TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON
MR TOKOTA SC
MS HEMRAJ SC

HELD ON

DAY 84  2 MAY 2013  PAGES 8842 TO 8949

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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2nd May 2013

Marikana Commission of Inquiry
Rustenburg

[PROCEEDINGS ON 2 MAY 2013]


Majoor-Generaal, u is nog steeds onder eed.

1 GENERAAL-MAJ OOR ANNANDALE: Dankie, Voorsitter.

2 CHAIRPERSON: Mr Bizos, do you have more cross-examination?

3 CROSS-EXAMINATION BY MR BIZOS SC (CONTD.):

4 Thank you, Mr Chairman. General, you will recall that at the previous hearing we dealt with your two sentences in relation to the number of persons you expected to deal with, 300 or 3 000. You recall that. I don't want to repeat it.

5 GENERAAL-MAJ OOR ANNANDALE: Ek onthou dit, Voorsitter.

6 MR BIZOS SC: The plan drawn by the JRC, it was premised on an armed group of 300 or 3 000?

7 GENERAAL-MAJ OOR ANNANDALE: Voorsitter, die plan het voorsiening gemaak vir beide groepe inklusief.

8 MR BIZOS SC: Would you not agree that clearly a plan to deal with 3 000 belligerent protesters would have been substantially different from a plan to deal with 300, or were there two plans?

9 GENERAAL-MAJ OOR ANNANDALE: Voorsitter, daar was een plan. Die plan het voorsiening gemaak om te handel met die aksies van beide groepe. Die groter groep was nie die agressiewe groep nie. Die kleiner groep van tussen 3 en 400 was die meer militante groep, maar ons het voorsiening gemaak vir die uiteindelyk agressieve, sou dit nodig wees, van selfs die groter groep, alhoewel ons verwag het dat die groter groep self sou uiteengaan, wat dan ook gebeur het toe ons die defensiewe maatreël ontplooi het.

10 MR BIZOS SC: General, you are contradicting yourself. Let me read to you again the first sentence that you uttered. “We never thought that we would have to deal with the bigger 3 000 group because there were two distinct groups.” That is in conflict with what you have just told us, that you expected to be ready to deal with the 3 000 group.

11 GENERAAL-MAJ OOR ANNANDALE: Voorsitter, nee. In konteks –

12 MR BIZOS SC: In context, General -

13 CHAIRPERSON: He was busy answering the question when you interrupted him. Carry on with your reply.

14 GENERAAL-MAJ OOR ANNANDALE: Dankie, Voorsitter. In konteks het ons nie verwag dat dit enigsins sou nodig wees om van die groter groep te ontwapen of te arresteer nie.

15 MR BIZOS SC: What was the plan in relation to them now that the majority of the 3 000 were not armed? Is that what, am I understanding you correctly?

16 GENERAAL-MAJ OOR ANNANDALE: Voorsitter, soos ek reeds getuig het, die meederheid van die groep was bewapen met meer tradisionele wapens.

17 MR BIZOS SC: - you not accepting the statement of your counsel in FFF9, page 14, paragraph 43, that all 3 000 belligerent protesters had to be dealt with?

18 GENERAAL-MAJ OOR ANNANDALE: Voorsitter, ek het reeds verduidelik dat die verwysing in die openingsrede van die, van ons regspan het verwys na 'n kollektiewe groep wat ook ingesluit het die kleiner groep.

19 CHAIRPERSON: Did I understand you correctly?

20 GENERAAL-MAJ OOR ANNANDALE: Voorsitter, in die openingsrede het daar nie verdere onverdeling plaasgevind nie. Daar was kollektief verwys na die groter groep. Al 3 000 of 3 000 plus was verseker nie die aggressiewe individue, of was verseker nie aggressiewe
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25           CHAIRPERSON:          I'm sorry, Mr Bizos, I
24 other place in the plan, any other reference in the plan?
23 the Chairman of the Commission has referred us to, any
22 their own accord.  Is there any other place other than what
20 that there was an expectation that there would be the ones
19 our deployment was in line with smaller groups in terms of
18 expect to have to deal with the 3 000 people, and also so
17 we did not expect – to use your own words – we did not
16 plan?  Is there any other place in the plan which says that
15 were going to be treated different as part of their overall
14 there any other place in the plan in which the two groups
13           MR BIZOS SC:          Could you please –
12 CHAIRPERSON:          That answer hasn't been
11 interpreted yet.
10 MR BIZOS SC:          Could you please inform the
9 Commission where in the plan this idea of two separate
8 groups being treated differently appear?
7 GENERAAL-MAJOR ANNANDALE:          Voorsitter, the plan wat
gedoop is “Operation Platinum” is ‘n raamwerk
6 in terme van polisie optrede.  Ek het reeds gemeld dat dit
5 die operasionalisering is van die “contingency” beplanning
4 van die 13de.
3 CHAIRPERSON:          Mr Bizos, there is a
2 reference in the opening speech of two groups – page 10,
1 para 25, lines 2 and 3, there’s reference to “The object of

1 referred you to the opening statement, not the plan.  I
2 didn’t make it clear, I’m sorry.
3 MR BIZOS SC:           I’m sorry, I –
4 CHAIRPERSON:          I apologise, but I –
5 MR BIZOS SC:           I’ll repeat the question as
4 to whether there is anything in the plan, is there anything
3 in the plan?
2 GENERAAL-MAJOR ANNANDALE:          Voorsitter, die plan maak
1 voorsiening vir aktiwiteite en handelings en
10 –
9 MR BIZOS SC:          Please refer us to the
8 passage in the plan.  I’m sorry, Mr Interpreter, did I cut
7 you off?
6 CHAIRPERSON:          You cut the witness off,
5 which is even more serious, but anyway, please give the
4 witness a chance to carry on.
3 MR BIZOS SC:          Yes, please continue if you
2 want to.
1 MR BIZOS SC:          Could you please inform the
10 –
9 GENERAAL-MAJOR ANNANDALE:          Dankie, en
8 net –
7 CHAIRPERSON:          No, Mr Semenya wants to say
6 – Mr Semenya?
5 MR SEMENYA SC:          Chair, can Mr Bizos also
4 have reference to slide 78 of exhibit L?
3 CHAIRPERSON:          Look at the last two lines

1 disbanding of 3 000 protesters and
2 removing,” to be removing I’d imagine, “and removing the
1 more militant and obdurate ones by way of arrest.”  So
1 there is a distinction between those who were going to be
2 merely dispersed and disarmed, and those who were going to
3 be arrested.  The arrested ones, or ones to be arrested,
4 were described as the more militant and obdurate ones.  So
5 there is a distinction already drawn in the opening
6 statement, to be fair.  There may be other questions you
7 want to ask based on that passage, but I don’t think you
8 can suggest to him that the distinction between two groups
9 is something that’s not in the opening speech.
8 MR BIZOS SC:           I will accept that.  Is
7 there any other place in the plan in which the two groups
6 were going to be treated different as part of their overall
5 plan?  Is there any other place in the plan which says that
4 we did not expect – to use your own words – we did not
3 expect to have to deal with the 3 000 people, and also so
2 our deployment was in line with smaller groups in terms of
1 that there was an expectation that there would be the ones
2 that would not necessarily want to go or disperse over
1 their own accord.  Is there any other place other than what
3 the Chairman of the Commission has referred us to, any
2 other place in the plan, any other reference in the plan?
1 CHAIRPERSON:           I’m sorry, Mr Bizos, I
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25 nie. Ons, dit dui net handelinge aan, en die handelinge is 24 militante groep hanteer of dit is hoe ons dit sal hanteer 23 daar staan nie in die plan dat dit is hoe ons sal die
20 plan, which supports your two sentences that you gave in 19 to point to any specific wording in the exhibit of the 18           MR BIZOS SC: You are reluctant, General, 17 offensiewe maatreëls.
16           GENERAAL-MAJoor ANNANDALE: Dit is 15 adoption of the plan?
14           MR BIZOS SC: Did he take a part in the 13 Calitz is verseker ‘n senior polisie-offisier, dis korrek.
12           GENERAAL-MAJoor ANNANDALE: Brigadier 11 officer.
10           MR BIZOS SC: Yes. He is a senior police 9 witness is a major-general.
08 MR BIZOS SC: I’ll have it [inaudible].
07 CHAIRPERSON: It appears to be all, it’s a bunch of pages, it’s actually four pages all stapled together. It’s the last four pages of the exhibit. We may have stapled it together ourselves, so don’t rely too much on the staple. I think the second page of those four pages, in other words the third-last page of the exhibit says the following. It’s headed “Risk Assessment. Protester group still deemed a threat to police members due to a smaller group who is armed,” who are armed, I suppose, “showing a militant attitude.” So in the plan itself, the risk assessment of stage 3 there is a reference to a smaller group, armed, showing a militant attitude. I think to be fair, that’s the passage that the witness had in mind which he couldn’t find at the time. So I don’t think we need to spend any more time on that. I don’t want to stop you with the next bit you’re busy with, but that seems to -
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24 with which you must deal is that it's not fair to put the passage to him.

23 CHAIRPERSON: The basis of the objection

22 MR BIZOS SC: Yes.

21 MR BIZOS SC: No, we will argue -

20 to study Brigadier Calitz's statement. You're putting a busy with now.

19 we don't know whether the Major-General had an opportunity

18 complaint really is about the fairness of the question and

17 CHAIRPERSON: Mr Bizos, I'm sorry, the

16 attitude of essentially geniality?

15 CHAIRPERSON: Are you aware of that

14 MR BIZOS SC: Yes.

13 whether that's correct?

12 CHAIRPERSON: Are you asking the witness

11 fellow policeman. Are you aware of that –

10 this together and will not put blame on anyone who is a

9 MR SEMENYA SC: Chair, the fair treatment

8 something.

7 CHAIRPERSON: Mr Semenya wishes to say

6 waving their weapons at us," –

5 remained on the koppie from where they were chanting and

4 reformulate your question before he answers.

3 objection?

2 CHAIRPERSON: Let's give the witness a chance to answer the question, unless you wish to

1 witness's attention to the passage in paragraph 12 to which

2 Mr Semenya referred. Now what is your answer to that objection?

3 MR BIZOS SC: “The rest of the men

4 remained on the koppie from where they were chanting and

5 waving their weapons at us,” -

6 CHAIRPERSON: It's the earlier part.

7 Sorry, the earlier part, Mr Bizos, does refer to a group of

8 men on the mountain, some of them covered with blankets and

9 armed with weapons, were on the ground about 80 metres away

10 from the barbed wire vehicles, [inaudible] and were very

11 aggressive, were waving their weapons at us. They were

12 about 300 to 400 men." So you've read the last sentence,

13 but anyway, the problem with the objection falls away in

14 the light of the fact that the witness's attention is now

15 pertinently drawn to the other passage.

16 MR BIZOS SC: Yes.

17 CHAIRPERSON: So perhaps we can now give him a chance to -

18 MR BIZOS SC: Mr Chairman, with respect,

19 if there is a patent contradiction of two senior officers

20 that were -

21 CHAIRPERSON: Mr Bizos, Mr Bizos, you put

22 the question. The objection now falls away because the

23 other passage has been referred to.

22 generaal-MAJoor ANNANDALE: Voorsitter, 18 generaal-MAJoor ANNANDALE: Voorsitter, 19 ek is nie bewus van so 'n kultuur nie, en ek is verseker elleke kultuur nie.

18 Voorsitter, en dan was ek nog besig om my vorige vraag, die vorige vraag van Adv Bizos te probeer beantwoord, en ek het gemeld ek kan net oor my eie feite getuig; foto's wat ek gesien het wat twee duidelike groeperings aandui; terugvoer wat ons in die JOC gekry het; en die besprekings tydens JOCOM vergaderings.

17 GENERAAL-MAJoor ANNANDALE: Voorsitter, ek is nie bewus van so 'n kultuur nie, en ek is verseker elleke kultuur nie.

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1. questions are predicated on a contradiction. We tried to point out that there is no contradiction because Brigadier Calitz also distinguishes a smaller group from the bigger group. So they're not at odds with the evidence of the witness.
2. CHAIRPERSON: Mr Bzos?
3. MR BIZOS SC: Mr Chairman, the words are clear, very, very clear, that “They acted as one group and all of them associated themselves with the actions of the other. All of them had the same intention and goal.” What could be clearer, Mr Chairman, than reading those words –
4. CHAIRPERSON: Just place it to the witness; let's see what he has to say. I don't remember you putting to him in terms that what Brigadier Calitz had said was wrong. You now say he didn't say it was wrong and therefore you're criticising him. So anyway, let's give him a chance to answer the questions and then you can carry on. So have you finished your question, or do you want to reformulate it?
5. MR BIZOS SC: I've finished the question whether this is in contradiction, Mr Chairman –
6. CHAIRPERSON: Well, you put it's a contradiction. Let's see what the witness has to say, whether he agrees.
7. MR BIZOS SC: Yes. We'll have another
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Mr Bizos?

