, but they weren't just a group of Zulus, they were specifically recruited people. There was a specific criterion for their recruitment. You would have had to have been aware of that. They weren't just any old Zulus. ---

No, Chairperson, that is incorrect. I did not know this. I had no knowledge or insight of this training. I knew that there was training, and I made some deductions as far as the training was concerned, but I didn't have any direct training knowledge. I never saw a plan for this. What I knew I later obtained.

(Inaudible) ... commanding officer in charge of the project you would want to know what sort of training they had received, you would want to know what you're dealing with. Now you've got to take charge of the situation, and you didn't enquire even at that early stage what kind of training these people had, so you know who you're dealing with. It seems absurd to me, with the greatest of respect. --- It would be, Chairperson, but there is an important point which must be taken into account. When Moore informed me he told me people were being trained, and they were now in

Natal, and I said, "What must we do with them now?" and he said, "No, these people are under the command of Mr Khumalo." And I said, "Fine, what do we

/do?" He

do?" He said, "Your task is one of liaison." And I asked, "What about people on the grass roots level?" and he said, "It's not your task. You don't worry about that. Khumalo is fully in control," and the administration and everything pertaining to these people was Khumalo's task, yours was only one of - mine was only one of liaison, and he highlighted some problems concerning salaries, administrative issues - mainly concerning salary scales. Accommodation was another problem. The police didn't have accommodation. I think there were some problems with uniforms. A decision had to be made as to whether they would or would not wear uniforms. It also concerned weapons. The matter had not been resolved whether they could or should wear weapons. Later I gathered that there was a need to furnish them with weapons, but then licenses became a problem. Moore informed me that Khumalo was taking care of these matters, and it looked as though he was doing it in collaboration with the KwaZulu Police. The impression at that stage that I gained was that this operation, once the training had been completed, was actually no longer a Defence Force matter, that Khumalo received the trainees, that he was responsible for them from then onward, but because of some of these problems the Defence Force still remained involved as far as logistics was concerned. And I gathered the impression that this involvement was of a short nature, and arrived at the conclusion that once the problems had been

resolved the Defence Force would probably end their operation. But the initial request was for the training of these persons, and as far as I know no planning or approval was needed for the continued utilisation or application of these

/people

people after they had been trained.

(Inaudible) ... some of the aspects flowing from your answers. Who were you told M Z Khumalo was? Who did you understand him to be? He was to be your contact for liaison purposes, so who was he to you? --- I actually knew nothing about him. I was told - and the terms used was that he was the special representative of the Chief Minister, whatever that should mean. It didn't really have any particular meaning to me. I just understood this is the person that John Moore had contacted, and after the training had been completed I would find out that he also contacted him during the training. In reality I knew very little about Khumalo.

Even over the course of time which followed I got to know very little of him.

(Inaudible) ... Khumalo. Was it M Z Khumalo? There might have been some other Khumalo. I am not sure. Just to confirm we are talking about the same person. --- This was indeed MZ. Malkiside(?) Zakile Khumalo.

(Inaudible) ... would have been Riva, is that right? --- That is correct. That is how I initially came to know him.

I just want to go back a little bit. Before I do, you've said to us that your role was to liaise with him. He in turn would liaise with the Chief Minister. Do

you confirm that? --- That was the deduction I made.

If he was the special representative of the Chief Minister it would just be logical that he linked with the Chief Minister. However, I was not informed this initially. This is how I sorted it out for myself through the course of time.

What made you to understand that he did in fact

/liaise

liaise with the Chief Minister? --- Because on occasion during a visit with the chief of staff, intelligence to the Chief Minister for a briefing session Mr Khumalo was present at the time.

(Inaudible) ... your senior at that point. You refer to him as your chief in that meeting. --- I have not understood your question.

You mentioned a rank, but you didn't say who the person was, and then you said that was with the Chief Minister and Khumalo was present. --- I don't know if these are documents on the table. I cannot remember exactly. It would have been van Niekerk or van Tonder or Admiral Pitto(?), but it was my first visit, and the first time I got to meet the Chief Minister.

(Inaudible) ... because we can pick it up from the documents. --- Chairperson, I would think that it was on the 31st of January 1988 that we met the Chief Minister. I don't have another way to establish this.

MR TOWEEL: I think 29. That was supplied to us, and it's dated 28 January '88.

CHAIRMAN: Okay. So that was from HSI to hoofstaf, intelligentsia, is that correct - chief of staff, intelligence, and that would have been van Tonder. ---
No. That is correct.

I can see on this particular document. --- I don't recognise the handwriting, but yes, he would have been the chief of staff, intelligence.

When did you first meet with Khumalo? --- Chairperson, it was shortly after Colonel John Moore had briefed me and I had taken over the operation from him. It would have been within a week or two after that. I /cannot cannot give you a date, but it would have been towards the last part of May '87.

So you were introduced then to Mr Khumalo as the military intelligence liaison officer for Operation Marion. --- No, we were introduced to one another. He was under the name of Riva. I knew he was Khumalo, but he was introduced to me as Riva. Moore had informed me of this, and we decided to use code names. I was Mr van Blerk, and the intention was that he was not to know that I was an army officer, just as he didn't seem to know that Colonel Moore was involved in the army. He would have thought that I was a member of a civil organisation, the same organisation which had been established to do the training in the Caprivi.

(Inaudible) ... roughly was that specifically? -- Chairperson, I cannot remember this. If I said it in my statement, but I don't recall this, I will have to refresh my memory. I can't remember now.

So, just to confirm, in his dealings with you Riva thought you were from some training company, some private company that had provided the training, and had nothing to do with the Defence Force per se. Do I understand you correctly? --- Correct. That is correct.

Did that understanding change at all over time?

--- Indeed, Chair, it did change. With my first visit to Ulundi to the Chief Minister I think that I accompanied Colonel van Tonder, and I didn't know that Khumalo would be there. That's the request that I referred to just now when I saw the Chief Minister for the first time, and it was a bit of a mistake because Colonel van Tonder went as Colonel van Tonder, and I was with him, and he introduced

/me in

me in Khumalo's presence as Colonel van den Berg in the presence of Buthelezi, so my cover was blown.

(Inaudible) ... frankly is that - and you won't know this necessarily. There you were pretending to be a member of the company, but Khumalo already knew that it was a Defence Force operation, and I'll tell why he must have known that. Because during the training there was a strike, then he was called in to sort out the strike. The troops who were being trained, the people who were being trained, already knew that something was wrong, they weren't being trained as policemen, this wasn't a private company. They already found out and worked out for themselves that they were being trained by the military, and Khumalo must have known that, so why would he carry on this charade when he already knew the facts? --- I cannot answer that.

(Inaudible) ... says he knew or what he didn't know, it's clear that the person to whom he reported, who is the Chief Minister, the then Chief Minister, knew at all times what the purpose - who was carrying out the training. He met with General Groenewald, he met with Minister Heunis, Minister Malan, and this has been

conceded, as I understand. So, what Mr Khumalo says - I think Mr Khumalo said in his evidence at the Msani trial that he only realised in '88 that you were all military people. I don't think it's really important one way or another. It seems quite clear that - from evidence which has been given by senior military people, that the request was made to them to provide - not only senior military people, but Ministers, Cabinet Ministers, that the request was that the training should be supplied by the military, and it

/was in fact supplied by the special forces section of the military. I still want to get back to your understanding - ja, all right, perhaps I can just leave something with you over the break. You will have read the file that Colonel Moore gave you to read. Now, the file states very specifically - or documents in that file, for example if you look at the document of 16th April 1986, it refers very, very specifically to "steun aan Inkatha," and that there must be a clear distinction between support to the KwaZulu Government and support to Inkatha, and it lists the sort of support that must be given to Inkatha, including the provision of a paramilitary unit, including the provision of an offensive unit. Now, you will have - I presume you will have read those documents when Colonel Moore gave you those documents. He may even have told you that himself. Because in your statement that you made to the police, and we have a copy here, and I think you have a copy, you refer just in passing that this training was given by the army to the KwaZulu Government. Now, the documents are extremely clear that there must be a

distinction made between support to the Government and support to Inkatha, and the document of 16th of April 1986 makes that probably clearer than any other document. And in your description that you've given today of your understanding of the training, and in the description that you've given in your statement, you have referred only to the KwaZulu Government, where at even just a cursory glance at the documents in the Marion file, which Colonel Moore says he gave to you, there's very, very clear distinction made between support for Inkatha and support to the KwaZulu Government. Furthermore this was a - and

/you will

you will concede this - a highly secret, clandestine operation of the Department of Special Tasks, Directorate of Special Tasks, and it was one of a number of operations. Others were operations giving assistance to so-called rebel forces in Angola and Mozambique and Lesotho. This was another project. And in your testimony today you've been very coy, if I can use that word, in describing what you understand or understood this training to be. So, I would like you just to give some consideration to that during the lunch break - during the tea break, and afterwards just try and give us a clearer understanding of what Colonel Moore told you, and what you understood this training to be. For example, why was it so secret? Why did you conduct relations with each other in code names? So, if I can just leave you with that to deal with during the tea break, and we'll break for about 15 minutes and come back and carry on with this issue of Marion.

TEA ADJOURNMENTON RESUMPTION:

CHAIRMAN: Just before the break, Mr van den Berg, I asked you to just try and give us a fuller understanding -or a fuller picture of what your understanding was of the training, bearing in mind that you would have received a briefing from Colonel Moore, and you would have received the Marion file, which contained documents such as document 25 in your file, which indicates obviously that this project was one of a highly confidential and clandestine nature, and that it involved very, very substantial support to a political movement, as well as to

/a homeland

a homeland government. Did you have that appreciation at the time? --- Mr Chairperson, yes. Again I want to emphasise that during the verbal briefing of Colonel Moore, which was under pressure and it was very brief and rapid, it didn't come out in that sense. He used the words in a statement - it's a long time ago. He could have said Inkatha or Zulu. I can't remember and comment on that, but what was true and on the file, which you said before the break, I remember and want to mention that I did say I studied the file. It's not as though I took it and worked through it at once. It was over a period of several weeks that I familiarised myself with the file. But yes, what you said before the break I did find on the file, to the extent that I saw the groups which were trained, and who had returned to Natal. And on the file that was available to me there was no detail about the training.

You said there was no detail about the training, but there was detail in the file about for whom this paramilitary force was intended to assist, or didn't that become clear to you? --- Yes, I have conceded that it became clear to me. I do want to add that in this operation - you will probably find this in some of my correspondence - I have referred to Inkatha at times, sometimes to the KwaZulu Government. And I would like to say that I had a problem in distinguishing between the two because - I won't say they were exactly the same. I knew that one was a cultural organisation and the other a political organisation, or politico-cultural, but, as I have said, they were interwoven. And I'd like to add that it didn't really worry me, but I was aware that Inkatha

 /was involved.
was involved.