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MrBizos?
the passage that I've referred you to in the risk
assessment, I think it's exhibit S53, where there was
reference to a more militant group, on what basis can you
put to the witness that this is now a new version? I can
understand it's a version that he put a lot of emphasis on
and the others either put no emphasis on or very light
emphasis, so I can understand that, but is it fair to
suggest to him that it's a new version? Because that does
imply something which I'm not sure is necessarily supported
by the facts upon which it's allegedly based.

MR BIZOS SC: Yes, let me use his own
words, Mr Chairman, the idea that “We never thought that we
would have to deal with a bigger 3 000 group because there
were two distinct groups.” Leave aside the question of
whether there were two distinct groups. “We never thought
that we would have to deal with the bigger 3 000.” I will
call that as a new version of the police defence.

GENERAAL-MAJoor ANNANDALE: Voorsitter,
dit is verseker nie so nie.

MR BIZOS SC: Assume for the purposes of
my questioning that this is what you've said. You can
explain it if you want to many times, but deal –

GENERAAL-MAJoor ANNANDALE: Ek gaan dit
verduidelik; Voorsitter –

MR BIZOS SC: - with the meaning of those

words. “We never thought that we would have to deal with
the bigger 3 000.” That version, I am going to put to you,
was deliberately adopted as a second defence, or as an
alternative defence in order to meet the statements of the
experts that have been filed, that that plan was - to use a
colloquialism – a crazy plan, and in order to avoid the
judgment of the experts that have been filed, this version
has been brought forward as a new version.

GENERAAL-MAJoor ANNANDALE: Voorsitter,
daar is tale getuies wat sal kan getuig tot die effek wat
ek oorgedra het, beide vanuit polisie geledere en ook van
Lonmin. Daar was ‘n mnr Dirk Botes wat deel van die
JOCom vergaderings, wie ek seker is sal dit onafhanklik
bevestig. Daar was ook ‘n delegasie van Lonmin se senior
bestuur wat op die Donderdag besoek afgelê het by die JOCom
en in my interaksie met hulle het ek pertinent verwys na ‘n
aparte sogenaamde krygersgroep –

CHAIRPERSON: “Krygers” are fighters, I think, to the fighting group.

GENERAAL-MAJoor ANNANDALE: - wie op en
afbeweeg het op daardie betrokke dag van die een kant na
die ander kant. Voorsitter, nee, ons het nie ‘n mal plan
gehad nie. Ons het ‘n weeldeurde dat plan gehad wat opgestel
was deur ‘n span kundiges met jare en jare se ervaring
tussen hulle, gebaseer op ‘n geskiedenis van 17 jaar in

hierdie demokrasie, wat ons 151 105 Openbare Orde
protesaksies hanteer het. Voorsitter, en met die voordeel
van nabetragting is dit baie maklik om te kan verwys na
leentes in ‘n plan en ons nie slegs die tragiese uitkom
dat daar mense gesterf het gebruik as die enigste maatstaf
of so ‘n plan geskik was al dan nie.

[11:06] MR BIZOS SC: You were a police officer
and what was your rank in –

CHAIRPERSON: Are you going on to another
point now, Mr Bizos? Because there’s a point I want to put
in relation to the point you’ve just been putting about the
plan and what it was aimed at.

MR BIZOS SC: Well [inaudible] –

CHAIRPERSON: I won’t do so now. I won’t
do so now to interrupt you –

MR BIZOS SC: No, no. No.

CHAIRPERSON: There’s one passage I think
which has to be put to you. It’s been referred to already.

In the opening speech, the opening statement rather, which
is exhibit FFF9, on page 10 at the top the, it reads as
follows if one starts at the foot of the previous page,
page 25, "You’ll hear in the fluidity of the situation at
Marikana on Thursday, 16 August 2012, the situation got out
of control and tragic unintended consequences resulted,
despite meticulous scenario planning by experienced
generals and other senior officers at the joint operational
centre, the JOCom," and these are the words I’d like you to
deal with, “to achieve the object of dispersing and
disarming over 3 000 protesters.”

GENERAAL-MAJoor ANNANDALE: Voorsitter,
ja, ons het nie verder die verklaring, die openingsrede het
ons nie verder gaan onderverdeel nie, en ons het slegs na
die kollektief verwys, en dieselfde in die, in bewysstuk L.
Op ‘n stadium sou ons na 400 “slides” toe gegaan het en ons
het dit probeer beperk en beperk, so ek sien wat u sê; dit
was ‘n kollektiewe verwysing sonder ‘n verdere
onderverdeling.

CHAIRPERSON: Yes, thank you. I must
confess, I thought there might have been something in L
that supported what you said, but that passage seemed to me
to be slightly against it, but I think you’ve explained,
you’ve expanded, but there may be something in L as well,
but anyway, if there is I’m sure Mr Semenya will draw it to
our attention at some stage.

GENERAAL-MAJoor ANNANDALE: Daar is
verwyssing, dis reg, maar ons het nie in baie detail
ingeegaan in terme van die onderskeid nie, Voorsitter.

CHAIRPERSON: - being referred to at
slide 78 during the stage 3 of the operation plan, that’s
the reference to the more militant group’s tight formation
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1 and structuring being dealt with.
2 MR BIZOS SC: You remember – if I may
3 proceed, Mr Chairman. You remember –
4 CHAIRPERSON: Yes, Mr Bizos. I was
5 intervening in your cross-examination. You may carry on
6 now.
7 MR BIZOS SC: Thank you. What was your
8 rank in 1994 when the democratic order came to par?
9 GENERAAL-MAJOR ANNANDALE: Voorsitter,
10 dit was majoor, sonder die generaal.
11 MR BIZOS SC: Did it come to your notice
12 as an officer that Mr Eddie Hendrickx was employed together
13 with the then new Commissioner Fivaz and Minister Mafomadi
14 to demilitarise the South African Police?
15 GENERAAL-MAJOR ANNANDALE: Voorsitter,
16 ek het tydens hierdie Kommissie bewus geraak dat mnr
17 Hendrickx betrokke was by die Suid-Afrikaanse Polisiërdien
career daarin, ek dink so hieros ’94 tot ’96, daar rond. Ek
18 weet nie wat was al sy pertinente takings waarop sou hy
19 betrokke wees nie, maar ek weet hy was betrokke by Openbare
20 Orde Polisiëring.
21 MR BIZOS SC: After you made your
22 statement, your written statement, did you become aware
23 that in cross-examining certain witnesses we disclosed that
24 Mr Eddie Hendrickx was going to be an expert witness who
25 was going to say that this plan of dealing with the 3 000
26 protesters as described in the plan – he didn’t use the
27 word – was a completely unacceptable position for any
28 police force to adopt?
29 GENERAAL-MAJOR ANNANDALE: Voorsitter,
30 ek het mnr Hendrickx se verklaring gelees.
31 MR BIZOS SC: Did you read, before giving
32 evidence and after you made your statement, Mr Hendrickx’s
33 view that what the South African Police did on the 16th was
34 a – to use another word – a faulty exercise?
35 GENERAAL-MAJOR ANNANDALE: Voorsitter,
36 mnr Hendrickx se verklaring is taamlik omvattend.
37 MR BIZOS SC: Quite what? I’m sorry, I
38 didn’t hear.
39 GENERAAL-MAJOR ANNANDALE: Omvattend.
40 CHAIRPERSON: Comprehensive.
41 MR BIZOS SC: Comprehensive.
42 GENERAAL-MAJOR ANNANDALE: Omvattend, en
43 hy het na verskeie fasette verrys, so dit sal vir my
44 makliker word.
45 CHAIRPERSON: Mr Bizos, I see it’s now
46 quarter past 11. If there are specific passages to which
47 you wish to refer the witness, perhaps you could give it to
48 him shortly after we take the adjournment so he can have a
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1 look at them during the adjournment and so you can then
2 proceed. Have you got specific passages you’re going to
3 refer him to?
4 MR BIZOS SC: There are certain passages
5 that we’re going to –
6 CHAIRPERSON: Well, you could either
7 mention them now or you can mention it once we adjourn,
8 whichever you prefer.
9 MR BIZOS SC: Well, let’s take the
10 adjournment now.
11 CHAIRPERSON: Alright. We’ll take the
12 tea adjournment at this stage. We’ll try to reassemble, if
13 possible, at half past 11.
14 [COMMISSION ADJOURNS COMMISSION RESUMES]
16 I left the auditorium I told the attorney for the police
17 that if the Major-General required longer time to read the
18 report, the relevant passages, I would be prepared to
19 recommence the sitting later than the time I’d mentioned,
20 and indeed I was then asked to give the General longer
21 time, which I’ve done, which is why we’ve come back much
22 later than was promised. Major-Generaal, u is nog steeds
23 onder eed.
24 CHARL ANNANDALE: s.o.e.
25 CHAIRPERSON: Mr Bizos, the document
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1 we’re looking at is exhibit GGG2. Is that right?
2 MR BIZOS SC: 2, page 16, paragraph 22 –
3 VOORTITEL: Majoor-Generaal, ek dink u
4 wou iets – I think he wants to say something, or did I hear
5 wrongly? No. Is it 22.2, is it Mr Bizos, or would you
6 want to deal with the whole 22?
7 MR BIZOS SC: Well, I would like to read
8 from 22 up to 22.4.
9 CHAIRPERSON: Yes, please go ahead then.
10 CROSS-EXAMINATION BY MR BIZOS SC (CONTD.):
11 Yes, thank you. General, please have a look at exhibit
12 GGG2, that is the statement of Mr Eddie Hendrickx, and it
13 reads, “The objectives of the tactical intervention stage,
14 dispersal, disarmament, and arrest, are problematic.”
15 22.1, “I would not try to engage a perceived armed crowd of
16 3 000 protesters with these objectives when there were
17 other options available. The purpose of an operation and
18 the size of a gathering determine the number of police
19 required for a defensive operation. The accepted
20 international ratio is three protesters to every one
21 police; for an offensive, that is arrest operation, one
22 protestor to every three police. There were approximately
23 750 police and 3 000 protesters at Marikana on 16th of
24 August 2012, insufficient for an operation of this nature.”
25 22.3, “After the incident on Monday the 12th of August 2012,
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1. where members of SAPS and protesters had died, the probabilities were that the dispersal, disarmament, and arrest, would not work; and,” 22.4, “Even if the protesters had laid down their arms and surrendered, there were probably not sufficient personnel and resources in place to process them.” Now this is the view of Mr Hendrickx. Do you agree or disagree?

2. GENERAAL-MAJOR ANNANDALE: Voorsitter, ek stem nie saam met mnr Hendrickx nie.

3. MR BIZOS SC: Let us see what Mr White says in WW2, paragraph 4.4.21 on page 32 of his report. Are you with –

4. CHAIRPERSON: Sorry, I was looking at something else, Mr Bizos. Please forgive me. To what are you now referring?

5. MR BIZOS SC: WW2 -

6. CHAIRPERSON: Yes.

7. MR BIZOS SC: That is Mr White's report.

8. CHAIRPERSON: Yes, page 32?


10. CHAIRPERSON: Thank you very much.

11. MR BIZOS SC: May I read it, Mr Chairman?

12. CHAIRPERSON: Yes, please do so, Mr Bizos.


14. GENERAAL-MAJOR ANNANDALE: Voorsitter, ek stem nie saam met mnr Hendrickx nie. ek stem nie saam met mnr Hendrickx nie.

15. CHAIRPERSON: [onhoorbaar] vat op die stelling soos gemaak.

16. MR BIZOS SC: Hendrickx verwys na “There were other options available,” dat ek stem nie saam met mnr Hendrickx verwys tydens my getuenisliewering. Ek kan enige tyd weer daar gaan. Daar is ongelukkig nie ‘n kort antwoord daarvoor nie, so ek sal moet kommentaar lewer op elke aspek wat hier vermeld is.

17. MR BIZOS SC: The fundamental question in both the sections of the opinion says whether or not the police were right in having a plan to do the dispersal, disarming, and arrest plan. They say that it appears to them on the evidence before them that 3 000 people – and that was what was in the opening address and that is what was in the evidence and they relied on it. Do you disagree with everything that they say in criticism of the plan?

18. GENERAAL-MAJOR ANNANDALE: Voorsitter, ek stem deur al die aspekte moet werk. Dis die enigste manier hoe ek dit kan antwoord, want ek kan nie net sê ek stem saam of ek stem nie saam nie, want teoreties en akademies is daar van die stellings wat waar is, net [onhoorbaar] vat op die stelling soos gemaak.

19. MR BIZOS SC: Which are those that you expect is true?

20. GENERAAL-MAJOR ANNANDALE: Voorsitter, soos ek deur dit werk sal dit duidelik word.

21. CHAIRPERSON: No, I was looking at something else.

22. MR BIZOS SC: For the sake of completeness, before you do that, let me also refer to the statement of Mr De Rover, FFF11, paragraph 62. Let me read 61 first. “One difference I see with the past and with the benefit of hindsight is that this operation was requiring more than incidental use of the firearm.” 62, “For that reason alone I place this operation at Marikana at the very end of the scale of operation such crowd management is capable of handling. In fact, I strongly believe that as the events unfolded leading up to scene 1 on the 16th of August 2012, SAPS were out of their depth and forced to act beyond current capability levels.” Please have regard to that statement by the expert engaged by the South African Police. Having regard to the three statements, would you please tell the Commission which portions of these opinions do you accept a correct, and which you regard as incorrect?

23. GENERAAL-MAJOR ANNANDALE: Voorsitter, ek begin by bewysstuk GGG2, paragraaf 22.1 op bladsy 16, waar mnr Hendrickx sê dat “I would not try to engage a perceived armed crowd of 3 000 protesters with these objectives when there were other options available,” dat dit nie ons intensie was en ons bedoeling was om 3 000 protesteers te nader om hulle te ontwait en/of te arresteer nie. Dis ook nie vir my duidelik waar mnr Hendrickx verwys na “There were other options available,”
Page 8879
1  wat hierdie opsies is waarna hy verwys in die betrokke
2  paragraaf nie. Dieselfde bewysstuk, dieselfde bladsy,
3  paragraaf 22.2, waar mnr Hendrickx verwys na die, en ek
4  haal aan – “Accepted international ratio is three
5  protesters to every one police,” en dit verwysend na ‘n
6  defensievere aksie. Ek het in my getuienis verwys dat ek
7  eerstens nie bewus is dat daar ‘n internasionale standaard
8  is nie. Ek het verder verwys dat sou dit die geval wees,
9  dit sal beteken dat die Suid-Afrikaanse Polisiediens elke
10  een van hulle Openbare Orde lede landwyd beskikbaar moet
11  ontplooi as ons ‘n skare het van meer as 3 000, pertinent
12  as ons 9 000 het – net ‘n regstelling. Ek het ook verwys
13  na die, dat ons net oor die 4 000 operasionele Openbare
14  Orde lede het en ook in ‘n informele studie wat ons gedoen
15  het vraag in 2012 het ons bevind dat sowat 34% van Openbare
16  Orde lede op enige gegewe stadium nie beskikbaar is nie,
17  nie beskikbaar as gevolg van ‘n verskeidenheid van redes,
18  siekverlof, vakansieverlof, bywoning van kursusse, taakspan
19  ontplooings, en so meer, en so meer.
20  [12:10] So dit is nie die ratio wat ons, of die
21  verhouding wat ons gebruik in terme van ontplooing nie.
22  Dan gaan mnr Hendrickx verder en hy verwys na offensiewe
23  aksies en die verhouding van protesteerders tot
24  polisiebeamptes en hy gebruik die verhouding as een
25  protesteerder vir elke drie polisiebeamptes. Weereens is

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1  was an escorting operation.
2  GENERAAL-MAJOR ANNANDALE: Voor sitter,
3  dan met u vergunning, paragraaf 22.4 op dieselfde bladsy,
4  was daar voldoende hulpbronne beskikbaar om te ontplooi om
5  beide die verwagte aantal arrestasies asook beslagleggings
6  te verwerk, en daar het ek verwys na die aantal speurders
7  wat aan diens was na die betrokke dag, ook offisiere
8  verbonde aan die Plaaslike Kriminele Rekord Sentrum, die
9  polisiesaties wat, vfy polisiesaties waar daar 170 – kom
10  ons verwys daarna as beddens – beskikbare kapasiteit was
11  vir die aanhouding van gearresteerdes, en dan ook vfy
12  trokke, ek dink dit was vfy of potensieel ses trokke vir
13  die vervoer van sodanige gearresteerdes. As ek dan kan
14  oorgaan na bewysstuk WW2 van mnr Gary White –
15  MR BIZOS SC: Just before you go there,
16  may I ask you this question. Your criticisms of Mr
17  Hendrickx’s criticism is the assumption that the plan was
18  not to deal with 3 000 protesters, as your counsel said in
19  the opening statement, as the witnesses have stated in
20  their statements. You base your criticisms on the fact
21  that the assumption that you were dealing with 3 000
22  protesters is a wrong assumption. Have I got it right?
23  GENERAAL-MAJOR ANNANDALE: Voor sitter,
24  ja, ons het reeds omvattend daarmee gedeel. Ek weet
25  waarvoor die plan bedoel was, synde dat ek betrokke was met
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24 Hendrickx. You're now moving on to something else, I
also I think. Now the witness answered on the first one,
a passage in Mr White's statement as well, and De Rover
you put a passage in Mr Hendrickx's statement to the
mean to interrupt you unduly, but the way you proceeded was
the forces at your disposal.

GENERAL-MAJOR ANNANDALE: Absoluut,
Vosshuter, ja. Dit was nooit die bedoeling nie.

MR BIZOS SC: - three things, disperse,
disarm, and arrest.

GENERAL-MAJOR ANNANDALE: Voorsitter,
en daarmee saam die opbreek van groepies in kleiner
hanteerbare groepies.

Mr Bizos. So what we haven't dealt with yet is the
disarmament. You say even if the assumed had been that
you were going to disperse 3 000, you had enough people.
If the assumption was you were going to arrest 3 000, you
didn't have enough people. But what about the disarmament?
If the assumption is you were going to disarm 3 000, do you
say you would have had enough people if you proceeded as
with the White passage you put to him.

CHAIRPERSON: In other words, to be fair
to him, if he assumed that the plan was to disperse and
arrest 3 000, then you would have had enough people to
disperse. I think inherent in what you say is you wouldn't
have tried to arrest 3 000. Is that correct? With the

forces at your disposal.

CHAIRPERSON: Sorry, Mr Bizos, I don't
think we must give him a chance to do that before you
thought to proceed with your next point, but you may well want to ask
follow-up questions based -

MR BIZOS SC: - sukkel ek
nog steeds met die konsep om dit te verstaan, gegewe die
situasie wat hom afgespeel het voor ons, en ek belowe ek
gaan nie in soveel detail ingaan soos toe ek getuigenis
gewe het nie.

Voorsitter, dit is so. Die uiteinde sou nooit 3 000 gearresteerdes
geweet nie. CHAIRPERSON: I think he's made that
clear, Mr Bizos. So what we haven't dealt with yet is the
disarmament. You say even if the assumed had been that
you were going to disperse 3 000, you had enough people.
If the assumption was you were going to arrest 3 000, you
didn't have enough people. But what about the disarmament?
If the assumption is you were going to disarm 3 000, do you
say you would have had enough people if you proceeded as

GENERAL-MAJOR ANNANDALE: Voorsitter,
paragraaf 4.4.21 op bladsy 32, Voorsitter, die
eerste gedeelde van sy kritiek is baie in lyn met dit wat
mnr Hendrickx gesê het in terme van die gevalle. Dan met
erwyting dat ons, dat dit beter is om eerder arrestasies
na die gebeurtenis uit te voer, en dat ons eerder sou net
toen na die tyd, waar ek nou sowat 3 000 mense iewers op
toe na die tyd, daar word dan identifiseer op die video wat dan in besit is van

Voorsitter. Paragraaf 4.4.21 op bladsy 32, Voorsitter, die
eerste gedeelde van sy kritiek is baie in lyn met dit wat
mnr Hendrickx gesê het in terme van die gevalle. Dan met
erwyting dat ons, dat dit beter is om eerder arrestasies
na die gebeurtenis uit te voer, en dat ons eerder sou net
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<table>
<thead>
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<th>GENERAAL-MAJ OOR ANNANDALE:</th>
<th>Met verwysing</th>
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<tr>
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<td>na die betrokke paragraaf -</td>
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<td>3</td>
<td>CHAIRPERSON:</td>
<td>Mr Bizos, I’m sorry to</td>
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<td>interrupt you, but I think that’s his answer to the</td>
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<td>passages in Mr White’s report that you put to him. I’m not</td>
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<td>6</td>
<td>sure that, the way you’ve asked the question it looks as if</td>
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<td>7</td>
<td>you’re asking for an answer to the complete report of Mr</td>
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<td>8</td>
<td>White, because that wasn’t on the table -</td>
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<td>9</td>
<td>MR BIZOS SC:</td>
<td>I didn’t intend that, Mr</td>
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<td>10</td>
<td>Chairman.</td>
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<td>11</td>
<td>CHAIRPERSON:</td>
<td>Perhaps you should</td>
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<td>reformulate the question.</td>
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<td>13</td>
<td>MR BIZOS SC:</td>
<td>Yes. Is that the only</td>
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<td>criticism that you have of what Mr White said and recorded</td>
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<td>in paragraph 4.4.21?</td>
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<td>16</td>
<td>GENERAAL-MAJ OOR ANNANDALE:</td>
<td>Voorsitter,</td>
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<td>17</td>
<td>nee. Ek het gedink ek het alreeds daarna verwys in terme</td>
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<td>18</td>
<td>van verwyedynd na mnr Hendrickx en ook in my</td>
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<td>19</td>
<td>getuieisleslerwing, maar ek sal dit uitpak.</td>
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<td>20</td>
<td>[12:30</td>
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<td>Verwysend na die arrestasies wat ‘n risiko is het</td>
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<td>ek reeds in my getuiesles het ek verwys daarna dat die</td>
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<td>23</td>
<td>arrestasie van ‘n persoon is inherent riskant, gesê dat die</td>
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<td>risiko van beseerings is nie uitgesluit nie. Dan met</td>
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<td>25</td>
<td>verwysing op bladsy 33, die derde sin wat hy sê “But that</td>
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| 1 | the plan to make large numbers of arrests in a crowd |
| 2 | numbering in the thousands was inherently risky,” en daar |
| 3 | het ek verwys dat die bedoeling was dat ons sou die groter |
| 4 | groepe uiteengedryf het totdat hulle in klein hanteerbaar |
| 5 | groepies is, en daardeur wat ons dan die risiko’s tot ‘n |
| 6 | groot mate mitigeer. |
| 7 | MR BIZOS SC: | Your criticisms of Mr |
| 8 | White’s statements in that regard are also based that he |
| 9 | made the wrong assumption in believing that you were |
| 10 | dealing with 3 000 protesters? |
| 11 | GENERAAL-MAJ OOR ANNANDALE: | Dit is so. |
| 12 | MR BIZOS SC: | You see, I must put to you |
| 13 | that it was for this, the purposes of offering the defence |
| 14 | that you have offered that the amount of 3 000 was reduced |
| 15 | to 300, contrary to the evidence in the statements and |
| 16 | contrary to the opening address of your own counsel. |
| 17 | CHAIRPERSON: | Mr Bizos, I thought you had |
| 18 | put that point already. |
| 19 | MR SEMENYA SC: | Yes. |
| 20 | CHAIRPERSON: | Are you not repeating |
| 21 | something that you’ve asked already? I thought you’d put |
| 22 | that point to the witness and he denied it, so - |
| 23 | MR BIZOS SC: | I did that in relation to - |
| 24 | CHAIRPERSON: | I understand you’re trying |
| 25 | to be fair to give him a chance to deal with it. |