(Inaudible) ... you think that it was of such a secret and clandestine nature? You know, if you refer to document 25 you'll see that the money which was to be paid for, for example, recruits' or trainees' salaries, was to be paid via an Armscor account, a Kryscor account, into an Inkatha account, in such a way that the account would not be traceable back to the military. What was your understanding as to this highly secretive nature of the project? --- Without getting directly to the question I want to say the operation was classified as being extremely confidential, so most of these things I accepted as such. But to get to your question, it has been documented on file that from a political point of view the Chief Minister did not wish it to be disclosed that he was working with the South

African Defence Force because it would have a negative effect on his political situation. I cannot - I was not really interested in all the details, but what it concerned was that the Chief Minister did not want to go along with the former Government's policy, and if he should be seen to be working with the Defence Force - in fact he didn't even want to be associated with the battalion in Natal. He didn't recognise it, so if it should be seen that he was working along with the Defence Force it would have damaged his political career, or the situation that he ... (inaudible - end of Side A, Tape 2) ... nature of the operation. The execution of the security measures I didn't find strange. All our operations have been clandestine, and I just accepted it as such.

The operations in which you were involved, in which



/you served you served in a logistics capacity, they were clandestine or secret, is that correct, because they involved assistance of some sort to groups, whether they were Unita in Angola, or Renamo in Mozambique, or the Lesotho Liberation Army in Lesotho, or Inkatha in South Africa? They involved assistance to these groups because the interests of the South African Government coincided in some way with the interests of those groups, is that correct? Why were all these things clandestine? --- Do you mean as far as Marion is concerned?

Why were they clandestine? And I've said was it because the projects involved assistance to groups, whether they were Inkatha, Unita, Renamo, the LLA? ---

I understand, Chairperson. It could be so, but I want to mention that apart from projects nearly anything at Intelligence was handled in a confidential way. There were few things where confidentiality was not a factor.

There were also projects concerning our own forces, for example our own troops. I don't have detailed information again, but the promops(?) mentioned in the document, our own troops, that was also confidential, so it's difficult for me to make that differentiation and to say because it was assistance to groups that it should be clandestine. It was Defence Force action involved, and the point is that this kind of organisation, when it undertakes an operation it determines the classification of that project. I don't have more information than that. If something's been classified as secret then it remains so.

During the course of your academic studies, or any other professional courses that you did prior to your involvement with Marion, did you become familiar with the

/principles principles of counter-revolutionary warfare? Were you required to study them? Did you study them? --- No, Chairperson. Perhaps in the sense of background information in other courses it might have been raised, but when it comes to actually studying it, or executing my tasks, I did not receive any such training.

(Inaudible) ... in any way familiar with the principles of counter-revolutionary warfare? --- No, Chairperson.

Have you ever heard of documents on counter-revolutionary warfare which were put out by the

Government, or by Military Intelligence, or by the State Security Council? Have you ever had anything to do with such documents? --- No, Chairperson.

(Inaudible) ... Fraser? --- To my knowledge it might have been a different Fraser. We had a Colonel Fraser in the Defence Force when I was a more junior officer, and he was known to be an authority on this field that you've just mentioned. McEwan I've heard about. It seems he is a British strategist. I am not sure what his field of speciality is.

Now, what did you think these people who had received training in the Caprivi - what did you think they were going to be doing that required a top secret classification for the project? What did you think their function was going to be once they had finished their training and they were going to be deployed in Natal, bearing in mind your involvement with other DST projects which involved - and it is common cause involved the supply of large amounts of arms and ammunition to groups in Mozambique and Angola? What did you think these people

/who had who had been secretly trained in the Caprivi Strip by special forces - what did you think they were going to be doing back in Natal? --- Chairperson, let me first of all state that the secretive nature of the operation I didn't attach to what the persons would be doing. I gathered from the file that it was a sensitive issue concerning the Chief Minister Buthelezi, and that his co-operation with the Defence Force should be secret. He didn't want to be associated with the Government. As I have mentioned to you this is

information that I gained from the file which explained the reasons for it being a top secret document. But to answer the rest of the question, I want to adhere to what I said in the beginning. These persons had already been trained, they were in Natal when I took over. There was no information or particulars on the file concerning the training. What I did see was the groups who had been trained were four groups. This is information in the document. I asked John Moore, as I stated at the beginning, "What is my task? I am taking as liaison officer, what is my job in terms of these persons?" He told me, "You're the liaison officer. You contact them, you listen to the requests, pass these on." When I asked him what the situation is with regard to those person who'd been trained he said, "It's not our indaba. We have no instruction to be involved in the way they were applied. Leave the situation as such. Riva is in control. If he has some problems listen to him, help him to sort out these things, because the Defence Force is not involved with these persons any more. Our task was one of training in terms of a need that had been put to us." And this created the

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impression to me that this project was in its final stages now, and seen in the light of the many other task I had to perform I have to in all honesty say, Chairperson, that it was burdensome to me, because I though, "Well, I already have more than enough work to do. I'd like this project to come to an end." And later it was a revelation to me when it didn't come to an end as I thought it would, it carried on for some time. What I am saying is that it didn't really worry

me, all the particulars of the project. There was a dormant period after I had met Khumalo. I then asked myself what now? John Moore had left already, and I didn't do anything. I thought I had been introduced to Khumalo, and if there was anything from his side the initiative would come from him. And a few weeks went past before he made contact with me, so I didn't really attach particular urgency to this operation.

(Inaudible) ... change? Firstly, did it change, and if so, when? --- As I have said Khumalo did contact me in due course, and what I have just said to you is not quite correct. It couldn't have been weeks because the salaries were paid on a monthly basis, so it must have been, depending on the date that I met him, a week or two that passed before he contacted me, and then he contacted me about salaries, and this was something that I sorted out on a monthly basis with him. This led to the fact that this matter was delayed. Khumalo said that he had problems at the base. There were problems, and from my briefing session with John Moore I didn't really do anything. I listened and I reported back to my director. After a period of time had lapsed he said he had disciplinary problems, and he ascribed this to the fact

/that people that people didn't have a place to stay, accommodation was a problem. My attitude was I listen, I report back, and I don't do anything until somebody instructs me to do something, because what could I in effect do? If I was instructed, for example, "Go there, get them a base, establish it," or whatever, I would have done this, but the impression that I had gained at the beginning - and

that I want to reiterate, if I can use the word - was that yes, Khumalo was the man playing the strings, and the problems were his. And this ultimately led to an unfortunate incident when Khumalo went to the Minister and really came down on us on the lack - alleged lack of co-operation. There was some truth in it, because I didn't give my full attention to this operation as perhaps should have been the case. It was also at this stage, after the Minister had given us particular instructions, that it doesn't seem as though I was correct in thinking that this operation had come to an end, and then it became clearer that it was not.

Did your understanding of the thing change, yes or no? Just give me a yes or a no to start with, and then we'll deal with the rest of it. --- It was quite a long question. Can you just repeat it.

You've said that your understanding - you've given us an overview of your initial understanding based on what you refer to as a rather brief and contracted briefing by Moore, and your rather cursory reading of the file. And then what I asked you was, in the light of that understanding, did that understanding then change to - because, you see, I'm a little bit flabbergasted here, and I feel that you're not taking us into your confidence.

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And I am being absolutely frank with you here. It's public knowledge what this project was about, and if you didn't know it then you must have found it out, either during the time of the trial or at some other point in time. Your understanding of what Marion was about now is totally different to what it must have been then in

the light of what you've told us. So I really don't want you to waste our time here, you know. I want you to get to the point and tell us how your understanding changed, what made it change, and what made you to understand what everyone else now knows Marion was? It's no big secret. It's pretty public knowledge of what Marion in fact was, so let's stop beating around the bush and get down to business. So please, you know, we have a short period of time. I'm feeling a bit frustrated now with you going around in circles and not getting to the point. Just let's deal with it, quickly and to the point. --- I'll do so, Chairperson. It's difficult to link it to a particular date and a specific period. Over the course of time after - from Defence Force side it became clearer to us that there were problems with discipline and the application of this paramilitary force by Khumalo. And I am saying this on the grounds of the fact that some of these people became involved, as he put this to me at the time - they became involved in actions which did not form part in general of what the intention had been with Marion from the beginning. You know, there were protection tasks, a reaction force, and so forth. Then it became clear to us that a problem was developing. If people continued to act in an undisciplined way then there could be security implications, and the Chief Minister's

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motivation in the first place could be disadvantaged, the Defence Force's involvement in the training would come to light, and that would harm the security of this operation. The Defence Force then made a decision that the emphasis should be shifted. If I say emphasis it

concerns the meaning of the word operation and defences, and that the operational group which originally had been part of the group, that we should convince Khumalo and the Chief Minister to do away with this group, and to rather use this group along with the defensive groups and the counter-mobilisation groups, in order to glean information and to take care of the organised side of Inkatha.

What? What? Please, you really are frustrating me. And I'm telling you why, plainly and simply. You know about the document where people were concerned, that they might be subject to capital punishment crimes and prosecutions. You know about that document. It's in the bundle there. Why were you guys worried about death penalty crimes and your involvement in them? Please, we're not fools here, Colonel. We know this subject backwards. We know every conceivable little detail about this issue. We have read statements by people that reported to you. We've read your reports to other people. Don't waste our time please.

MR TOWEEL: Mr Chairman, can we - we've had no notice of any documents received from people that reported to Colonel van den Berg, and if the Commission or the Committee is aware of such documents, of people having reported to him, and given certain information to yourselves, surely we would have been entitled to those documents? And I am thinking off-hand of the documents

/that we that we do have. If of course, Mr Chairman, you are referring to J P Opperman, then I would have seen that in the Peter Msani trial, but confronting Colonel van den Berg ... (intervention)

CHAIRMAN: That's common cause. We're talking about Opperman. And we're talking about the evidence in the Msani trial, which is common cause here.

MR TOWEEL: Okay.

CHAIRMAN: So there's nothing else there that's different.

MR TOWEEL: That I can accept, Mr Chairman, and then I withdraw my objection as far as that is concerned.

CHAIRMAN: Sure.

MR TOWEEL: As far as the common cause goes, we have to accept here that Opperman's credibility - well, we know what Judge Hugo said about that. And then I don't know if you are referring to Luthuli, Dlamini, and all the other people's evidence. That has never been tested, so to say that you know what the end result is, and this is what Marion was all about, it's common cause, and Colonel van den Berg must stop wasting your time, I think that's unfair, Mr Chairman, and I would expect you to confront him with certain specified documents and not with bald allegations. Thank you.

CHAIRMAN: No, I take your point, Mr Toweel. Let's put it to your client. You must be aware of statements which have been made to the police, and public statements which have been made at public hearings held by this Commission, as well as statements which have been made in criminal trials by Caprivi operatives, trainees, and the gist of those statements is that Operation Marion was from the

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outset, or from a particular point - it was a secretive project in which members of a political party, Inkatha, would be trained in the most deadly of military skills,

that they would be trained to kill people, that they would be trained to attack houses, that they would be trained to escape from custody, that they would be trained to cover up evidence, and that the purpose of the training of these people was their ultimate deployment in KwaZulu-Natal, under the auspices of a political party, Inkatha, with the assistance of the Defence Force, in the sense that they were all paid salaries for several years by Military Intelligence, and that the purpose of this training, and of this support, was that they should be - or a portion of them should be used to attack and kill enemies of Inkatha, being members of the UDF and the ANC. Those are the statements which have been made by people like Luthuli, who, as you must be aware, was the political commissar of this group of trainees in Caprivi, and others like Mr Brian Mkhize, who was a trainee. He was trained in the Caprivi and he was deployed in this province afterwards. Another trainee, Dlamini, also gave evidence, as well as of a senior special forces officer by the name of Jan Anton Niewoudt, who was recently granted amnesty for his role in the training of these people. I am not sure whether you have a copy of that application. It can certainly be made available to you now. And his version, he was - played a role for about two months in the training in the Caprivi, two months out of the six-month period, and he says that his understanding at all times was that he was training a hit squad, and that he was to train them in certain aspects, namely how to conceal

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evidence, how to cover up commission of crimes, and he says that he had no doubt that the purpose of the training was that these people would be used to - not as a reaction force, or as a defensive force, but they were to be used in KwaZulu-Natal as an offensive attacking group to attack and kill members of the UDF and the ANC.