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| 1 | MR BIZOS SC: | Yes. |
| 2 | CHAIRPERSON: | It seems to me you’re |
| 3 | repeating it, but Mr Semenya turned his light on. Mr |
| 4 | Semenya? |
| 5 | MR SEMENYA SC: | Well, Chair, we have |
| 6 | dealt with that, as well as the paragraph of the opening |
| 7 | statement which focussed arrest on those broken numbers. |
| 8 | MR BIZOS SC: | If the previous answer in |
| 9 | relation to Mr Hendrickx is the same, I will accept that, |
| 10 | Mr Chairman. A simple yes would have avoided these - |
| 11 | CHAIRPERSON: | Yes, I understand you’re |
| 12 | being fair to the - not trying to be fair to the witness, |
| 13 | giving him a chance to deal with the point. |
| 14 | MR BIZOS SC: | Yes. |
| 15 | CHAIRPERSON: | My impression was the |
| 16 | witness has dealt with the point already and Mr Semenya’s |
| 17 | impression is the same, but let’s just ask the witness. |
| 18 | You’ve heard the debate between Mr Bizos and myself, that I |
| 19 | was of the view that you’ve already dealt with this point, |
| 20 | but if there’s something extra you want to add in relation |
| 21 | to what he’s put to you, I won’t stop you. |
| 22 | GENERAAL-MAJ OOR ANNANDALE: | Voorsitter, u |
| 23 | was baie geduldig met my in my lang antwoorde, so ek sal |
| 24 | volstaan met dit wat ek reeds gesê het. |
| 25 | MR BIZOS SC: | - of Mr De Rover, and I |

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| 1 | think in fairness it hasn’t been put in as an exhibit, Mr |
| 2 | Chairman - |
| 3 | CHAIRPERSON: | If Ms Pillay will tell me |
| 4 | what the next exhibit number is, I shall be happy to |
| 5 | receive it as an exhibit. |
| 6 | MS PILLAY: | Chair, it’s GGG15. |
| 7 | CHAIRPERSON: | Sorry? |
| 8 | MS PILLAY: | GGG15. |
| 9 | CHAIRPERSON: | Well, might it not be |
| 10 | sensible for us to give it a number which follows directly |
| 11 | on his previous statement? How is his previous statement |
| 12 | marked? |
| 13 | MR BIZOS SC: | FFF11 was the previous |
| 14 | statement. |
| 15 | CHAIRPERSON: | So we’ll make it exhibit |
| 16 | FFF11.1. |
| 17 | MR BIZOS SC: | 11A, possibly. |
| 18 | CHAIRPERSON: | Okay, 11A. So then so the |
| 19 | two go together, you don’t have to search through the |
| 20 | alphabet for the second one. So it’s exhibit FFF11A. |
| 21 | Alright, now let’s make sure the Major-General has got a |
| 22 | copy of that statement in front of him. Have you, Major- |
| 23 | General? You’ve got exhibits there. I’m not sure what |
| 24 | documents - |
| 25 | GENERAAL-MAJ OOR ANNANDALE: | Voorsitter, |
In my first statement at points 62 and 63 I considered the actions of the protesters and SAPS response, on page 12. However, I consider an exclusive focus on the actions of SAPS alone at that particular moment in time is not justifiable. Consideration must be given to the actions of the protesters present at Marikana on that day.” I thought that in fairness I should refer you to that, but let us take the - you can talk about the qualification at the end in due course, or you can leave it for my learned friend Mr Semenya to ask you questions about it, but Mr De Rover confirms what he said and says that he stood by it. Leaving aside the qualification for the time being, have you got any criticism of the substantive portion of his statement?

Generaal-Majoor Annandale: Voorsitter, nie noodwendig kritiek nie, maar ek, dis belangrik dat daar net opheldering is in terme van my perspektief. Enkele aspekte - sy paragraaf 61 op bladsy 14 van bewysstuk FFF11 is daar net enkele opmerking. Hy meld specifiek “One difference I see with the past,” en belangrik, “and with the benefit of hindsight,” dis net belangrik dat ons hierdie gebeurtenis, die tragiese gebeure op die 16de Augustus wat afgespeel het by Marikana, was uniek en ‘n eerste van sy soort. Die polisie het dit benader met hulle historiese ervaring met die hantering van Openbare Orde aangeleenthe. Dit was 'n hibriede situasie en nie een van suiwere skarebestuur nie, en dit was buite die vaardighede en die opleidings en die metodes van Openbare Orde. Ook die metodes, die manier hoe hulle dit hanteer het, dis reg, Voorsitter. Dit is die kommentaar wat ek hou.

Chairperson: The passage that was put to you is really an introductory paragraph. The point that Mr De Rover makes is then developed in paragraph 23 through 29, the point in 23 is that public order in any country is...
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1 Chaired: The point he makes in 64 is
that you couldn't just use known POP tactics, they would be
futile because - the point he makes in 65 is POP vehicles
would [inaudible] on the ground, says POP personnel and
vehicle formation couldn't be employed for the same
reasons. Of course the other point that could be made, I
take it, that he doesn't make directly, is the POP people
were generally speaking armed with less than lethal force.
I think some of them had firearms, but basically they were
to use less than lethal force and the situation was
one where less than lethal force wasn't the answer. I know
that's a leading question to which Mr Bizos would object if
I were counsel, but do you agree with him?

Mr Bizos SC: - to the Judge's question.

Generaal-Majoor Annandale: Voorsitter,
in al die insidente wat, of in - ja, by verre sekerlik die
meeste insidente wat Openbare Orde in die afgelope 17 jaar
mee gedeel het, en in gevalle wat hulle moes ooptree buite
die sogenaamde kontiuum van geweld soos verwys daarna in
'n Openbare Orde Polisiëring konteks, was sodanige gevalle
was dit beperk tot die toevallige gebruik van 'n vuurwapen,
en met vuurwapen verwys ek nou nie die gebruik van 'n
haelgeweer met rubber nie, ek praat van skerp-punt
ammunisie. So die tradisionele toerusting van Openbare
Orde en ook hulle opleiding is om te deel met gevalle wat

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1 Groep en die kleiner groep, en dat 'n gedeelte van die
kolkiefs die militante was.
3 Mr Bizos SC: I'm going on to a new
4 point. I can start and use the five minutes, if need be.
5 Chaired: If you can use the five
6 minutes to finish the point then we won't adjourn yet, but
7 if you'll still be busy with the point when we adjourn, we
8 may as well take the adjournment now.
9 Mr Bizos SC: I will be busy with that.
10 Chaired: We will adjourn until half
11 past 1 or as soon thereafter as we can all get back here.
12 Mr Bizos SC: Thank you.

[Commission Adjourns] (Commission Resumes)

13 Chaired: The Commission resumes.
14 Majoor-Generaal, u is nog steeds onder eed.
15 Chaired: Mr Bizos, you're still
16 cross-examining.
17 Cross-examination by Mr Bizos SC (Contd.):
18 Thank you, Mr Chairman. I'm going to read you a passage
19 from the opening address of Mr Semenya, your counsel.
20 Chaired: It's actually an opening
21 statement, I think.
22 Mr Bizos SC: Statement -
23 Chaired: It's headed "Opening
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25           CHAIRPERSON:          Now I mentioned it to the
23           MR MAHLANGU:          I have a problem with this
22 the equipment –
21 interrupt you.  The impression I get is there's static on
19 conduct.  The evidence, however, will be that some –
18 provisions of the various statutes dealing with police
17 the constitutional mandate of the police service, and the
16 considerations which apply in crowd control and management,
15 various units of the police service, the policy
14 to give a presentation regarding the training of the
13           MR BIZOS SC:          Yes, Mr Chair.  “We propose
12           CHAIRPERSON:          43, that's page 14, is it?
11           MR BIZOS SC:          43, I beg your pardon.
10           CHAIRPERSON:          42.
9           MR BIZOS SC:          42.
8           MR BIZOS SC:          42.
7           MR BIZOS SC:          Yes.
6           CHAIRPERSON:          What paragraph are you
5           MR BIZOS SC:          reading?
4           CHAIRPERSON:          If we adjourn for a short
3 operators to see whether they can – we had it once before
2 and they did something and it was sorted out.  Now I fear
1 the quality of the recording of today's proceedings,
21 MR MAHLANGU:          I have a problem with this
20 machine.
19 CHAIRPERSON:          Now I mentioned it to the
18 MR MAHLANGU:          only give this problem if
17 MR MAHLANGU:          Mr Bizos opens that machine.  If he could possibly try the
16 one on the other side.
15 MR BIZOS SC:          Is that better?  Is that
14 better?
13 CHAIRPERSON:          It sounds as if we have the
12 same problem.  It's a kind of echo as well.  I mean if we
11 still have an audible record it will be alright, but I'm
10 afraid it may not be so - I mean an audible record and it
9 can then be clearly and accurately transcribed.  If it
8 can't be then obviously - can we go on despite the static?
7 Do you find it distracting, Mr Interpreter?
6 MR MAHLANGU:          We fortunately have -
5 CHAIRPERSON:          Or does the Major-General
4 find it distracting?
3 MR MAHLANGU:          I'll try to listen as
2 carefully as I can, but -
1 CHAIRPERSON:          If we adjourn for a short
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1 particularly the reference to more than 3 000 belligerent
2 protesters, and it's that passage that he wants the witness
3 to comment on. Is that right, Mr Bizos?
4 MR BIZOS SC: Yes, may I say for my
5 learned friend's reassurance that the issue that I want to
6 deal is no longer the issue of numbers, but the other
7 content of the passage.
8 CHAIRPERSON: I think it's at best to the
9 question that you've already put -
10 MR BIZOS SC: Yes.
11 CHAIRPERSON: - to make that point clear,
12 so the witness can then answer you comprehensively, as it
13 were.
14 MR BIZOS SC: Yes, thank you, Mr
15 Chairman. General, the question was are you here to give
16 evidence on the matters that your counsel promised the
17 evidence on?
18 GENERAAL-MAJOR ANNANDALE: Voorsitter,
19 ek kan net getuizens lever oor die feite aan my bekend. Ek
20 weet nie of ek oor elke liewe aspek wat vermeld is in daai
21 openingsverklaring kan getuizens lever nie. Ek is seker
22 dat -
23 MR BIZOS SC: Let me start with the
24 first. What training was inadequate?
25 CHAIRPERSON: I'm sorry, Mr Bizos, what

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1 was described as inadequate was, quote, "some of these
2 instruments," and I'm not sure that training is an
3 instrument. Is that right?
4 MR BIZOS SC: Well, it may well be. The
5 witness, I can't cross-examine my learned friend on what he
6 meant. I want to ask the witness what he understood -
7 CHAIRPERSON: Alright, okay, no ask the
8 question. My only fear was that you were suggesting that
9 he'd said that the training was inadequate. It may well be
10 that that was meant, but that's not the wording used. But
11 anyway, the point has been put on the table, so you can now
12 deal with it without the witness being at a disadvantage, I
13 think.
14 MR BIZOS SC: Let's start off with the
15 question, do you agree with what your counsel said in
16 paragraph 43?
17 GENERAAL-MAJOR ANNANDALE: Voorsitter,
18 ek het reeds verduidelik in terme van die 3 000 persone en
19 dat dit 'n kollektiewe verwysing is. Ek het ook verwys die
20 onderskeid wat gemaak was in die vele besprekings tydens
21 die JOCOM vergaderings en nabetragting vergaderings.
22 Voorsitter, en ek het vroeër getuig, ek het verwys ek kon
23 iets onthou van 'n voorlegging wat ek gemaak het aan 'n
24 groep van Lonmin bestuur en ek het nou tydens die breuk het
25 ek gaan kyk in die verklarings wat beskikbaar gestel is

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1 deur Lonmin, en ek merk op in 'n verklaring van 'n mnr
2 Mohamed Ismail Seedat op bladsy 5, en pertinente die einde
3 van paragraaf 5.2, in die laaste paragraaf, en ek haal aan,
4 "General Annandale had also informed us that there were two
5 groups at the koppie and that there appeared to be a large
6 group of 'impi' moving backwards and forwards at the base
7 of the hill." Ek het ook 'n foto gekry wat ingehandig is,
8 ek sien as bewysstuk EEE10.1 en 10.3 -
9 CHAIRPERSON: It's EEE10.1 and 10.3.
10 MR MAHLANGU: EEE, yes, and in the other
11 document, if I may say, Mr Chairperson, there was the use
12 of the word "impi." I don't know if that is understood.
13 It's a Zulu word, also Xhosa word, meaning a war, or
14 warriors.
15 GENERAAL-MAJOR ANNANDALE: Die foto is,
16 die bewysstuk wat ek na verwys het is 'n foto deur
17 Luitenant-Kolonel Mere, foto 3448 en 3449, geneem op die
18 15de Augustus 2012, en dit wys duidelik die verskil in die
19 twee groepe wat dan telkens die bespreking was tydens
20 hierdie vergaderings wat ek na verwys het. So om terug te
21 kom na Adv Bizos se vraag, die laaste gedeelte van die
22 openingsverklaring soos vermeld in paragraaf 43 gee nie 'n
23 verdere ondervordering nie, van die groep nie.
24 MR BIZOS SC: Are you finished?
25 GENERAAL-MAJOR ANNANDALE: EK is klaar,
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25 CHAIRPERSON: There’s another point I
24 korrekte samevatting.
23 MR BIZOS SC: Sorry.
22 CHAIRPERSON: Am I right, Major-General?
21 it, in the POP context, the Public Order Policing context.
20 Standing Order 262, or an amplification, qualification of
19 CHAIRPERSON: - effectively part of
18 gebruik van geweld –
17 GENERAAL-MAJ OOR ANNANDALE: Dit is ‘n
16 aksies om steeds dit te gebruik om binne die perk te bly
15 alles vandat die aanval op die polisielyn plaasgevind het,
14 simulasies tydens die opleiding van Openbare Orde
13 voorsitter, ek moet sê vir die eerste keer is ek sprakeloos.  Ek,
12 voorsitter, ek was
11 voorbeelde en ek het die eerste voorbeeld gebruik as
10 Staande Orde 262, en ek sal graag wil voortgaan in terme van
9 voorbeelde en ek het die eerste voorbeeld gebruik as
8 besig op die vraag van die advokaat in terme van pertinente
7 vandat die aanval op die polisielyn plaasgevind het,
6 ek moet sê vir die eerste keer is ek sprakeloos.  Ek,
5 voorsitter, ek was
4 you’d like to pick them off one by one, Major-General.
3 MAJOR-GENERAL ANNANDALE: Yes.
2 CHAIRPERSON: I take it that’s also,
1 Chairperson.