And for his role in that training he applied for amnesty, and he has just been granted amnesty about two weeks ago - a week ago. Now, in the light of that evidence do you have anything to say about it? Does it give you a different insight into Marion? Do you reject the evidence? I am not asking you this to be unfair, but you were involved with this project for some time.

Evidence has been given in the Msani trial by your commanding officer, General van Niekerk, that you and he were deeply concerned about how vulnerably project officers were because of their involvement in planning.

Not in operations, but in planning. That's what Colonel van Niekerk said. He said that he was deeply concerned, and he said you were deeply concerned as well at how vulnerable project officers on Operation Marion were to criminal prosecution. And he says that you and he colluded in the removing of certain documents which could be used as a so-called insurance policy in case allegations were made against you later that tended to involve you in criminal activities. So, this is a long question, but what I am saying briefly is certain people have given evidence saying that this was a hit squad. That's what it was, pure and simple, right from the start. Do you have anything to say about that? Was it your understanding ever that this was a hit squad? And secondly I'd like you to deal with this question why you

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believed if that is so, why you believed that officers such as yourself and Colonel van Niekerk, felt that you were vulnerable to prosecution because of your involvement in this project? So, can you comment on what I've said? --- I can respond to that what you've just said. Some of this information came to my attention after Marion. Some I didn't have insight into, but as I said it may have happened. I don't know what is fact and what is fiction, but what I can say is that I did not know this. I didn't have any indication on file or document that what you've just said was in fact the intention of Operation Marion. I didn't any operation. It was not my task. I was never in control or command of any troops. I never gave any instructions for anything to be executed. To the contrary, I didn't even have the sanction to do something like this. It wasn't possible for me. I have pointed out to you that as an outsider - I came into this operation as an outsider, and that I felt out of my depth because of some of the circumstances, that I had a great burden of work to carry out, and there was no way in which, in my capacity that I had been appointed to, that I was able to do or execute any of these things. Should something be executed it is general policy with all operations, also in the war in Angola, operations were approved at the highest level after thorough operational planning and submission to the Chief of the Defence Force, head of the Defence Force, and I never knew that something like this existed. I was never tasked to do this. I had no reason to believe that this was the objective of Operation Marion, that it was a sinister thing. As far

as I knew it was started following the request of the
Chief Minister for the

/reasons

reasons which he furnished. I did not know that there were other reasons and I didn't receive any indication that there were other reasons.

(Inaudible) ... that it was not your understanding of Operation Marion, but you indicated just now in answer to Mr Lax's question that with the passage of time it seemed as though, under Mr Khumalo's command, things did happen which you believed Operation Marion was not intended to do. Is that correct? And then you said that General Malan and others tried to persuade the Chief Minister, as he then was, and Mr Khumalo, to move away from actions by the offensive group, and to revert to defensive and contra-mobilisation activities. That's what you implied. Am I right or am I wrong? Did I misunderstand you? --- Chairperson, I did make the comment. I want to point out why I am saying this. It is documented that during a visit the special representative of the Chief Minister, in the presence of these people, sketched his problems, problems regarding discipline, and on other occasions he again said that there were problems controlling these persons under his command. So, I don't know specific situations, but Khumalo did from time to time tell me that some of the people under him had got involved in fights, and he said they didn't want to listen to him, and eventually to van Niekerk and myself this was absolutely true, as you've stated, along with his experience - and this is also documented - concerning a personal friend of his who was charged in South-West Africa of being incriminated. It

doesn't seem to be a comparable case, but that, along with the fact that Khumalo, once he had base facilities available, started to

/speak to speak to me in the direction that he wanted an offensive capacity, and in the light thereof I and Cor van Niekerk said, "Well, if that is so, that these people are busy or involved in actions which were not supposed to be part of Operation Marion, then it could be so that because Marion had been planned and approved by the Defence Force, that could cause problems for us." Nowhere did the thought arise, or did I interpret the situation, or understand it in a sense, that planning, and incrimination in planning concerned the execution of operations, because planning in army terminology concerns all planning that we do in the execution of whatever task it may be, whether it's an intelligence task or not. The fact of the matter is that Operation Marion had been planned, and whoever was responsible for that planning, and whoever did the training, or who was involved in whichever situation, it was ultimately part of the planning of Marion. And that is what concerned us. I never executed any operation. I don't know anybody who executed an operation after I took over.

(Inaudible) .. specific death penalty related activities that you bear knowledge of that you were so worried about? --- Chairperson, can you give me a specific reference here please? I am not sure exactly what we're dealing with.

I'll just find the memo. Okay, document 33, October 1988. Look on page 2, item 7. --- Just a moment please, Chair. I am just checking it on my

notes.

What did you mean by that? Are you not using the same document as us? --- I am reading the same document, Chair. I have a problem with this. These are /not my not my words. I did not write this in this way or in this wording. Chair, I drafted this document, the concept of it, as a consequence of the signal from the Minister of Defence to us, and I had to reply - or provide a reply which could then be presented to the Minister. I drafted this document in concept. However, the sections from paragraph 6 onwards, Chair, I did not add into that draft concept. In fact, to the contrary, if I look at the note which would indicate ... (incomplete)

INTERPRETER: The interpreter is not sure what it indicates. --- But it would appear to me that this document was only then used again in December '88. That is the written date at the top in the memo.

CHAIRMAN: (Inaudible) ... m-i-p-s-o. --- Chair, I do not recognise this handwriting. No, it's not my handwriting. Chair, this might be confusing for you, but at inquiries my name is mentioned, and I have said to you that I was tasked to write this letter. However, I do want to indicate to you that my presentations were very, very regular. I could almost say to you that every single one of them had been changed to a very large extent by General van Tonder. Almost never did he pass on my presentation without considerable changes, and the same would be the case with Cor van Niekerk. This particular letter was intended for the Minister. The Chief of Staff, Intelligence, then Admiral Pitto at

that time in '88, would then also have passed this letter through. Before this matter came up for discussion Cor van Niekerk and myself already had a conversation regarding this matter of possible prosecution, so we had conversations in this regard, and he was deeply concerned

/about this.

about this. I did mention to him that there would be two factors that are of importance in this regard, which would lead me to think that this particular paragraph was probably added by Cor van Niekerk or the Chief Director, Intelligence. I would link that to the fact, if you look at the signal from the Minister there is reference that Khumalo mentioned that there is a base prepared for mobilisation. I am referring to C1, your document 32. This mobilisation I would imagine should have been counter-mobilisation, but I don't think that's very important. Downwards somewhat it indicates that there was no progress as regards to a base for an offensive group. Now, I must tell you that this was news to me because I had never been aware at all of the fact that he needed a separate base for the offensive group. Therefore I could not understand the situation.

Having received this signal I saw Khumalo again and I asked him, "What's going on here? From the very start when I took over from John Moore you said to me that you need a base. I presumed that you need a base for the paramilitary force as a group, as a whole group. What then is this sudden mention of an operational base?" He was caught offside and he was a little embarrassed, and he said to me well, he actually does have the need for a separate base or separate housing for the offensive

group. Now, he had never said to me that, "I need a second base," because he thought that I wouldn't support that request. As I understood him he had argued since I wouldn't support him to set up the original base before I was addressed from the Minister's office in this regard, and since there had been for some time some bad feeling between Khumalo and

/myself in myself in this regard, since I felt that he brought unnecessary criticism down upon me. The important thing was that he said here that he needed a separate base for the offensive group, and this concerned me in this sense, that if he wanted a separate base for them then he probably had in mind to apply them separately, and I deduced that this use intended by Khumalo would most probably have been offensive, and that he would probably have used them to launch attacks. That was my interpretation of his request. I discussed this with Cor van Niekerk ... (inaudible - end of Side B, Tape 2) ... linked to the South West Africa situation, and linked with what I then told him about Khumalo, might well have led to the inclusion of these paragraphs 6 and 7 in the letter to the Minister. I want to say to you that I truly cannot remember that I had made comments with regard to offensive actions in 6. The headings of the paragraph probably were included in my original letter, but the rest of the comments there simply does not sound to me like my own words. In addition I want to say to the Commission also with regard to paragraphs 8 and 9 - 9, for instance, which has to do with the review strategy. I did not determine strategy with regard to Marion. In fact I determined no strategy

whatsoever. Strategy was normally handled by the Chief of Staff, Intelligence. That would have been prepared by his planning staff, chief directors and directors. There would normally have been, as it later became, a so-called "bos beraad." People would have worked through strategy, they would have built teams, and they would have created planning cycles and so forth. But I never had any involvement in that kind of event or

/planning.

planning. With regard to the conclusion that the Chief Minister and Mr Khumalo are extremely happy with the current state of affairs, Chair, I would say to you that that I would not have personally included since this is not an opinion that I would have had a right to express.

I emphasise something in this letter in paragraph 4 with regard to liaison, that the - actually it's I saw the Chief Minister on a particular date, and that there was a subsequent meeting arranged for November of 1988.

I would imagine that the Chief of Staff, Intelligence would have written this conclusion, in which he indicated that the Chief Minister was most happy with the trend of affairs. I don't have any record that I was present or attended to either of these two meetings, and that the Chief Minister would have said in my presence that he is happy with the -or at least satisfied with the progress of Operation Marion. I just don't think I could have included that paragraph since I didn't have any particular reason to think that the Chief Minister was now satisfied with the course of events.

So you're saying that you created this document in concept, but those parts of it which, let's be frank,

are difficult, you had nothing to do with - 6 and 7. Or they aren't your words. --- That is the case. I wouldn't say that I had nothing to do with it. It's certainly true that Cor van Niekerk and I had discussed these aspects, and we were in fact to some extent concerned. He probably more than I. I was not particularly concerned, although I thought that it is a possibility that something like that might develop.

Colonel, how would you have dealt with the inquiries

/then if then if you didn't know about that stuff? You were the person to whom any inquiries in relation to that document would be directed. How could you have answered those inquiries if you didn't know about it? --- Chair, I have now seen these documents since the case began.

(Inaudible) ... document in December. --- I am referring to within the context of Marion when I served there.

(Inaudible) ... in December. --- Of this year?

Yes. There were bases being formed, there were people being retrained, there were a whole lot of other things happening at that time, and how could you have had anything - you would have had to deal with all those inquiries. And you say the only time you became conscious of the contents of those paragraphs was when you saw the document later in around December 1988. That's what you said earlier in your evidence. So, how is that conceivably possible? To add to it, you said in your statement to the police, which is item 3 (b), that you drafted that document. You say so there, and now

you're saying you didn't. Now you're saying you only did it in concept, in other words in broad framework.

So, please explain these rather strange discrepancies.