1 force of continuum.
2 CHAIRPERSON: You’re talking about the
3 continuum of force.
4 MAJOR-GENERAL ANNANDALE: Continuum of
5 force.
6 CHAIRPERSON: As it’s understood in the
7 Standing Order.
8 MAJOR-GENERAL ANNANDALE: That’s correct,
9 Chairperson.
10 CHAIRPERSON: Because the Standing Order
11 was also amplified firstly by exhibit T, which was later
12 withdrawn and replaced by exhibit S, the letter of July
13 2012. That’s correct, isn’t it?
14 MAJOR-GENERAL ANNANDALE: Yes.
15 CHAIRPERSON: I take it that’s also,
16 that’s part of the, effectively -
17 GENERAAL-MAJ OOR ANNANDALE: Dis van die
18 gebruik van geweld -
19 CHAIRPERSON: - effectively part of
20 Standing Order 262, or an amplification, qualification of
21 it, in the POP context, the Public Order Policing context.
22 Is that right?
23 GENERAAL-MAJ OOR ANNANDALE: Dit is ‘n
24 korrekte samevatting.
25 CHAIRPERSON: There’s another point I

1 think perhaps that’s relevant at this stage.  I hope Mr
2 Bizos will forgive me if I intervene.  I’ve been worried
3 for some time about this use of protesters all the time.
4 The strikers were not really protesters.  This isn’t a
5 protest action pure and simple; this is a different kind of
6 situation actually, and the word “protest” of course is I
7 think a word used in the act and the Standing Order is
8 really designed at dealing with public protests, to some
9 extent at least, and this isn’t really a protest action, as
10 I understand it.  It certainly wasn’t from about the 13th
11 onwards, but I take it you’ll agree with that view of the
12 matter.
13 [14:03]  GENERAAL-MAJ OOR ANNANDALE: EK stem saam
14 met u samevatting, dis reg. Voorsitter.
15 MR BIZOS SC: Do you know the Standing
16 Orders in relation to protests is not the only
17 constitutional or legal instrument; the question of
18 training, part of the constitutional mandate, part of even
19 personal self-defence has got to be proportional. There
20 has to be command and control. There has to be other ways
21 than killing people in order to obviate an attack against
22 the police. Do you say all those things do not apply in
23 the situation that we had to deal with in Marikana?
24 Proportionality doesn’t matter.  Shooting at the legs
25 doesn’t matter.  Warning doesn’t matter.  We shoot to kill

1 and there’s nothing that the law can do about that.
2 CHAIRPERSON: That’s a whole batch of
3 questions all rolled up into one, I think, but perhaps
4 you’d like to pick them off one by one, Major-General.
5 GENERAAL-MAJ OOR ANNANDALE: Voorsitter,
6 ek moet sê vir die eerste keer is ek sprakeloos.  Ek,
7 daar’s ‘n klop goed ingegooi, maar Voorsitter, ek was
8 besig op die vraag van die advokaat in terme van pertinente
9 voorbeelde en ek het die eerste voorbeeld gebruik as
10 Staande Orde 262, en ek sal graag wil voortgaan in terme
11 van nog ‘n voorbeeld in terme van opleiding.  Voorsitter,
12 ons weet nou baie aspekte in nabetragting en ons weet nou
13 dat ons sal ‘n groter klem moet lê in terme van praktiese
14 simulasiestydens die opleiding van Openbare Orde
15 Polisiëringsele.  Ons weet dat ons sal moet kyk na
16 gevallstudies en uiteraard sal Marikana ‘n pertinente
17 gevallstudie wees.
18 CHAIRPERSON: He said we’ll have to look
19 at case studies, and par excellence I think he said
20 Markana will be one of those, will have to be one of those
21 case studies.
22 GENERAAL-MAJ OOR ANNANDALE: Ons moet kyk
23 na ons opleidingsgeriewe om sodanige praktiese simulasiestudies
24 en opleiding te kan akkommodeer, en ons sal ook moet kyk
25 dat ons Openbare Orde lede ‘n hoër vlak van opleiding het
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25 expression “some of these instruments” doesn’t necessarily
24           CHAIRPERSON:          I’m sorry, Mr Bizos.  The
23 resisting any effort” –
22           MR BIZOS SC:          - “who were armed and
21           CHAIRPERSON:          It doesn’t necessarily then
20 refer to –
19 with a treacherous situation of more than 3 000” –
18 necessity, I think you said or meant, to translate that in
17 else.  “Noodweer” also actually covers necessity, so it’s
16 defend yourself; private defence you defend your, someone
15 private defence.  In other words, self-defence is if you
14           CHAIRPERSON:          And the other one is
13 private defence.
12           MAJOR-GENERAL ANNANDALE:          No, it’s
11 I think –
10           CHAIRPERSON:          “Noodweer” is self-defence,
9 instruments,” and the witness has referred to those aspects
8 statutes.  He just used the expression “some of these
7 the question in a way which is a fair reflection of what Mr
6 I'm not sure that one can say that what Mr Semenya said
5 did refer to other things, which I did understand.  But as
4 equipment means, but we’ll ask him that in a moment, but he
3 need other equipment.  I’m not quite sure what the kinetic
2 referred to the equipment they had, because he said they
1 training manuals and that sort of thing, and he also

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1 refer to the constitutional mandate of the public service,
2 and it looks from what the witness says that he understands
3 instruments to include things like training manuals and so
4 forth, but anyway, I don’t want to stop you.  You can carry
5 on, but all I’m saying to you is I’m not sure that one can
6 say that Mr Semenya suggested or intended to suggest that
7 the Constitution is somehow defective in this regard.
8           MR BIZOS SC:          Why did he use the words
9 “the constitutional mandate of the police” –
10           CHAIRPERSON:          He used the word “some,” so
11 he didn’t say all these things are inadequate, each one of
12 them; he said “some.”  So -
13           MR BIZOS SC:          Which -
14           CHAIRPERSON:          Well, that’s a matter for
15 you to ask the witness –
16           MR BIZOS SC:          If it’s some, which were
17 the constitutional or legislative “leemtes,” to use the
18 word for the benefit of the witness, that were responsible
19 for Marikana?
20           CHAIRPERSON:          What the witness has said
21 so far, as I understand him, is he’s referred to gaps, if
22 one can use that word, deficiencies in the Standing Order
23 because it didn’t deal with the hybrid situation.  He’s
24 also spoken about the training, which is not strictly
25 speaking an instrument, but he may have meant things like

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1 dit net honderd persent so.
2 MR BIZOS SC:          General, what
3 constitutional and statutory provisions proved to be
4 inadequate according to your counsel?
5           CHAIRPERSON:          No, I’m sorry, Mr Bizos,
6 I’m not sure that one can say that what Mr Semenya said
7 there was necessarily referring to the Constitution or
8 statutes.  He just used the expression “some of these
9 instruments,” and the witness has referred to those aspects
10 that he regarded as inadequate, so I don’t know if the
11 question as framed is correctly put, but I think I
12 understand where you’re going.  So if you’d like to
13 reformulate the question then you can carry on.
14           MR BIZOS SC:          Well, I’m following my
15 learned friend’s words.  “The constitutional mandate of the
16 police service and the provisions of the various statutes
17 dealing with police conduct.  The evidence, however, will
18 be that some of these instruments were not adequate to deal
19 with a treacherous situation of more than 3 000” –
20           CHAIRPERSON:          It doesn’t necessarily then
21 refer to –
22           MR BIZOS SC:          - “who were armed and
23 resisting any effort” –
24           CHAIRPERSON:          I’m sorry, Mr Bizos.  The
25 expression “some of these instruments” doesn’t necessarily

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1 to the transcript where that is said then we can deal with
2 it, but I must confess, I don’t remember that, but I may
3 have missed it, but if you can give us the precise
4 reference –
5           MR BIZOS SC:          - on it, Mr Chairman,
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25 don't think you meant it the way you put it. Perhaps you
24 says she didn't say that. If she said it, it will be in
23 matter is that you put that she said something. Mr Semenya
22 herself and she denied saying it, as far as I can recall, but
21 opinion of the police to control the conduct of protesters?
20 that she used, Mr Chairman.
19 the Constitution or in the legislation which would have
18 the National Commissioner's interpretation of the words
17 in a satisfactory fashion to all concerned, I hope.
16 so 'n pertinente stelling nie. As 'n individu is ek nie
15 'n spesifieke aspek wat ek nou hier kan verwys na, en ons
14 I understand it, that the Standing Order and the other
13 ek het reeds na die Konstitusie verwys en dit geantwoord.
12 MR MAHLANGU: Occurrence, what do they
call it?
11 beautiful Constitution that led the protesters to have an
10 think any of us can forget that she said it, it was the
9 MR BIZOS SC: The portion that I don't
8 objection. Mr Semenya says she didn't say that. You say
7 you personally believe that there is anything in the
6 if you can give me the reference I can deal with it
5 I'll withdraw the question of the parallel and come back to
4 overrule Mr Semenya's objection. If on the other hand she
didn't say it, then I fear your question will be disallowed
3 any constitutional provisions which prevent the
2 our rights, and the
1 440 9119
2 011 440 3647
3 Tel: 011 440 3647 Fax: 011
4 Email: realtime@mweb.co.za

25 record. I know Mr Bizos withdrew the question, but there is
24 compiled or draw up at the police level. I think that's
23 occurrence, what do they
22 policevlak –
21 polisievlak –
20 prosedures, en gebeurlikheidsplanne wat ons opstel op
19 nasionale instruksies, direktiewe, standaard operasionele
18 that's not addressed in the Standing Orders, and the
17 situations, and I think that's what I understand him to
16 hybrid situation that he talked about, and that's something
15 definitions that he's said flow from it don't deal with this
14 I understand it, that the Standing Order and the other
13 ek het reeds na die Konstitusie verwys en dit geantwoord.
12 MR MAHLANGU: There are gaps in what I
11 seriously wounding 84 of them?
10 situation in Marikana without killing 34 people and
9 have mentioned now that this has got to be –
8 MR MAHLANGU: There are gaps in what I
7 you personally believe that there is anything in the
6 Just put the question again.
5 one of you is right and the other is wrong, it
4 don't say it, then I fear your question will be disallowed
3 if you can give me the reference I can deal with it
2 reference and then I'll allow you to proceed and I'll
1 440 9119

25 record. If she said it, it will be in
24 yes.
23 they used, Mr Chairman.
22 she denied saying it, as far as I can recall, but
21 if you can give me the reference I can deal with it
20 adverse attitude to the police, Mr Chairman.
19 the question that I originally asked. Are there any
18 constitutional provisions which are inadequate in the
17 to the police to control the conduct of protesters?
16 constitutional provisions which prevent the
15 police from adequately controlling protesters?
14 MR BIZOS SC: And in your personal
13 I think is what he was saying.
12 MR MAHLANGU: To be drawn up, yes.
11 think what he was saying.
10 compiled or drawn up at the police level. I think that's
9 and the other
8 MR MAHLANGU: Dis korrek.
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25 record, I know Mr Bizos withdrew the question, but there is
24 that I've got an idea
23 different from what they actually did?
22 different from what they actually did?
21 capacity you would not suggest that there is anything in
20 the Constitution or in the legislation which would have
19 enabled the police to act differently at Marikana,
18 MR BIZOS SC: And in your personal
17 bewus van enige sodanige leemtes in die Grondwet nie. As 'n individu is ek nie
16 MR BIZOS SC: For the sake of saving time
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14 MR BIZOS SC: For the sake of saving time
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1 what he said.
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Voorsitter, die polisie strategie en plan was nie ontoreelk nie. Die polisie kon nie eers behoorlik uitkom ten uitvoer van hulle plan voordat hulle onder aanval gekom het nie, en die sterftes was nie as gevolg van uiteendryf aksies deur die polisie nie, maar was as gevolg van individuele handelinge deur polisie-offisier  – lede en offisiere –. 