--- Chairperson, I beg your pardon, that's not what I said. When I said a draft I didn't use in broad framework. What I want to say is that I am aware that in my statement to the police I said this is the document.

(Inaudible) --- What happened in practice, when I made that statement with regard to the documents the investigating officer came to me, and I think it was after he received documents from the Marion File that he said to

/me he me he was looking for the file. That's a different aspect, we'll probably get to it still. And then he brought me documents, and I accept that he found the file, or part of the file, and he wanted me to identify documents to him. It was a pile of documents, and what happened is that we worked through these documents, and I looked at each document, Chairperson, and the lay-out, as in accordance with military prescriptions, my name's here at inquiries. I recognise it, I recognise the reference number. It may not be a specific case that I could recognise, but I can see it's been set out in military style writing. I glanced at the contents, I looked at liaison, and then I ... (intervention)

You thought that you drafted the document. In fact you didn't, now you want to tell us. Is that right? Do you confirm that? So are you saying you didn't have - listen, let's cut to the chase here. Are you saying you didn't have any knowledge ...


(intervention)

MR TOWEEL: Mr Chairman, can you allow Colonel van den Berg to answer the question, because you are cutting him short.

CHAIRMAN: I am cutting him short. I am quite aware of that.

MR TOWEEL: With respect, and I realise that he's got a long breath sometimes - I realise that, I concede that, but he's shaking his head here, and you and him are, with respect, talking together, and I am just scared that just now the wrong information goes on record. Thank you, Mr Chairman.

CHAIRMAN: Okay, I'll make it very simple for you. This document we're looking at, October 1988, portions - or

 /paragraphs paragraphs 1 to 5 you had knowledge of. 6 to 9 you didn't have knowledge of and you didn't write. That's what we have so far on record. Is that correct? ---

That is correct, Chair.

When did you acquire the knowledge of aspects 6 to 9? --- After I saw this document again now. A week to three weeks ago. Now, in the course of this investigation.

(Inaudible) ... knowledge of those issues? ---

No, let me reformulate this. I had accepted that this document comes out of the file. I know the document. It is a response that we had to draft in terms of the signal, the very critical and disciplinary kind of signal we received from the Minister. So, what I am saying to you is that I know this document, I drafted this document, but subsequent to drafting this document

and handing it to either General van Tonder or van Niekerk, I would have followed channels. What I am trying to say to you is that after I drafted the document I would now deduce that I would not have seen it again between October and December of that year. It says there very clearly, an instruction there in someone else's handwriting, "Determine whether the Minister is happy." It's dated 17 December '88. The procedure would be this. If the document was handed in and it returns, if action has been taken, or if it's been discussed, or if it's been signed, it would return to me and I would place it on file. So, what I am trying to say to you is that most certainly I could not have placed this document on file before at least the 17th of December '88. I would not have received it in my hands again before the 17th of December '88. This file never left my hands.



/This document
This document would not have gone to anyone on this file. If the Chief of Staff, Intelligence - I don't know if that's his handwriting, but whoever wrote there, could not have done it while it was on file. He had to have had the document physically in his hands. With the date 17 December there implies that this document was not on file, and was in the possession of whomever wrote there at that date. So I am not saying that I don't know this content, except for what I have indicated to you. With the rest I don't have any problem.

All right, let's not deal so much with who drafted it. You seem to be trying to distance yourself from the content of 7 and 8, and I don't blame you because it doesn't look good to me. But please don't be afraid,

we're not here to prosecute you, and I doubt whether you'll ever be prosecuted for anything that arises from this, these documents. It seems as though the person who drafted 7 and 8 - or 6 and 7, sorry - whoever it was, Chief of Staff, Intelligence, or van Niekerk, or - appears to have had a different understanding from you of what was going on with this project at the time. He says there in 6,

"Offensiewe optrede en vrywaring teen vervolging is steeds 'n probleem en daar word na oplossings gesoek."

He then goes on to say,

"Opleiding van verdere ..(onhoorbaar)..
offensiewe groepe word tans ondersoek.

]So they're experiencing problems with offensive action, and the fact that people are being investigated by the police, as they should be, and problems in this regard are

/being

being looked at. I mean solutions to this problem are being looked at. It then goes on to say that another group of - another offensive group, a small offensive group, is being investigated. He then goes on to say in 7,

"Offensiewe optrede is deel van
Operasie Marion se taak."

and with that in mind he then says it's important that officers that are involved with operation Marion,

"Offisier wat betrokke is by Operasie
Marion vanweë beplannings aandadigheid
van 'n halismisdryf aangekla kan word."

and they're looking for a "versekering," an assurance

that these officers will get protection, "in terme van artikel 103" of the Defence Act. So, the picture you gave us about 20 minutes ago was that, well, you know, there was a few disciplinary problems that Mr Khumalo was having, and perhaps some of these people were fighting amongst themselves, and those were the problems with the offensive action. It seems here that who ever drafted this, 6 and 7, had a completely different understanding of offensive actions and how to deal with them. It's very simple. Ask the Minister to give you protection in terms of section 103 of the Defence Act. So, are you saying that Colonel van Niekerk had a different understanding of what Operation Marion was all about from what you had? You said he could have done this, drafted this. These are perhaps his words, or somebody else's, they're not yours. But it seems from a reading of this that the person who drafted it had a very good understanding that offensive tactics or action were part of Operation Marion, problems were being experienced with investigation, solutions to these problems were being looked at, more offensive people

/should be should be trained, and because offensive actions are part of Operation Marion's job the Minister should be asked to grant protection to all officers in terms of 103 of the Defence Act. This seems to suggest that the person who drafted this had full knowledge and foresight - full knowledge of what offensive actions were, and the foresight to request protection in terms of section 103 of the Defence Act. So, do you agree with that, and do you think that Colonel van Niekerk or other senior officers had a different understanding about what

offensive actions under Operation Marion meant? ---

Chairperson, no, I cannot say that I think that they had a different understanding or insight. I don't know on what grounds I could say that. If they had different insight then they must have known things which I did not know, and I doubt that this is possible. In terms of what I knew I have said, and I want to repeat it again, we were not involved in any of the operations. There was planning - and I set this out just now - I am not aware of any authorisation for operations to be carried out. You have given an interpretation here which partially I could agree with, to say that offensive actions were an integral part of Marion. It is so that - I don't know what document mentions it, but mention is made that there is an offensive group, and it was spelt out how it is seen, what this offensive group's tasks would be even before the training. I am not aware that it was not so, but what I want to emphasise, up to an including '88, when the base facilities were established, my impression was that Khumalo was stumbling around with these people, and that there was little talk of actually employing them, any

/members of members of the paramilitary group. That was my view. I don't know if it is so or not. Once again I don't know, perhaps Khumalo did use them. I didn't concern myself with this. I did not have an interest in what he was doing with these people. It was not my business, and nobody said to me, "Concern yourself with it." If I had been instructed to become involved in this sense I would have followed a different modus operandi, and I would have made an assessment and compiled an operation plan

and submitted this for approval. There would have been certain actions which would have followed, a whole planning cycle, but I had no reason to say that there were operations.

(Inaudible) ... evidence in the trial have said that he discussed this with you and you were both very worried if you had nothing to worry about? Your evidence is that you had nothing to worry about and you don't understand what this is about. Why would he say that? --- Chairperson, I didn't say there was no reason not to be worried. I pointed out where it is written in Khumalo's own letters that he had problems, disciplinary problems, control problems. It was stated there, and he later also brought it to my attention. There was also the incident concerning Luthuli. He was a member of the paramilitary force. He was in trouble on a particular occasion. I never knew the nature of that difficulty, it didn't concern me. What threatened me in this situation with Luthuli was the security. My primary concern was with the aspect of security, and I had reason to be concerned about this. The Minister of Defence himself had stressed the necessity of security being maintained, and when we met

/with the
with the Chief Minister it was also minuted that this was a concern, security. I am taking quite a turn to get to the point, but what I am trying to say is there were incidents - I have mentioned two, perhaps there were more, but I don't know of any more incidents. There were rumours of persons who acted beyond the context of the paramilitary force, and that concerned us, because if that were true then - this operation had

been planned at the highest level, from Cabinet level down to where the training was carried out. So, I want to put it that that was the reason why we thought the word incrimination for planning was included. I don't know if it's acceptable terminology. I am not really acquainted with the legal aspects. And these were not my words. I have said that. Just a last point, Mr Chairperson. If you ask me about the planning and incrimination then I will say that I was, in terms of Marion, because it was an operation that I worked on, but I didn't carry out any operation. I didn't commit any crime. I don't know that I did anything wrong. I did my work.

(Inaudible) ... of a capital offence. Or how could anybody be guilty of a capital offence? Project officers, officers, not Mr Khumalo or Mr Luthuli, but this paragraph 7 says that because of the planning that they could possibly be guilty of "halsmisdryf." How could that happen if no one was doing anything wrong?

--- But not directly, Chairperson. These people were trained by the Defence Force. If one of them goes and kills somebody else then somebody who has been involved in the planning of the operation could perhaps be held liable. Isn't that what it was about?

/You weren't

You weren't involved in that training. You weren't involved in planning their training. You said you had no control over them, Khumalo was in full control over them, so on what possible basis might you be guilty of that? You see, on the evidence you've given us so far there's no conceivable basis in law or fact that could link you in a criminally liable way for

murder, or some other related serious offence for which the death penalty could come. So, either you must have known, and therefore you were worried, and therefore you could have been found guilty of a capital offence, in which case the evidence you're giving us here doesn't make sense. Do you see our problem? --- I do understand the problem. I cannot explain this differently to what I just have. To take it further I would have to ask a question. If somebody in a paramilitary force should kill somebody else can a person who assisted in establishing this paramilitary force not be incriminated? That's the only interpretation that I can give. I don't know.

(Inaudible) ... legal counsel, but nobody could conceivably possibly, not even on negligence, have been guilty, including your own counsel, I might add, at our public hearing, of any possible offence. So - but listen, this is a technical legal matter. I am trying to understand what informed your worries. You see, the only way you could be found guilty if you were involved in planning was if you knew, before any crime took place, the purpose of that paramilitary force was to go out and kill people. And it doesn't matter, as you must know, whether you pull the trigger or not. And if you plan an operation, or train people to go and kill people, and they

/do in do in fact go and kill people, then even though you didn't pull the trigger you can also be implicated in criminal offences along with the trigger-puller. So, you're saying that it was never part of Marion's intention, Operation Marion's intention, that people

would be unlawfully killed. So then why do senior officers - why do senior officers then - why are they then afraid of prosecution for capital offences?

(Inaudible) ... with you, and you were both worried.

Why should you be worried? --- Mr Chairperson,

perhaps I didn't put it very clearly. If I explain it

further then I can say that I mentioned just now that at

this stage concern had been raised that Khumalo was

going to use some of these paramilitary persons in

offensive attacks which were not justified. That I did

mention just now, and I said I thought that this was the

reason for including this in the document, whoever did

include it. But it was not the intention of Marion to

attack people. These people were trained. They were

trained in the use of weapons, they would be in a

position to attack. And I've pointed out what I read in

the documents, there was an offensive element, and the

task of the offensive element would be to offer

protection to the Chief Minister, and also to act as a

reaction force to counter possible attacks against the

Chief Minister, possibly in collaboration with the VIP

protection unit. I don't know. Or let me put it this

way. I am not aware of an incident where somebody took

place and there was a reaction launched. This

information I never received, but at this stage Khumalo

had a base. He had asked for a second base for the

offensive group, and we thought well, what does Khumalo

want with this offensive group, why does

/he want

he want a separate base away from Ulundi, where the

reaction force was supposed to act from? And we

discussed it with Cor van Niekerk and said, "What

happens if this man starts using these people for unlawful actions? What then? Then we are part of this operation."