CHAIRPERSON: Police members and officers, is that right?

MAJOR-GENERAL ANNANDALE: Officers, in lyn met gemeenregtelike beginsels van selfverdediging en noodweer.

MR BIZOS SC: - counsel’s suggestion that the constitutional mandate of the police service in any way contributed to what happened, and I don't think that’s a fair interpretation of what he said. But unless he, you know, if he says that the way you put it is correct, I won’t say anymore, but that’s not the way I understood that paragraph of his statement.

CHAIRPERSON: I don’t know if I was in the witness box, or the witness seat, I’d like to answer that question either as yes or no. I think I must allow the witness to answer it as he wishes, but if he wishes to say more than just yes or no, I will allow him to do so.

GENERaal-MAJOR ANNANDALE: Met u vergunning sal ek asseblief wil meer sê as net ja of nee.

Voorsitter, die polisie strategie en plan was nie ontoreelk nie. Die polisie kon nie eers behoorlik uitkom ten uitvoer van hulle plan voordat hulle onder aanval gekom het nie, en die sterftes was nie as gevolg van uiteendryf aksies deur die polisie nie, maar was as gevolg van individuele handelinge deur polisie-offisier  – lede en offisiere –.

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GENERaal-MAJOR ANNANDALE: Met u vergunning sal ek asseblief wil meer sê as net ja of nee.
Mr Bizos: According to your paragraph 3, on Monday the 13th of August Major-General Naidoo called you and gave you a report of the day’s events and said additional personnel were needed. You then departed to Marikana shortly after 15:00.

Mr Bizos: You didn’t decide by – or order to fix it up in Marikana, or were you asked by anyone?

Chairperson: Police speak 15:00, ordinary speak 3PM. Is that correct?

Mr Bizos: 3PM.

Chairperson: 3PM.

Mr Bizos: 15PM.

Chairperson: Say 3PM, then we’ll go to Marikana shortly after 15:00. Is that correct?

Generaal-Majoor Annandale: Dit is korrek, Voorsitter.

Mr Bizos: You haven’t finished interpreting what the Major-General said, and the Xhosa interpreter hasn’t interpreted at all into Xhosa, so we must give them both a chance.

Mr Bizos: Do you yourself normally attend directly to matters at a local level?

Generaal-Majoor Annandale: Voorsitter, dis ‘n besluit wat ek self neem en ek het al telkens gereageer waar van my eenhede ontplooi word op ’n provinsiale vlak.

Mr Bizos: You didn’t decide by – or did you decide for yourself to go and involve yourself in order to fix it up in Marikana, or were you asked by anyone to do it?

Generaal-Majoor Annandale: Voorsitter, ek het besluit om te gaan sodat ek myself kan gaan vergewis van die omstandighede want ek het reeds lede van die Nasionale Intervensie Eenheid gehad daar, en dat verdere ontplooiing van sodanige eenheid kan van die omstandighede wat ek het al telkens gewees daar.

Mr Bizos: You haven’t finished interpreting what the Major-General said, and the Xhosa interpreter hasn’t interpreted at all into Xhosa, so we must give them both a chance.

Mr Bizos: Substantially higher.

Chairperson: Do you understand the question? You look as if you don’t. Perhaps you could repeat it again, Mr Bizos.

Mr Bizos: There is nothing in your position and in your capacity decided to go to Marikana, the local chain of command probably would infer that the tactical approach in Marikana became considerably higher.

We have a top general here, head of a unit; things are getting serious.

Generaal-Majoor Annandale: Voorsitter, we have a top general here, head of a unit; things are getting serious.

Mr Bizos: The STF is a very specialised unit, and what I want to know is that there was no request for it.

Chairperson: Sorry, Mr Bizos, here you particularly for the deployment of the STF.

Chairperson: You know, so what I’m asking that, or indicates that additional personnel be deployed. In the circumstances it seems obvious that Major-General Naidoo would have telephoned Major-General Annandale, asked for the deployment of members of the service who belong to one or other of the units over which he was the component head. Isn’t that so?

Mr Bizos: There was no specific request for STF, for an STF unit.

Chairperson: Well, it was a request presumably for one or other or both, or all of the units over which he was the component head.

Mr Bizos: Yes.

Chairperson: You know, so what I’m suggesting to you –

Mr Bizos: The STF is a very specialised unit, and what I want to know is that there was no request for it.

Chairperson: So what you are saying is there was no specific request for the STF?

Mr Bizos: Yes.

Chairperson: Alright, okay. No, that’s alright.

Generaal-Majoor Annandale: Voorsitter, toe Generaal Naidoo my geskakel het was dit kort nadat die vyf persone gesterf het op die Maandag. Hy het nie vir my
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<table>
<thead>
<tr>
<th>1</th>
<th>gesê stuur 10 of 20 NIU lede nie. Hy het vir my gesê dat hulle addisionele ontplooiing nodig het. Hy het vir my gesê dat hy oppad is terug na Marikana toe, en weens die redes wat ek vroeër gegee het in terme van die ontplooiing van NIU, het ek toe deurgegaan om myself te gaan vergeis en ek het ook die seksieshoof van Nasionale Intervenisie</th>
<th>Page 8928</th>
<th>1</th>
<th>Special Task Force.&quot; Have you got that as well?</th>
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<tbody>
<tr>
<td>2</td>
<td>Eenheid, Brigadier Tsiloane saamgevat weens sy direkte verantwoordelikheid vir die eenheid. Die kwessie van die ontspanning van Spesiale Taakmag lede is eers geïdentifiseer later die Maandag naadat ons pertinent vergader het en ons soveel klem gelê het in terme van die versameling van intelligensie en identifikasie van potensiële verdagtes, dat daar toe besluit is om ’n groepie Spesiale Taakmag lede te mobiliseer sodat hulle op bystand kan wees om te reageer na aanleiding van sodanige potensiële optredes.</td>
<td>3</td>
<td>GENERAAL-MAJ OOR ANNANDALE: Voorsitter, ek sien dit, en ek sien ook in die tweede paragraaf, &quot;We call for the deployment of a special task force,&quot; so misken sal NUM kan sê of hulle verwys het na die eenheid bekend in die polisie as Spesiale Taakmag, en of hulle verwys het na ’n taakgroep. Ek weet werkelik nie.</td>
<td>4</td>
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<td>5</td>
<td>MR BIZOS SC: On Sunday the 12th of August, Mr Zokwana, president of NUM, telephoned the Minister of Police and had a discussion. In this discussion Mr Zokwana calls on the Minister to intervene in Marikana. Do you know about that?</td>
<td>6</td>
<td>MR BIZOS SC: Well, General -</td>
<td></td>
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<tr>
<td>6</td>
<td>[14:43] GENERAAL-MAJ OOR ANNANDALE: Voorsitter, ek dink met een van die openingsverklarings deur een van die partye was daar na verwys dat daar sodanige oproep plaasgevind het, en dit is omtrent die somtotaal van wat ek een van my eenhede, Spesiale Taakmag, nie.</td>
<td>7</td>
<td>CHAIRPERSON: Mr Bizos, sorry, can I interrupt you? The heading is “NUM calls for a special task force in the mines,” and then in the second paragraph Mr Baleni, the general secretary is quoted as having saying, “We call for the deployment of a special task force,” all small letters, “or the SANDF to deal decisively with the criminal element in Rustenburg and surrounding mines,” and then further down, a couple of paragraphs later on, “We appeal for the deployment of the Special Task Force,” now capital letters, but it’s certain is ambiguous.</td>
<td>8</td>
</tr>
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<td>7</td>
<td>MR BIZOS SC: In any event, on Monday the 13th of August NUM released a public statement, which is exhibit BBB7, calling for the following, “The deployment of Special Task Force or the SANDF to deal decisively with the criminal elements in Rustenburg and surrounding mines. We appeal for the deployment of the Special Task Force as a matter of urgency before the things run out of hand.” Did you know about that public statement?</td>
<td>9</td>
<td>MR BIZOS SC: The person that appears to have put the exhibit together seems to be particularly literate, and I think that saying the Special Task Force in capitals distinguishes it from the general possible interpretation of a special task force as it is in the heading or in the second paragraph. I would submit, with respect, that the Special Task Force –</td>
<td>10</td>
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<td>8</td>
<td>13th of August NUM released a public statement, which is exhibit BBB7, calling for the following, “The deployment of Special Task Force or the SANDF to deal decisively with the criminal elements in Rustenburg and surrounding mines. We appeal for the deployment of the Special Task Force as a matter of urgency before the things run out of hand.” Did you know about that public statement?</td>
<td>11</td>
<td>CHAIRPERSON: The witness is as puzzled as I am about it; he doesn’t know which one it is.</td>
<td>12</td>
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<td>9</td>
<td>MR BIZOS SC: In paragraph 4 of your statement you stated, on Monday evening, the 13th of August, at the JOC meeting you, to use your own words, “mobilised additional NIU and Special Task Force members.”</td>
<td>13</td>
<td>MR BIZOS SC: The purpose for –</td>
<td>14</td>
</tr>
<tr>
<td>10</td>
<td>GENERAAL-MAJ OOR ANNANDALE: Voorsitter, nee, ek is nie bewus daarvan nie. Die bewysstuk is egter nou vir my gegee.</td>
<td>11</td>
<td>CHAIRPERSON: Sorry, can I interrupt and ask a question which goes back to something you dealt with a few minutes ago? What time on the Monday – well, let me not ask you a question which is designed to trap you. Let me just put it to you. According to exhibit FFF18 Lieutenant-Colonel Scott says - he is of course a member of the Special Task Force – he says that at about 18:00, 6PM, he was telephoned by Brigadier Fritz, the Section Head of the Special Task Force, and instructed to report to Lonmin. So it would seem if that’s correct, that the decision to</td>
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<td>11</td>
<td>MR BIZOS SC: In paragraph 4 of your statement you stated, on Monday evening, the 13th of August, at the JOC meeting you, to use your own words, “mobilised additional NIU and Special Task Force members.”</td>
<td>12</td>
<td>MR BIZOS SC: The purpose for –</td>
<td>13</td>
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<tr>
<td>12</td>
<td>GENERAAL-MAJ OOR ANNANDALE: Voorsitter, ek probeer net verband kry tussen Spesiale Taakmag as ’n eenheid in die polisie, en dan wat hieros staan in die opskrif van bewysstuk BBB7. Voorsitter, hieros staan, en ek haal aan, “NUM calls for a special task force in the mines.” So ek weet nie of dit verwysend is na die eenheid, een van my eenhede, Spesiale Taakmag, nie.</td>
<td>13</td>
<td>CHAIRPERSON: The witness is as puzzled as I am about it; he doesn’t know which one it is.</td>
<td>14</td>
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<td>13</td>
<td>MR BIZOS SC: In the copy of BBB7, the fourth-last paragraph, “We appeal for the deployment of the Special Task Force.” Have you got that as well?</td>
<td>14</td>
<td>MR BIZOS SC: The purpose for –</td>
<td>15</td>
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<tr>
<td>14</td>
<td>MR BIZOS SC: In the copy of BBB7, the fourth-last paragraph, “We appeal for the deployment of the Special Task Force.” Have you got that as well?</td>
<td>15</td>
<td>CHAIRPERSON: Sorry, can I interrupt and ask a question which goes back to something you dealt with a few minutes ago? What time on the Monday – well, let me not ask you a question which is designed to trap you. Let me just put it to you. According to exhibit FFF18 Lieutenant-Colonel Scott says - he is of course a member of the Special Task Force – he says that at about 18:00, 6PM, he was telephoned by Brigadier Fritz, the Section Head of the Special Task Force, and instructed to report to Lonmin. So it would seem if that’s correct, that the decision to</td>
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2nd May 2013

Marikana Commission of Inquiry

Rustenburg
2nd May 2013

Marikana Commission of Inquiry
Rustenburg

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25 persoonlik verantwoordelik vat vir hulle ontplooiing.