(Inaudible) ... when somebody was in trouble, somebody who was part of the offensive group was in trouble, why didn't you hand him to the police instead of hiding him from the police, as you yourself record in paragraph 5 of the same document? Why did you hide him from the police at Ferntree, as Colonel van Niekerk has confirmed? Instead of handing him over to the police because you thought he was involved in something unlawful why did you hide him from the police? ---

Chair, that's not exactly how things went. I can assure you that I did not cover up any crime. There was this single instance. It was Luthuli. I would love to give you the facts if this is what you want to hear. I do not see it in the same light as you do.

(Inaudible) ... co-officers in this endeavour saw it in the way we've just put it to you. Everyone else saw it that way. Nobody at all sought to deny that Luthuli was involved in criminal offences, and that he was taken away to avoid him being prosecuted, further prosecuted. And in fact he wasn't the only one that was taken away, there were others that were taken away too.

Dlamini was taken away to Venda, to Haakdoere(?). Colonel van Niekerk said in the Msani trial that Luthuli was removed in order to escape prosecution, and he was asked by Judge Hugo, "Wouldn't that then involve you in a crime such as defeating the ends of justice?" and Colonel van Niekerk

/said, "Yes,

said, "Yes, that's correct." So, does he know something - do you know something that he doesn't know, or the other way round? Why was Luthuli removed and hidden at Ferntree for two or three months - in an army base when the police were looking for him? Why was that? I want you to tell me why that was.

MR LAX: I want to just add one thing. Not just any army base, but an army base that you had been in control of for a while. --- Chairperson, I do not deny anything you have said. All that I want to say is that I didn't hide him to protect him from prosecution, or to allow him to get away with a crime. Definitely not. That was not the intention. The facts were as follows.

I didn't know Luthuli. To the day that I saw him I didn't know that he was a member of the paramilitary force. It was in Durban in the presence of the security policemen. Khumalo was there and I was there and Opperman was there. That's what I can remember. That was Louis Botha. And I was told the following, that Luthuli had committed a crime. I did not ask what crime. I accepted that it's something of an important nature in the light of the fact that we were meeting together, first of all, and it was pointed out to me that if Luthuli should talk to the Detective Branch then it would be possible that Operation Marion would crop up, and the security of Operation Marion would be threatened. So it was put to me that this was a problem as far as the security of Operation Marion was concerned. I heard their case and I said, "Yes, to me it also seems to be a security problem." I went to Pretoria and I reported to Cor van Niekerk. We discussed the matter and we did not do anything. That

is the factual

/rendition

rendition of what happened. About one or two weeks later, I can't remember exactly how long, Cor van Niekerk told me that the matter concerned Luthuli, and that I must attend a meeting on his behalf - that was in Pietermaritzburg with Louis Botha - and I said, "What is this meeting about?" and he said, "Luthuli has committed an offence and it's being investigated by the Detective Branch of the police. I said to him, "What is the problem?" and he said that which I knew already in Durban - he didn't tell me whether he had spoken to Brigadier Buchner or not, but I deduced that he had spoken to Brigadier Buchner - that should the Detective Branch question Luthuli then security would be a problem, because the Detective Branch knew nothing about Operation Marion. The security police did, and Buchner wanted us to come up with a plan to maintain security. I attended this meeting. It is also in my other statement. It was bandied about, and what I want to add is that I asked van Niekerk what input we should make, and he said that he saw this case primarily - or not primarily, but as a bigger problem for the Security Branch of the police than for us, and this is a view that I agreed on. I got the feeling that Louis Botha - this is at the first visit now, that he was more concerned about Luthuli than what I myself was, although I thought that there could be implications further on. But what I want to say is that Brigadier van Niekerk said to me I must just keep back for a while and see that the SAP sort out the problem, and if they don't sort out the problem, and it should amount to preventing

the Detective Branch from questioning Luthuli, then I
could offer sanctuary as a place where he could

/stay in

stay in the interim. And this is the way it happened. The matter was not resolved that matters were made easy for me. Brigadier Buchner at a certain stage said, "What about that place of yours near Winterton?" meaning Fernhill, "Can he not go there?" And because I had already clarified this case with the brigadier it wasn't problematic to me. I said, "Fine, if there's no other way out then I do not object to Luthuli going to Ferntree." We left the meeting, and I put this to Opperman. I said to him, "Go back to Khumalo and tell him Ferntree is available. Luthuli can stay there for a while." Brigadier Buchner undertook to contact the detective division and to find out the extent of the case against Luthuli, and if possible to get the case withdrawn. I told Opperman that if Khumalo agreed then he must assist him in taking Luthuli to Ferntree. This is what I reported back to Brigadier van Niekerk. A day or so later Opperman let me know that Luthuli was Ferntree, and during a visit to Ferntree shortly after that Luthuli was physically there. I saw him from a distance. I don't know if he saw me or if he knew who I was. You referred to months just now. I deny this. I think it two to three weeks that he was at Fernhill, and during this period of town he also disappeared for a while. He did not want to be there. He wasn't willing to go along with it. He disappeared for a few days and then returned one day. But, to conclude this matter, Luthuli later said he was not going to stay there any longer. This was reported to me by the commander of the

base at Ferntree, and I told Khumalo, "This man is a problem. We must do something else with him." Luthuli left Ferntree, and to today I

/haven't

haven't seen him again, I don't know what happened to him.

CHAIRMAN: Mr Luthuli gave evidence which corroborates what you've said. He said he was wanted for murder in Mpumalanga, he killed some people. The local Detective Branch were looking for him. And he corroborates exactly what you said, that he was hidden. So, on what basis do you say that you were never involved with any offence? Surely at least this is defeating the ends of justice, and at very worst it's accessory after the fact to murder. How can you say you never committed an offence? You can say that it's in the national - you thought at the time that it was in the national interest that he should be hidden, but how can you say it's not an offence what you just told us? To hide someone who the police are looking for for a serious crime. How is that not an offence? --- Chairperson, the Security Police are also our police, and I had been speaking to them.

(Inaudible) ... themselves. --- They could indeed, but the decision at Pietermaritzburg was taken by the chief of the Security Branch, a brigadier. He was in command of that situation. Luthuli was under the command of Khumalo. It wasn't my decision to take him to Ferntree, it was Khumalo's decision ultimately. I was not aware what Luthuli was being sought for, and he was also not a refugee as such. It was put to me that the Security Branch had questioned him, and that there

was a fear that before the situation regarding Operation Marion could be taken up with the Detective Branch that Luthuli should be contacted and questioned again. And it was put to me that he had obtained bail. I didn't ask what the conditions of bail were, when he was to appear in court again. He

/wasn't away, wasn't away, he was accessible. So, I beg to differ from you. I didn't keep him away from the police, or try to help. It was a liaison position in the interests of security between the Security Branch and the Detective Branch. It had to be sorted out between those two branches. And this had also been the undertaking of the chief of the Security Police at Pietermaritzburg at the time.

(Inaudible) ... this point, save to say that these same questions were put to Brigadier Buchner, who denies every single thing that you have said. Okay? So, it's interesting what you say, but I am not going to pursue it. I should say that it seems clear to me that to remove somebody when they are being looked for by the Detective Branch is certainly not an action in accordance with the law, but I am not going to pursue it. Somebody else may pursue it, but I am not going to.

Okay, we're going to have a short break now. Because the interpreters have to leave here at about 20 past three we have arranged for tea and sandwiches in the room that we had tea in earlier on. If we could please just do that as quickly as possible, because we have got some other matters to get through, and let's try and start at 2 o'clock. Thank you.

LUNCH ADJOURNMENTON RESUMPTION:

CHAIRMAN: Colonel, I just want to move on now to another document. It's the very next document. In one of your statements you've said that you drafted that document, is that correct? It's the duty sheet, No 34.

--- That is correct, Chair.

/Now, I

Now, I want to just take you to it. Did you draft the entire document? --- That is the case, Chair.

And you signed it as well I see. --- That is correct.

Will you look at page 3 of that document, paragraph 15. Page 3, paragraph 15. I'll read it to you.

"Offensive actions should only be carried out by trained cells under strict control. Authorisation should first be obtained from DST2. Targets must be approved by Riva, SAP Security Branch I presume, and SADF. South African Police Security Branch co-operation is essential. Criminal prosecution of participants must at all times be taken into account. Highly professional action is the key to success."

You drafted that document. --- That is correct, Chair.

31st of October. How could you have drafted that document if you didn't have any knowledge of the

offensive activities referred to in the previous document until December? --- Chairperson, that specific paragraph seems as though it's an instruction for offensive action, but I have to say to you that was not my intention. I would like to give a brief run-up as way of explanation how this paragraph materialised. I don't think this has already come to light. J P Opperman was the liaison officer before I gave this duty sheet to him, but it was in a temporary capacity, and he executed this task from Pretoria. You will recall that in the signal from the Minister of Defence one of the complaints of Khumalo was

/that he that he didn't see enough of the liaison officer, both the junior and senior officer, which then was myself and Opperman. This amongst other things led to Opperman being appointed full time as liaison officer, or being made available on a full-time basis in Natal, where he was readily available, and this was the solution to us in terms of Khumalo's complaint. But in the time before Khumalo went to the Minister Opperman had already come to me and told me that he thought there should be attacks carried out on the ANC or UDF.

Was it Opperman who thought this? --- Opperman came to me and said that he thought this is what should take place because the opportunity for this existed. I told him that was not our task. We were not responsible for the application of these persons, we could not become involved. Then Cor van Niekerk later came to me and asked whether Opperman had come to me with this story, and I said yes. I told him what I had been informed and he said we'll have to put this very clearly


to JP that something of this nature was totally out of place, that was not part of Marion.