MR BIZOS SC: Were you either asked or instructed by the Minister or anyone else to deploy the STF members to Marikana?

MR BIZOS SC: Did you say yes or no? Why are you afraid of the word “responsibility?”

MR BIZOS SC: I have my own purposes for using the avoidance of the word “responsibility.”

MR BIZOS SC: Why are you afraid to merely say yes or no in relation to the word “responsibility?” It was a simple question.

MR BIZOS SC: This may be a convenient stage.

MR BIZOS SC: We’ll take the tea.
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Rustenburg

25           MR BIZOS SC:          In the last column in green
24           CHAIRPERSON:          Yes, you may.
23           MR BIZOS SC:          Yes, you may.
22           CHAIRPERSON:          Please show us this slide.
21           MR BIZOS SC:          Yes.
20           CHAIRPERSON:          It's on slide 5 of exhibit Q.
19           MR MAHLANGU:          That is so, Mr Chairperson.
18           GENERAAL-MAJoor ANNANDALE:          So sal u sien
17           MR MAHLANGU:          That is so, Mr Chairperson.
16           MR BIZOS SC:          Are you aware of any
15           GENERAAL-MAJoor ANNANDALE:          So sal u sien
14           MR MAHLANGU:          That is so, Mr Chairperson.
13           GENERAAL-MAJoor ANNANDALE:          So sal u sien
12           MR MAHLANGU:          That is so, Mr Chairperson.
11           GENERAAL-MAJoor ANNANDALE:          So sal u sien
10           MR BIZOS SC:          Are you aware of any
9            GENERAAL-MAJoor ANNANDALE:          So sal u sien
8            MR BIZOS SC:          Are you aware of any
7            GENERAAL-MAJoor ANNANDALE:          So sal u sien
6            MR BIZOS SC:          Are you aware of any
5            GENERAAL-MAJoor ANNANDALE:          So sal u sien
4            MR BIZOS SC:          Are you aware of any
3            GENERAAL-MAJoor ANNANDALE:          So sal u sien
2            MR BIZOS SC:          Are you aware of any
1            GENERAAL-MAJoor ANNANDALE:          So sal u sien

1 5 of exhibit Q.
2 CHAIRPERSON:          Yes.
3 MR BIZOS SC:          Is it going to be shown, or
4 is it being -
5 CHAIRPERSON:          It's being retrieved from a
6 box over there in the corner.
7 MR BIZOS SC:          We can hand out copies if
8 needed, Mr Chairman.
9 CHAIRPERSON:          It might be helpful while
10 the copies are being found in the boxes if you've got them
11 “byderhand” as it were, you can hand them out and save us
12 time.
13 MR BIZOS SC:          Yes.
14 CHAIRPERSON:          Time is a precious
15 commodity of this Commission, as I don't have to remind
16 people.
17 MR BIZOS SC:          Exhibit Q.
18 CHAIRPERSON:          Slide 5, exhibit Q. Thank
19 you very much. Unfortunately the green block in the STF
20 column obscures some of the writing, but -
21 MR BIZOS SC:          Yes, we have what it is.
22 It's “counter terrorism” that has got to be filled in. If
23 everybody has a copy, may I proceed, Mr Chairman?
24 CHAIRPERSON:          Yes, you may.
25 MR BIZOS SC:          In the last column in green

1 5 of exhibit Q.
2 CHAIRPERSON:          It's high-risk operations
3 which require specialised skills and equipment. I think
4 that's what the witness said. If I misheard, he'll correct
5 me.
6 MR MAHLANGU:          That is so, Mr Chairperson.
7 GENERAAL-MAJoor ANNANDALE:          So sal u sien
8 by NIU byvoorbeeld word daar nie vermelding gemaak hulle
9 direkte betrokkenheid by bendegeweld byvoorbeeld, of taxi,
10 huurmotorgeweld, en byvoorbeeld plaasaanvalle. Net soos by
11 TRT is daar baie beperk vermelding in terme van dit waarvoor
12 hulle verantwoordelik is op 'n daagliks basis. Spesiale
13 Taakmag was dan wel in die kategorie hoë risiko met
14 sien daar is baie meer besonderhede wat vermeld word in
15 terme van hulle verantwoordelikheid. Ek sal pertinently meld
16 onder die mandaat van Taakmag nie. Hoë profiel BBP
17 beskerming is nie ingesluit in die betrokke groen blok nie.
18 MR MAHLANGU:          The abbreviation H?
19 CHAIRPERSON:          High profile, VIP
20 protection.
21 GENERAAL-MAJoor ANNANDALE:          Dan hoë
22 risiko situsies wat spesiale toerusting en/of vaardigheede
23 vereis.
24
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<tr>
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<tbody>
<tr>
<td>1 MR BIZOS SC: Is this high-profile functions where preventative measures are taken with</td>
<td>1 is the sending of STF there was in preparation of showing</td>
</tr>
<tr>
<td>2 personages of high rank and international visitors? We are talking about the violent crime incidents such as Marikana</td>
<td>2 force and showing the people that went on an unprotected</td>
</tr>
<tr>
<td>3 may have been categorised by you and the police.</td>
<td>3 strike, to be shown at the request of their employers, that</td>
</tr>
<tr>
<td>4 GENERAAL-MAJOR OR ANNANDALE: Voorsitter, verskoon tog, ek is nie doodseker van die vraag nie.</td>
<td>4 the police were the “baas” in order to bring an end to the</td>
</tr>
<tr>
<td>5 MR BIZOS SC: The events that you mentioned were very important events where there were great</td>
<td>5 strike. That’s why the STF were there -</td>
</tr>
<tr>
<td>6 masses of people with high profile visitors from throughout</td>
<td>6 CHAIRPERSON: Mr Bizos, I’m sorry, that’s a very wide statement you’re making which should really I</td>
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<tr>
<td>7 the world, and it may be that snipers may have been necessary. Have you any example of inviting STF in order</td>
<td>7 think more appropriately be broken down into a number of</td>
</tr>
<tr>
<td>8 to stabilise violent crime incidents such as you say were present in Marikana? Were STF invited to that sort of</td>
<td>8 separate questions because you say for example that this</td>
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<tr>
<td>9 similar situation and not the high profile examples that you have given us?</td>
<td>9 was an unprotected strike, which of course it was, but it</td>
</tr>
<tr>
<td>10 GENERAAL-MAJOR OR ANNANDALE: Voorsitter, Marikana is unie in ons geskiedenis.</td>
<td>10 was also according to some of the evidence we’ve heard an</td>
</tr>
<tr>
<td>11 MR BIZOS SC: Is that because the police killed 34 people and wounded 84 people? You didn’t know</td>
<td>11 unprotected strike accompanied by violence, intimidation,</td>
</tr>
<tr>
<td>12 that when you decided to deploy STF, or did you?</td>
<td>12 murder and malicious injury to property.</td>
</tr>
<tr>
<td>13 CHAIRPERSON: It’s more appropriate to ask the witness why he says it was unique. What Mr Bizos is suggesting is you describe it as unique because of the</td>
<td>13 MR BIZOS SC: Yes.</td>
</tr>
<tr>
<td>14 MR BIZOS SC: Yes.</td>
<td>14 CHAIRPERSON: So putting the question as you do, without breaking it down into the different</td>
</tr>
<tr>
<td>15 CHAIRPERSON: But the way you do it I’m afraid is a treble or quadruple question, which I don’t think is appropriate.</td>
<td>15 components, maybe well cause difficulties. So the first</td>
</tr>
<tr>
<td>16 MR BIZOS SC: Yes.</td>
<td>16 question I suggest you ask is, is it correct that it can</td>
</tr>
<tr>
<td>17 CHAIRPERSON: So putting the question as you do, without breaking it down into the different</td>
<td>17 simply be described as an unprotected strike, and then you</td>
</tr>
<tr>
<td>18 MR BIZOS SC: Yes.</td>
<td>18 can move on to your next question.</td>
</tr>
<tr>
<td>19 CHAIRPERSON: But the way you do it I’m afraid is a treble or quadruple question, which I don’t think is appropriate.</td>
<td>19 MR BIZOS SC: Yes.</td>
</tr>
<tr>
<td>20 MR BIZOS SC: Yes, well do we agree that</td>
<td>20 CHAIRPERSON: But the way you do it I’m</td>
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<tr>
<th>Page 8939</th>
<th>Page 8941</th>
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<tbody>
<tr>
<td>1 GENERAAL-MAJOR OR ANNANDALE: Nee, Voorsitter. Dit was uniek in terme van dat daar nie ‘n geval is wat ek van histories bewus is waar daar so’n groot groep en so gewapen as ‘n pertinente dreigement in ‘n gemeenskap voorgekom het nie.</td>
<td>1 it was an unprotected strike?</td>
</tr>
<tr>
<td>2 MR BIZOS SC: You are aware of exhibit Q which describes - it’s on slide 24, which describes mandated functions, administrative policy, division Visible Policing, the functioning of Public Order Police (POP) and the fourth bullet is stabilising of serious and violent crime incidents. It’s a function of POPs.</td>
<td>2 GENERAAL-MAJOR OR ANNANDALE: In terme van die Arbeidswet, dit is korrek.</td>
</tr>
<tr>
<td>3 MR BIZOS SC: And the people were gathering in order to show strength, if you like, that they were not going to work until their demands were met.</td>
<td>3 MR BIZOS SC: And the people were</td>
</tr>
<tr>
<td>4 GENERAAL-MAJOR OR ANNANDALE: Die samekoms van die groeperings was onwettig in terme van die Wet op Openbare Byeenkomste. Dit was nie vredsaam nie. Mense was nie ongewapen nie. Daar was ‘n geskiedenis van intimidasie, geweld, aanrandings en moorde wat verbind is aan.</td>
<td>4 the police were the “baas” in order to bring an end to the</td>
</tr>
<tr>
<td>5 MR BIZOS SC: Were the 3 000 people that had gathered to be deemed responsible for those crimes that were committed?</td>
<td>5 MR BIZOS SC: Were the 3 000 people that had gathered to be deemed responsible for those crimes that were committed?</td>
</tr>
<tr>
<td>6 MR BIZOS SC: Nie die 3 000 nie, née Voorsitter.</td>
<td>6 GENERAAL-MAJOR OR ANNANDALE: Nee die 3 000</td>
</tr>
<tr>
<td>7 MR BIZOS SC: Or even the 400 or 300, were they responsible for all those crimes that you were committed? And I may say that we accept that there were crimes committed which should be condemned, and we condemn them, but that is no excuse for killing 34 people and wounding the 84 others.</td>
<td>7 MR BIZOS SC: Or even the 400 or 300, were they responsible for all those crimes that you were committed? And I may say that we accept that there were crimes committed which should be condemned, and we condemn them, but that is no excuse for killing 34 people and wounding the 84 others.</td>
</tr>
<tr>
<td>8 MR SEMENYA SC: Chair, there was never an excuse to kill 34 people.</td>
<td>8 MR BIZOS SC: Or even the 400 or 300, were they responsible for all those crimes that you were committed? And I may say that we accept that there were crimes committed which should be condemned, and we condemn them, but that is no excuse for killing 34 people and wounding the 84 others.</td>
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</table>
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25           MR BIZOS SC:          - "with individual crowd
24           CHAIRPERSON:          High-risk confrontation –
23 situations where there is confrontation with high-risk” –
22 personnel institutions” – in situations, I’m sorry, “in
20 for frontline handling of crowd management situations,
19 says, “TRT, NIU and STF have no responsibility or equipment
18 Rover’s affidavit, exhibit FFF11, the expert witness, he
17           MR BIZOS SC:          In paragraph 75 in Mr De
16 verseker nie.
15           GENERAAL-MAJ OOR ANNANDALE:          Voorsitter,
14 that what you say?
13 shoot the 34 people on the 16th.  What he wants to know, is
12 a basis – is that what you’re saying?  - or a license to
11 property and so on, do you say that those crimes constitute
10 antecedent murders and assaults and malicious injuries to
9 of wrong done by the people on the scene, irrespective of
8 entitled to put to the witness the lack of proportionality
7           MR BIZOS SC:          Well, I submit that I am
6 What is your answer to the objection?
5           MR BIZOS SC:          Finished?  Do you disagree
4 specialised units constitute a two to one majority against
3 a POP operation, or should have been.  Why did the
2 outnumbered the POP members by nearly two to one.  This was
1 other words, the specialised or tactical unit members

wounded?
2 GENERAAL-MAJ OOR ANNANDALE:          Voorsitter,
1 lisensie tot wat?  Lisensie om mense dood te maak en te
4 beseer?
3 MR BIZOS SC:          To shoot people dead; to
2 shoot people and seriously wound them.
1 CHAIRPERSON:          What Mr Bizos is