(Inaudible) ... can give us some sense of the timing of this meeting that you had with Cor, or this discussion at any rate. --- Chairperson, I can estimate that it was in the course of 1988, perhaps in the middle or second part of '88, but I think it was before Khumalo went to the Minister. At that stage we had already decided to appoint Opperman as a permanent liaison officer, and I remember that this was in the time when he was still in a temporary capacity, and when he saw Khumalo sporadically. So, I would place this more or less in the middle, or just after

/the middle

the middle of 1988. For what it's worth I can mention that on more than one occasion Opperman went over my head. In other words he didn't follow the command channels. He spoke directly to Cor van Niekerk without first speaking to me. This happened on more than one occasion. I have already referred to this. When I confronted Khumalo about this base that he wanted for the offensive group he said he didn't want to discuss it with me because he thought I would not approve it or support him this. Then it became clear to me - or not clear, but I then assumed that he wanted to use this offensive group. I want to point out to the Chairperson that up to this stage, as far as I am concerned, there had been no offensive actions. Before we took our break I also tried to explain this. Now, this fact, along with the fact that Opperman had spoken in this direction, disturbed me, where Opperman seemed to be acting on his own and beyond the influence of the

organisation to a large extent, and co-operating with Khumalo. I believed that Khumalo was going to try and involve him in this offensive group of his. But both Cor and I made it very clear to Opperman, after he had spoken to me and van Niekerk, just to make sure that the information was the same. We said, "Stay out. No involvement in offensive operations," but we remained perturbed. It was a situation that he could become involved in. And when it came to light that Opperman had to be given a duty roster I again discussed this with Cor. We discussed the fact that Khumalo and Opperman had come a long way together. In fact Opperman had been involved in the training in the Caprivi. I am not sure in what capacity he was involved in this training. I found out

 /later that later that he had been involved. I did not initially know of his involvement. And in the light of their long journey together we thought that Opperman was a risk, in the sense that he could disregard our instructions. Cor then suggested that I should, by implication, try to curb their movements through duty rosters, and this brings me to paragraph 15. I want to put this to the Chairperson that 15 was my attempt then to restrict them. I want to emphasise that I was under pressure in compiling this duty sheet, and my language usage may not be completely correct. And I want to pre-empt by saying that I think somebody who wasn't involved with the operation, and doesn't have full knowledge on the way in which duty roster sheets were drawn up, may read things into it, and see them as instructions to be carried out, but I have to state that my intention was the opposite,

that I tried to word it in such a way that it would not be possible for Opperman to in any way do anything without our knowledge, because if he kept the duty sheet he could only carry out those things that he wanted to with permission. He would not have been able to do anything without us actually approving it. I also want to put it to you, Chairperson, that, although I thought it would be unlikely, it was in my mind that Khumalo could go to the Minister again, as previously, and although I thought it would be unlikely for the Minister to agree to the carrying out of offensive actions, I didn't think it entirely impossible, because the Minister had on a previous occasion displayed sympathy towards Khumalo and the Chief Minister which he represented, and certain instructions had been given in this regard. Chairperson, lastly I just want to say that



/this was this was definitely not instructions to become involved. On the contrary we wanted to prevent something happening which we didn't have control over. That's all that I can say.

You're saying that because Opperman had showed an inclination to start getting involved in offensive actions on his own, you felt this was wrong, but you felt that because he was working so closely with Khumalo, and Khumalo had often gone over your head and spoken to the Minister, that what this in fact was, this paragraph 15, what you were trying to do here, was you wanted to appear to be saying that they must choose targets, and do all these things, but only do so without your - they must only do so with your permission. And

that if he did come to you and ask for permission to do such a thing, to choose a target and take offensive action against that target, then you would immediately deny that, permission for that to be carried out. So you thought that Khumalo would be satisfied by this, because it looked as though that you were going along with his request to get involved in offensive actions, but it was an instruction to Opperman that he was not to move without your instructions, and if Opperman then identified a target and wanted to take offensive action he should come to you, or to van Niekerk, and then you would deny him permission to do that, because to take offensive action was not part of Operation Marion. Is that more or less correct? --- Broadly speaking, yes, Chairperson.

(Inaudible) ... say this. I have often thought this when I am sitting in these section 29 hearings, but I've never said this before. I think that is the most

/breathtakingly
breathtakingly ridiculous excuse that I have ever, ever heard in my life, and I find it absolutely amazing that a senior officer of your status should try to tell people on a Government Commission that that is the explanation for these four lines here. I have never heard anything like it in my life, and I am placing that on record.

MR LAX: Just one other observation. Why should he bear criminal prosecution in mind if you were going to refuse the instructions anyway? --- What I actually am saying to him there is that if something like this should crop up then this is one of the factors he must consider. He must know that if he becomes involved in

something like this it's a criminal offence because it's beyond the scope of our original intentions for Marion, and there would be offensive actions then which were not intended.

(Inaudible) ... that it was beyond the original purpose of Marion? That's what you're telling us. ---
I would think so. I cannot think of another reason.

What would make it unlawful is the fact that it was murder, or assault, or malicious injury to property, or some other such offence. The fact that it was within the bounds of Marion, planned or non-planned, is irrelevant. The fact that it was carried out by people authorised by the State is irrelevant. That people committed murders with full permission of the State doesn't change them to lawful killings just because the State gave its authority. Do you understand the difference? So, just to go back to your original point about taking people away and not letting them stand trial, for example. The fact that it was done by the State itself, with full knowledge of the highest commander in the province of the Security Branch,

/doesn't

doesn't make it lawful. Can you not see that? ---
Chair, I did not say that I thought it was legal. I simply said that I did not think that I was committing an offence in view of the circumstances. I thought that the person was out on bail. That was what I was told, and I thought that he was going to appear in court, but that we had to build in a certain drag factor so that we could control the security situation. There is a further aspect which I had not mentioned to you with regard to Louis Botha. Louis Botha told me that Khumalo

was concerned that it was possible that action would be taken against Luthuli by the other participants in the particular event, although I didn't know what the event was, and that in consequence he did not want Luthuli to be accessible. I didn't know whether Luthuli was in Durban or Ulundi or where he found himself at that time, but Khumalo basically didn't want Luthuli to remain where he was because it wouldn't have been safe. And that had nothing to do with the police or anything else, it had to do with the situation in which Luthuli was involved, the detail of which was not known to me.

(Inaudible) ... do you remember that? --- I didn't know that.

He was in custody. He was arrested. He was placed in custody. Opperman heard that he was blabbing his mouth off in custody to the police, trying to explain that he shouldn't be there because, you know, he's an important guy, and he's involved in this secret project, and they must get him out of there. They must let him speak to his seniors and - that's how this whole thing came about. And the guy involved was a Warrant-Officer van Vuuren from

/Pietermaritzburg

Pietermaritzburg Riot Investigation Unit, Unrest Investigation Unit. Don't you remember that? --- Chair, I've said to you very clearly that what you are telling me now I bear no knowledge of. We sat on the Malibu, on the verandah of the Malibu, for maybe an hour or more. The world could see us there. I had not idea that this man was in fact an escapee. I saw Louis Botha there for the first time in my life. That was the occasion on which I became acquainted with Louis Botha.

(Inaudible) ... when General van der Merwe told us in one of these inquiries that he understood that the person needed was being taken away. You didn't gain that impression. He himself understood that it was unlawful action. And in the minute of the meeting that you drew up you mention him there, and you mention his involvement in the meeting. And he understood it as such. He made no bones about it to us. --- Are you saying van der Merwe? Do you mean Brigadier Buchner?

General van der Merwe, Buchner, Basie Smit and others were present, and you report on it, 8 November 1988, Liberty Life. Do you know the meeting? That is eight days after you drew up this duty sheet. Eight days later you had a meeting with those guys and you discussed this whole issue. But you didn't know about it, so how could you have discussed it? --- What do you mean I didn't know of it?

You only heard about these issues for the first time in December after you got this document back. ---

I am sorry, Chair, but I have lost you. I don't follow any more what you are saying. I don't know what the situation is.

/Paragraph

Paragraph 6, 7, 8 and 9 you didn't have any knowledge of until December. --- So, you're back to that aspect.

(Inaudible) ... connected matters. Lots of things, as I've said to you, happened in the interim, including a meeting where these particular issues were discussed in detail, and you say you didn't have any knowledge until December. Now, at the meeting of 8th November 1988 at Liberty Life in Pretoria the question

of ... (intervention)

MR LAX: 36, just for your information. Document 36.

No, I beg your pardon, sorry, it's not 36. 28, I beg your pardon.

CHAIRMAN: The whole problem of Marion members involved in offensive actions who were being investigated by the police was discussed by General Basie Smit and General Johan Coetzee, who was then, as I understand, Commissioner of Police. Sorry, not Coetzee. Sorry, the people who were present, amongst others, were General Basie Smit and Johan van der Merwe, Commissioner of Police, and the question that was discussed there was what to do with Marion members involved in offensive actions being pursued by the police. And the notes there, which I understand were made by yourself - they're cryptic, in the sense that they can be interpreted in more than one way, and indeed General Smit said to us that he saw nothing unlawful or sinister arising from that discussion, and he said that he couldn't intervene. Whereas General van der Merwe, when he was asked about what he meant when he said that a person should be given bail, and he should be taken away from the area, he openly conceded that the purpose of

/doing such

doing such a thing would be to prevent the person from being prosecuted. Remove him from the area. General Smit, at another hearing, said that he thought it meant that the person should be taken away so that that person couldn't interfere with State witnesses, and thereby interfere with the prosecution. Now, I don't believe him when he says that, and I told him that. Johan van der Merwe, the Commissioner of Police, was I believe

much more honest, and he said no, that's incorrect what General Smit said. He said that the purpose of, as I've said, getting bail for a person and removing him from the area, was to prevent the police from prosecuting him. And you were at that meeting, and you heard those discussions, and you made notes of it. Now, do you agree with General Johan van der Merwe's summary of that discussion. Do you believe that what they were discussing there was how to prevent prosecution of Marion members involved in offensive action?

MR LAX: I might add with the object of preventing a breach of security. --- Chair, I would grant what you are saying. I just don't know what the role of offensive action is in this regard. I can't see that any particular offensive action was considered to have been the problem here. To the best of my knowledge an unwarranted action - I did make the note here - my apologies, Chair. As far as I understood the situation the problems with regard to offensive action would then have been if these were unauthorised offensive actions.

I have made you attend to it that already in October of 1988, before I drafted the report where we discussed paragraphs 7 and 8, that Khumalo already then indicated that he had every intention of

/taking
taking offensive action, which is why I discussed it with Cor van Niekerk. I did not have it - it says here, as it says in many of the documents, the fact that it mentions offensive action does not mean that we must accept that offensive action in fact took place. I've told you several times already that I was not aware of any offensive actions at any time. I became concerned

at a certain point that it might yet occur, and as I have said to you that caused me concern since it would be outside of the context of the paramilitary force. You've explained to me, and I've accepted this, that that would have been illegitimate action, that in fact it would be murder. That is how I am trying to tell you this entire case. This is my point of view with regard to the course of events. And again I want to state that this had a preventative motive should it occur. It does not indicate that it in fact had occurred. With regard to paragraph 3, I have made a small note after having looked at the document now. I did not know of any event other than the Luthuli incident. In my capacity being present at this event when General Smit said that Detective Branch involvement complicates the matter, I had assumed that he implied Luthuli, and I've already described the Luthuli situation. That would have been my understanding.

We find that hard to believe. I'll tell you why. The problems are around offensive activity. You see that? Point 1 of that meeting. What problems were discussed with regard offensive "optrede"? You see, you can't fill in about something that's still going to happen in the future. Are you saying that General Smith and van der Merwe got together in Pretoria, with other people

/present,
present, including yourself, and they had a discussion which was minuted about what they should do possibly in the future if there were any problems with offensive action, and during the conversation General Smit said that, "The involvement of the Detective Branch

complicates matters." And General van der Merwe said that each case must be treated on its merits, and a member must be given bail and made to disappear. Are you saying they were just meeting to discuss theoretical problems which may arise at a future date? Is that really your answer? That they weren't talking about any case at all, except possibly Mr Luthuli. ---

Chairperson, I don't want to say that it purely concerned a situation which could happen in the future.

What I am trying to say is that as far as I am concerned the fact that it stood with problems concerning offensive actions to me, seen from my point of view, did not necessarily imply offensive actions in the sense that they should be planned and carried out, orchestrated. In the whole course of this interrogation I have said that there was some undisciplined action, and people involved in things beyond the context of what they were supposed to be involved in. The fact that offensive is mentioned here I can only explain in the following way, that the Security Police to my knowledge, in the consultations we had had with them, although they knew about Marion, it never left the impression with me that, as far as the terminology was concerned, that it wasn't understood. And here it's a matter of words perhaps - undisciplined action to the effect that violence was ultimately the result, and that that is offensive action. My perception, and the idea that I got, was that it did not concern specific offences,

/violence,

violence, and actions planned by the Defence Force for - yes, through the Defence Force.

This is put on a basis that DS2 filled them in about the problems. Not future problems, not problems hypothetically, but specific - it's clear. You can't fill someone in about something that hasn't happened. Correct? Language or no language, semantics or no semantics, it's pretty obvious. So, what did he fill them in on? --- Chairperson, I'd like to adhere to what I've said. If General van Tonder meant specific actions then he must have had the knowledge that I did not. I was present, but I do not know of offensive actions which took place, and I have been saying this the whole day. I do not know of any offensive actions.

(Inaudible) ... on the 28th of November. Turn over the page to page 2. This is a meeting at which Buchner spoke to his divisional commander in Pietermaritzburg. Do you remember going to that meeting? --- Yes, I can.

(Inaudible) --- I did.

(Inaudible) ... got the year wrong in the original date there. --- Yes, we did pick that up. It should have been '88. That's not necessarily my fault. It could have been a typing error.

(Inaudible) ... drafted in 1989. I'm just clarifying that, because it became a contentious issue in one of these inquiries. "Ah, but this meeting wasn't in 1988. What are you talking about?" I am just clarifying it for the record. It was actually in 1988. Can you confirm that? It's just a typographical error.

--- I can confirm it, in the sense that it would make no sense, and it would not have any link with the cover letter if it

/was not

was not in fact '88.

Let me read you paragraph 17, and you can tell me what you were trying to say by it.

"Brigadier Buchner said that Inkatha should not know that we select targets. We should prevent the emergence of the perception that they work for us, and that they can depend on our support or protection. Marion members must be trained not simply to speak to any South African Police member with regard to Marion. In addition he said that we should take on the great spirit."

What were you trying to say by that? ---

Chairperson, I want to compare notes if you don't mind.

For what it's worth I do not remember drawing up the cover letter, but that may not really be relevant. The only comment which I can give with regards to that paragraph is that my impression was that Brigadier Buchner seemed to be under the impression that we were acting offensively. He said at the meeting - or he mentioned this at the meeting, and I thought he was just totally off course and nobody helped him to get back on the right track, and nobody said anything about the comments that he'd made. This was a comment that he'd thrown in, and I would go so far as to say that it probably wasn't even worth minuting it. It really was meaningless. This whole meeting concerned, as you will note with the other two, it concerned the information and intelligence potential and the utilisation of that

potential. And that comment of Buchner's, as far as I am concerned, was irrelevant.

/It was

It was irrelevant. --- Chairperson, I was the person responsible for doing the minutes informally. I made the notes, and I wasn't sure if I would have to draft a formal document afterwards. Later it seemed this was not necessary, and yet later they did request these notes, so I can't give you a specific reason. It's something that had been noted, it had gone quite quickly, and I can't evaluate why I minuted some things and not others, even though I thought he was off course.

I think I must just place on record that that is the second most ridiculous excuse I've ever heard during the course of this Commission's work. You see, you don't just record one little absurdity in your mind on his part which is irrelevant. You go on to record three or four different issues that he speaks about, that to my mind of thinking, within the context of all these documents, within the context of the problem you were seeking to solve, are all extremely relevant. It's consistent, it's logical, it follows the purpose of what you should have been doing from your own perspective absolutely consistently. The impression one gains from reading these three meetings is a single thread that there are two main issues here. The one is how do you deal with people that mess up, to put it bluntly, and how do you try and convert that mess up into something positive, and try and get some benefit from the situation through possible intelligence options? And there's an absolutely consistent understanding if you read these three meetings one after the other that

that's what you were talking about. And here you are, the man who drew up this document, and you say that you recorded the most irrelevant thing. It's

/simply

simply inconceivable. You'll have to concede that. -

-- No, Chairperson, I am not going to concede. If we look at the first document again where offensive action is referred to - we just spoke on that - as far as I am concerned unauthorised action, persons who acted on their own, and of course there would be implications and security would be threatened. Paragraph 3, General Smit said that the Detective Branch was involved, and I assumed that it was the Luthuli case. It was the only one I knew about. Again it was the security aspect that was of concern. Paragraph 4, what General van der Merwe said still concerned and related to paragraph 3. Then we got to the information system or intelligence system.

That's an important situation at the time. From the side of the Defence Force it was felt that the emphasis should shift in this direction. I have also pointed this out earlier on, and I want to repeat that these are cryptic notes. For somebody who's reading them now, and who wasn't at the meeting, it would be difficult to really follow the thinking. There are things that look strange. Control mover Marion actions. The whole issue here concerned - it wasn't minuted in detail, but it was discussed that if Inkatha should take action in areas under the KwaZulu Police's jurisdiction then I want to say they could carry out their tasks without difficulty.

If it was in areas where the KwaZulu Police were not present then they could not carry out their tasks. It concerned the whole intelligence system. That is what

was discussed. Also mobilisation actions. If you look at paragraph 7. Emphasis on the intelligence potential. And if we look at the next paragraph 9 ... (intervention)

/I've summarised

I've summarised that for you. You're basically agreeing with what I've said. You don't realise it, but in what you're saying you're ending up saying exactly what I put to you. --- Can I go to paragraph 9? We didn't even read it just now. After the police left it was said that we should try to go over to the Marion group and the police. To me at that stage it says that Operation Marion is ultimately going to be terminated.

That's something that I'd looked forward to for a long time. So, I fail to see what the context is of operational actions in the privacy of the South African Defence Force. This decision had already been made, and the next meeting where General Buchner - that's on the 28th of November, that was still to come. At that next meeting, when Buchner came and he raised that matter it confirmed to me that it was out of context because a decision had already been taken, and what Buchner had to say was simply not on the cards.

Is that - although you think that a decision was taken at that point, if you go and read paragraph 19 you'll see that you were still talking about maybe some sort of smaller offensive element, converting them to contra-mobilisation. It's all there. And then the fact of the matter is that you then put into practice some of the elements by opening the camps, by the Port Durnford base, by the other base, and so on. So, in fact it didn't stop. Although you might have taken that

decision it's common knowledge that that didn't happen.

Isn't that so? It in fact went on for much longer. -

-- That is correct, Chair.

I just want to ask you one last thing. Can you honestly tell us that these people were suitable to be

/included

included in the police, having received the sort of training they had? Now, I know at the time you didn't know what sort of training they had had, or you say they didn't know, but looking now back with the benefit of hindsight, would they have been suitable candidates for police work? --- Chairperson, that's difficult for me to answer. I didn't know these people, with the exception of Luthuli and Khumalo. I never really saw them, so I cannot judge the calibre of these people.

(Inaudible) ... with respect you don't need to judge that. These people were trained in a special forces training. Do you know what the special forces training is? As an infantry officer I'd be shocked if you didn't know what a special forces training was. Just say yes or no, don't give me a long answer please.

--- Special forces training? I have a broad, vague notion.

(Inaudible) ... received a special forces training. House penetrations, camouflage, RPGs, a whole range of other things - explosives, etcetera. Whether you knew about it then or not is irrelevant. I am asking you now, looking back from today, what you know today, do you seriously think they were suitable candidates for a police force? Just give me a yes or a no, not a long story, please. --- Some of them perhaps, others not. I am sorry, Chair, I am trained as

a soldier. I was trained as a soldier over 30 years, and would you believe that I would not be a good policeman?

(Inaudible) ... wouldn't. Soldiers are trained in offensive activities. They're not trained in law and order, they are not trained in minimum force. Everybody we have spoken to, from General Smit to General

/van der Merwe, van der Merwe, to Admiral Pitto, to other officers, have all conceded that that is absolutely so. Without quite a lot of severe, additional training they would not be suitable candidates. That's plain logic, commonsense.

CHAIRMAN: We accept that it wasn't your decision to transfer them to the police. You say that there was talk of a decision taken on 8th November '88 to stop Operation Marion and to transfer these people into the police, and yet after this date a base was selected for a very small offensive group, is that correct? ---

Yes, Chair, although I must indicate that that was done already in October, prior to this meeting.

(Inaudible) ... selection of that base, are you?

(Inaudible) ... how it was selected? --- No. The facility had already been obtained by Khumalo. I saw the base. I told him what I thought of it - or he asked me what I thought of it, and I told him, "Yes, this could function as a base." I could see no particular problem with the site for a base.

(Inaudible) ... acceptable as a base because it was very isolated, and it was a suitable place for offensive units to be based. --- No, Chair, that is in fact wrong. It was not highly isolated. Rather it was in fact in a living area which swarmed with people.

And no, Chair, I did not really think that this was an appropriate site for the application of an offensive unit.

(Inaudible) ... here. Which base are we talking about? Are we talking about Mkuze or are we talking about Port Durnford? --- I am talking of Port Durnford.

(Inaudible) ... talking about Mkuze, which was the first base. That was done in April. That was found -
/that base that base was actually found in April 1988. Are you aware of that? --- No, I am not aware of that. I first knew of it in the signal of the Minister. That's when I first became aware of the base.

Now, just with regard to the Port Durnford base, you went there, is that correct? You went to go and inspect the place. --- That is correct.

(Inaudible) ... went with you at that place were Opperman, Khumalo, and Nick Steele of the Bureau, to whom that property bid was being - under whose control that property was. Do you remember that? --- There was another person, but I wouldn't know whether it was Steele or not.

(Inaudible) ... the Bureau. --- That is correct.

(Inaudible) ... Steele. --- That might well be.

You checked out the facilities. It was a well-fenced site. It didn't need any renovations or improvements, and that's one of the main reasons why you took it. It wasn't very expensive to change it and reallocate it. --- That is correct.

Regrettably we have to rush a little now, because of the time structure, and I want to get on to another document which you drafted according to your statement. Document number 35.

INTERPRETER: Chair, your mike is not on.

CHAIRMAN: Because of the time factor we have to move on now, and I want to get on to another document which you concede in your statement that you drafted, and it is document number 35, dated 6 November 1989. And it appears to be minutes or notes from a meeting with Chief Minister Buthelezi, at which Brigadier van Niekerk was also

/present.

present. And the meeting arose after a request from Buthelezi to meet with you and Brigadier van Niekerk as set out in paragraph 1 of the document. And the document is signed by Brigadier van Niekerk. Was it drawn up by yourself? --- I think so, Chair.

Now, paragraph 2 (c) of that document reads as follows.

"Die Hoofminister spreek sy kommer uit oor die situasie in Mpumalanga en die feit dat hy die 'gewapende stryd' verloor. Hy verwys na die selgedagte vir offensiewe optrede wat nie van die grond af gekom het nie.

Can you just tell us what that means? ---

Chairperson, you will note that the armed struggle is in inverted commas, and I want to put it to you that I was not sure what he meant when he used these words. I want to state that it could have meant that the armed struggle referred to then unrest and intimidation and

fighting, and not necessarily to the paramilitary force.

I don't know. My inverted commas remind me that I was not sure what it referred. As far as the cell idea is concerned, I can state that Opperman informed me after Port Durnford had been established as a base, and Opperman was posted on a permanent base as liaison officer, and Khumalo approached him - and that Khumalo approached him for training, for offensive training, that the term "cell" was then used. You will note that a singular word is used here, also in inverted commas.

I was not sure afterwards because I hadn't noted this, but it seemed as though what the Chief Minister was implying was that he was referring

/to what

to what Khumalo had raised, and that is where the word "cell" comes from. That was the conclusion I arrived at, but I would not be able to say if the word "cell" was used by the Chief Minister himself, but that it did concern offensive action, yes.

And then over the page at paragraph 3 it says,

"Die algemene indruk is dat die
Hoofminister leiding riglyne soek met
betrekking tot sy stryd met die UDF."

--- Chair, it had been my impression that the Chief Minister was somewhat depressed, and that he didn't know which way to go. He said that things were not going politically as well as he had expected, and that he actually did not really know what next. He found himself in a bad mood. He was really - he had difficulties. He had some eye difficulties which could well have contributed to his state of mind.

Were you aware of the - or you must have been aware of the prevailing situation in this province at that time. This was the end of 1989. The political war in this province was at a very high peak. People were being killed in their thousands all over then province.

And Inkatha was losing ground literally everywhere. It was an armed struggle, as you have put it in inverted commas. I put it to you the reason you probably put it in inverted commas is that was the language of the ANC at the time, and MK. So, you put it in as a so-called armed struggle. That's what most people use quotation marks to show, as so-called armed struggle. ---

Chair, that is a possibility, but that is not how I recall it.

Now, you said in your answer a couple of minutes ago



/that the that the Chief Minister was depressed and he looked - sounded as though he was seeking guidance as to which way he should turn because things weren't going well. And then at your follow-up meeting, which is document 37, the 9th of May 1990 in Ulundi. The document appears to be drawn up by yourself and signed by yourself, and was attended by yourself and Hoofstaf Inligting. At that stage was - who was that, van Niekerk or - do you recall who was present there at the meeting with you?

--- Chair, no, I can't recall. I can't link it to a date. I know this is roughly the time that General Badenhorst - I would imagine it was General Badenhorst if I look at the previous document, your 35 which you've just discussed. There General Badenhorst also signed on the document, so I would assume that he would have been

in fact in charge already by that time.

Okay, let's say that it could have been General Badenhorst. Now, just with reference to the document itself ... (intervention) --- Chair, there's some confusion here. Let's just sort it out. I might not have heard your question well. Did you ask me - could you just repeat your question?

At paragraph 1 it says,

"HSE se laaste ontmoeting met Buthelezi

.." - sorry - "...was op 26 April.

Who was HSI in paragraph 1 of that document? --- By name? Chair, that's quite difficult. I would imagine that this was Admiral Pitto at that time. I can't however be certain of this.

It's actually not important. --- By November Badenhorst had taken the position, so I would doubt that /he had he had been there already at that time. I don't really exactly recall.

No, that's not particularly important. So, are these - is this document a minute, or are they notes of a meeting which took place on the 9th of May 1990? ---

Chair, could I say it to you in this way? There would seem to be some duplication. If you look at the previous document, your 35, where General Badenhorst signed, you will note that paragraph 2 of the second document, 36, is simply a replication of what is said as a reminder of what the previous meeting dealt with. So, that would be - paragraph 2 on your 38 would refer to that prior meeting.

So, paragraph 2 - no, I think - when you say - I think you mean 37, not 38. 38, according to me, is an

extract from Brigadier van Niekerk's diary. --- That is the case. Admittedly you are correct.

(Inaudible) ... refers to a meeting of the 31st October 1989. --- That is correct, which would have been dealt with in the previous document that we discussed.

(Inaudible) ... of 37 is just taking that reference to "die gewapende stryd" a little bit further.

--- Yes, it refers again to the previous matter. It just uses slightly different wording, and the reference is made to hit squads, and again it's my interpretation.

As I have indicated to you I was not entirely sure what exactly the word had been, so that's why I added hit squads here, because it had been under discussion. In my view the notion "cells" and "hit squads" these were all used in the same context.

So are you saying it's not necessarily what the

/Chief Minister

Chief Minister used, the words that he used, or might he have used them, or can't you really remember which actual words he used? It seems unlikely that you would have chosen to put a very contentious word like hit squad unless you were merely reporting what somebody else had said. I don't know, and I don't want to put words into your mouth. --- Chair, I can say to you, and I've said this already and I want to repeat it, this was a deduction. This discussion happened some time previously. It happened between me, Khumalo and Opperman. These were the sort of ideas that were being kicked around. I doubt the Chief Minister would have used these words. He never really discussed these matters or mentioned them. He never referred to things

by name. If we discussed a matter he would have listened. I think the English word would have been that he was noncommittal. He would not speak of this kind of thing directly. One would have to deduce for yourself what he might have been saying. That was my experience of him throughout. Also to some extent with Khumalo, myself and Cor van Niekerk, we often returned from a meeting and then we would say to each other, "What is the Chief Minister actually trying to say to us? What does he really want from us?" and there could be a whole range of possible interpretations of what he really wanted concerning certain matters. What I am saying to you is that I can say with a considerable degree of certainty that that would have been my words and not his.

(Inaudible) ... understood that he wanted hit squads. That's what you understood. --- That is correct.

/(Inaudible)

(Inaudible) ... left in your mind that what he really wanted was hit squads. I mean you don't even put an alternative there. You don't say ... (intervention)

--- I am entirely convinced of this, yes.

When you talk about offensive action in this letter you're saying meaning the application of hit squads. --- That is correct. Or rather let me put it this way, including the use of hit squads. I wouldn't want to limit it to the use of hit squads.

(Inaudible) ... translate. It doesn't say "onafhange" it doesn't say ... (intervention) ---

All that I am trying to say is that we're speaking of offensive action. Now, I am saying at this point that

things developed to the point that I understood the Chief Minister to say by offensive action hit squads.

All that I am trying to say is the terminology could imply other kinds of offensive action. It should not be delimited only to hit squads, but it certainly includes hit squads. (Inaudible) ... that to you, in the sense that hit squads is just one kind of offensive action, in the sense that it's sort of an assassination type activity. There may well be other kinds of attacks that don't entail assassinations per se. Am I understanding you correct? --- Yes.

I just want to refer you briefly to the last document, which is document 38, which is a diary entry in the diary of Brigadier van Niekerk on the same day that he and you met with General Jack Buchner, where Jack Buchner, according to you, made this completely incorrect assumption that offensive actions meant going out and killing people. That's what you said earlier on. You

/said that said that at this meeting on the 28th of November Brigadier Buchner seemed to be under the impression that Operation Marion involved taking unlawful offensive action, and he was so off the mark that no one even bothered to correct him, but in any event you just minuted it because that was your job. Now, this document number 38 is a diary entry of Brigadier van Niekerk, and in that diary entry there at 10 o'clock you'll see that he says - he reminds himself that he has a meeting with Buchner in 'Maritzburg at 10 o'clock on the 28th, and in the notes side of his diary there's a reference there to "teikens". "Moet ons nie liewer

gaan vir lae vlak teikens nie?" INTERPRETER:

"Shouldn't we rather go for low grade targets?" Should I not interpret this?

CHAIRMAN: "Wat minder rimpels maak nie." Now, somehow Brigadier van Niekerk also seems to be under the impression that Operation Marion implied or meant going for targets. Do you know what he meant there? I know you didn't write it, but do you know what he meant? -

-- Chair, to risk an opinion I would again say that involved situations that would have come about as we've dealt with them through the course of today. These would be actions where certain of the members might have become involved in actions and this might have caused problems for us. I could not tell you that I would understand by this offensive action or whatever.

(Inaudible) ... my reading of it it doesn't appear to refer to members being involved in unlawful or problematic things, it appears to be a suggestion that "we," that's the military, Brigadier van Niekerk, "moet ons nie liever gaan vir lae vlak teikens wat minder rimpels maak nie." It doesn't seem to be an ambiguous /statement statement to me. And it took - the note was made apparently on the same day that a meeting was held with Buchner, at which Buchner says that, "Inkatha mustn't know that we are choosing targets." And you say that Buchner said that, he was way off the mark. He was so off the mark that people didn't even bother to correct him, they just let it go. I mean I'm astonished that that's what you say. I assume you're saying it because you have a version which you must stick to, and in that sense I suppose you are taking a principal stand, but to me it is inconceivable. --- Chair, I find it somewhat difficult to comment. I would like to say that

targets do not necessarily imply a human target. When we mention targets in the army - and this was found also in the investigation and in the court case, that targets have a broader meaning. That is really the only comment I can make in this regard to you. As far as I can recall he did not discuss his mind with me on this matter. Some of these things certainly were matters which we had previously considered - the training of leaders, political mobilisation - which in fact began to occur at Itzeneni. Not that we're discussing that tonight, but it did eventually occur. I really don't feel I've got more to comment in this regard. Chair, a "doelwit" and a "teiken" would be to my mind linked. A "doelwit" or an objective could be a training objective, it could be a political objective. I think there's a whole range of possible uses of this term.

I am just trying to find the instance, but in one of these documents where the word "teikens" appears, it appears in contra-distinction to the word "doelwit." It's in the - that's right, in the duty sheet. If you look on

/page 3

page 3 at the top you say in paragraph 13,

"Doelwitte sal afsonderlik aan u voorsien word. Doelwitte is geskoei op 'n kontramobilisasie en offensiewe vermoë vir Inkatha."

Was that your overall aim? --- Chair, to inform you of what this means in this particular context - in this document, where I referred to paragraph 6, 7, 8 and 9, and where I denied my own drafting of those paragraphs, I think 8, or maybe 9, had to do with objective planning, or rather strategy. Now, to link these two

things, once one planned a strategy you would then formulate objectives, and this would occur on all the different levels of the particular organisation. What would then occur is that in the planning session you would review your past objectives, and it might occur that the objectives of a particular organisation might change. What I am trying to say to Opperman here is that in view of the planning session which still had to occur there was the possibility of a change in objective. So, I am trying to say to him that up until this time the objectives with regard to Marion had been grounded in the counter-mobilisation and offensive ability. So this would imply that, should this separate provision become available, then I would avail him of it, should that be required in terms of his duty sheet.

That "offensiewe vermoë" het nie 'hit squad' ingesluit nie. --- Yes, but here we have different dates and different decisions at different times. When I drafted the duty sheet, as I've explained to you, hit squads did come into the discussion, in the sense that I foresaw Khumalo demanding this, which he in fact later

/did did. What you are saying is in fact the case, yes, but it had not been policy at the time of the drafting of the duty sheet, and it was certainly not carried out as policy at that time.

(Inaudible) ... of the fact that the interpreters have to leave now for Bloemfontein we unfortunately have to close this session. Thank you, Mr Toweel, Mr van den Berg, Ms Coetzee. It's conceivable that we may wish to ask Mr van den Berg more questions, and we can presumably liaise with your attorney in order to arrange a suitable date.