9 accordance with the facts that appear on exhibit L.
8           MR BIZOS SC:          General, that’s not in
7 die voorste linie of om skarebestuur toe te pas nie.
6 korrek, en dis dan juis hoekom ons hulle nie gebruik het in
die voorste linie om skarebestuur toe te pas nie.
5           MR BIZOS SC:          General, that’s not in
4 statement?
3 to POP personnel.”  Would you agree with your expert’s
2 containment, and arrest of such individuals in assistance
1 members occurs.  Their typical task is of isolation,

1 members occurs.  Their typical task is of isolation,
containment, and arrest of such individuals in assistance
3 to POP personnel.”  Would you agree with your expert’s
4 statement?
5 GENERAAL-MAJ OOR ANNANDALE:          Voorsitter,
korrekt, en dis dan juis hoekom ons hulle nie gebruik het in
die voorste linie of om skarebestuur toe te pas nie.
6 MR BIZOS SC:          General, that’s not in
7 accordace with the facts that appear on exhibit L.
8 According to exhibit L, on the morning of the 16th of August
9 -
10 CHAIRPERSON:          I’m sorry, Mr Bizos, where
11 are you reading from in exhibit L?
12 MR BIZOS SC:          From my notes, Mr Chairman
13 -
14 CHAIRPERSON:          Oh, I thought you were
15 reading from exhibit L.  Sorry.
16 MR BIZOS SC:          - to which I’m indebted to
17 the people sitting behind me and to my left and my right.
18 The documentation in this case is too much for a person of
19 my age.  According to exhibit L, on the morning of the 16th
20 of August the deployment show of force consisted of 176 POP
21 unit members, compared to 337 specialised unit members.
22 These numbers were calculated by adding up the personnel
23 figures reflected on slides 136 to 147 of exhibit L.  In

21 enige offensiewe aksies daar te stel.
20 gewerk om sodanige groep uiteen te laat gaan, sonder om
19 sodanige magsvertoon het nog vir ons altyd baie, baie goed
18 of die groep te ontmoedig, aksies teenoor die polisie, en
17 magsvertoon om dan aksies pertinent van die protesteerders
16 dat mens jou reserwe groepe vorentoe bring as ‘n
15 pertinente vee-aksies gedoen het en ook om bogrond te vee
14 hanteerbare groepe.  Die ander eenhede waar daar na verwys
13 word, pertinente TRT, NIU en Speciale Taakmag, sou
12 hanteerbaare groepe. Die ander eenhede waar daar na verwys
11 aksie, en dan ook die opbreek van groter groepe in kleiner
10 dat hulle verantwoordelik sou wees vir die uiteendryf
9 die linie in die middel sou hulle waterkanonne gehad het,
8 dat hulle die voorste linie was, dat hulle sou direk agter
7 in Openbare Orde sal u ook opmerk in dieselfde bewysstuk
6 die voorste linie of om skarebestuur toe te pas nie.
5           GENERAAL-MAJ OOR ANNANDALE:          Voorsitter,
4 statement?
3 to POP personnel.”  Would you agree with your expert’s
2 containment, and arrest of such individuals in assistance
1 members occurs.  Their typical task is of isolation,
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6 MR BIZOS SC:          General, that’s not in
7 accordace with the facts that appear on exhibit L.
8 According to exhibit L, on the morning of the 16th
9 -
10 CHAIRPERSON:          I’m sorry, Mr Bizos, where
11 are you reading from in exhibit L?
12 MR BIZOS SC:          From my notes, Mr Chairman
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14 CHAIRPERSON:          Oh, I thought you were
15 reading from exhibit L.  Sorry.
16 MR BIZOS SC:          - to which I’m indebted to
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21 unit members, compared to 337 specialised unit members.
22 These numbers were calculated by adding up the personnel
23 figures reflected on slides 136 to 147 of exhibit L.  In

10 the contrary to what may be suggested –
9 of objection.
8 MR BIZOS SC:          You mentioned the crimes
7 that were committed.  Are you saying that the commission of
6 those crimes was a license to the police to have a plan
5 which led to the death of 34 people and 84 seriously
4 statement?
3 to POP personnel.”  Would you agree with your expert’s
2 containment, and arrest of such individuals in assistance
1 members occurs.  Their typical task is of isolation,
containment, and arrest of such individuals in assistance
3 to POP personnel.”  Would you agree with your expert’s
4 statement?
5 GENERAAL-MAJ OOR ANNANDALE:          Voorsitter,
korrekt, en dis dan juis hoekom ons hulle nie gebruik het in
die voorste linie of om skarebestuur toe te pas nie.
6 MR BIZOS SC:          General, that’s not in
7 accordace with the facts that appear on exhibit L.
8 According to exhibit L, on the morning of the 16th
9 -
10 CHAIRPERSON:          I’m sorry, Mr Bizos, where
11 are you reading from in exhibit L?
12 MR BIZOS SC:          From my notes, Mr Chairman
13 -
14 CHAIRPERSON:          Oh, I thought you were
15 reading from exhibit L.  Sorry.
16 MR BIZOS SC:          - to which I’m indebted to
17 the people sitting behind me and to my left and my right.
18 The documentation in this case is too much for a person of
19 my age.  According to exhibit L, on the morning of the 16th
20 of August the deployment show of force consisted of 176 POP
21 unit members, compared to 337 specialised unit members.
22 These numbers were calculated by adding up the personnel
23 figures reflected on slides 136 to 147 of exhibit L.  In

21 enige offensiewe aksies daar te stel.
20 gewerk om sodanige groep uiteen te laat gaan, sonder om
19 sodanige magsvertoon het nog vir ons altyd baie, baie goed
18 of die groep te ontmoedig, aksies teenoor die polisie, en
17 magsvertoon om dan aksies pertinent van die protesteerders
16 dat mens jou reserwe groepe vorentoe bring as ‘n
15 pertinente vee-aksies gedoen het en ook om bogrond te vee
14 hanteerbaare groepe. Die ander eenhede waar daar na verwys
13 word, pertinente TRT, NIU en Speciale Taakmag, sou
12 hanteerbaare groepe. Die ander eenhede waar daar na verwys
11 aksie, en dan ook die opbreek van groter groepe in kleiner
10 dat hulle verantwoordelik sou wees vir die uiteendryf
9 die linie in die middel sou hulle waterkanonne gehad het,
8 dat hulle die voorste linie was, dat hulle sou direk agter
7 in Openbare Orde sal u ook opmerk in dieselfde bewysstuk
6 die voorste linie of om skarebestuur toe te pas nie.
5           GENERAAL-MAJ OOR ANNANDALE:          Voorsitter,
4 statement?
3 to POP personnel.”  Would you agree with your expert’s
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<td>disagree with their views, and how can your answer be what</td>
<td>1 unqualified.</td>
<td>1 avoid that.</td>
<td>1 disagree with their views, and how can your answer be what</td>
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<td>it is when POPs were in the minority in Marikana on the</td>
<td>2 CHAIRPERSON: Perhaps you can rephrase</td>
<td>2 MR BIZOS SC: And leave the rest. You</td>
<td>2 it is when POPs were in the minority in Marikana on the</td>
</tr>
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<td>morning of the 16th?</td>
<td>3 the question -</td>
<td>3 were there to confront them and not to find a solution.</td>
<td>3 morning of the 16th?</td>
</tr>
<tr>
<td>GENERAAL-MAJoor ANNANDEL: Voorsitter,</td>
<td>4 MR BIZOS SC: I apologise in advance -</td>
<td>4 GENERAAL-MAJoor ANNANDEL: Voorsitter,</td>
<td>4 GENERAAL-MAJoor ANNANDEL: Voorsitter,</td>
</tr>
<tr>
<td>ek gaan dit weer meld, dat die ontplooiing en die</td>
<td>5 CHAIRPERSON: I understand the point</td>
<td>5 dit is nie waar nie.</td>
<td>5 dit is nie waar nie.</td>
</tr>
<tr>
<td>aanwending van TRT, NIU, en STF, was nie bedoel om as</td>
<td>6 you're making, but I think if I may say so, it can be more</td>
<td>6 MR BIZOS SC: It may be -</td>
<td>6 MR BIZOS SC: It may be -</td>
</tr>
<tr>
<td>skarebestuur te gebruik word, en daar was voldoende</td>
<td>7 happily phrased so it won't elicit these objections. So</td>
<td>7 CHAIRPERSON: Mr Bizos, have you reached</td>
<td>7 CHAIRPERSON: Mr Bizos, have you reached</td>
</tr>
<tr>
<td>Openbare Orde Polisiëringeslede om skarebestuur aspekte te</td>
<td>8 take a step back, rephrase the question in a way which gets</td>
<td>8 a logical point in your cross-examination -</td>
<td>8 a logical point in your cross-examination -</td>
</tr>
<tr>
<td>deel.</td>
<td>9 around Mr Semenya's objection and then we can get the</td>
<td>9 MR BIZOS SC: Yes, I'm going on to the</td>
<td>9 MR BIZOS SC: Yes, I'm going on to the</td>
</tr>
<tr>
<td>MR BIZOS SC: I am going to put to you,</td>
<td>10 answer.</td>
<td>10 slide -</td>
<td>10 slide -</td>
</tr>
<tr>
<td>General, that the inevitable inference to be drawn from</td>
<td>11 MR BIZOS SC: Yes. What I'm going to put</td>
<td>11 CHAIRPERSON: So can we resume tomorrow</td>
<td>11 CHAIRPERSON: So can we resume tomorrow</td>
</tr>
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<td>those figures and your conduct on the morning of the 16th</td>
<td>12 to you is what the police were intending to do and in fact</td>
<td>12 morning?</td>
<td>12 morning?</td>
</tr>
<tr>
<td>was not to manage the crowd, but to show force and that</td>
<td>13 did on the 16th, was to show that force that they were</td>
<td>13 MR BIZOS SC: Are we adjourning early?</td>
<td>13 MR BIZOS SC: Are we adjourning early?</td>
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<tr>
<td>would lead to confrontation and not a solution to the</td>
<td>14 intent on surrounding the people there with razor wire -</td>
<td>14 CHAIRPERSON: It's 5 past 4.</td>
<td>14 CHAIRPERSON: It's 5 past 4.</td>
</tr>
<tr>
<td>problem.</td>
<td>15 CHAIRPERSON: Mr Bizos, that's not going</td>
<td>15 MR BIZOS SC: Oh, I'm sorry. I was</td>
<td>15 MR BIZOS SC: Oh, I'm sorry. I was</td>
</tr>
<tr>
<td>[16:00] CHAIRPERSON: Mr Bizos, I have a problem</td>
<td>16 to solve your problem because we had that yesterday.</td>
<td>16 looking at my watch.</td>
<td>16 looking at my watch.</td>
</tr>
<tr>
<td>with that question. You referred simply to his conduct or</td>
<td>17 MR BIZOS SC: Yes.</td>
<td>17 CHAIRPERSON: Yes, I'm going on to the</td>
<td>17 CHAIRPERSON: Yes, I'm going on to the</td>
</tr>
<tr>
<td>behaviour on the morning of the 16th. I'm not quite sure</td>
<td>18 MR BIZOS SC: Not yesterday, the day</td>
<td>18 slide -</td>
<td>18 slide -</td>
</tr>
<tr>
<td>what you were referring to and I don't know whether he does</td>
<td>19 before, about the encirclement argument, and the point was</td>
<td>19 CHAIRPERSON: So can we resume tomorrow</td>
<td>19 CHAIRPERSON: So can we resume tomorrow</td>
</tr>
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<td>either. So again I would suggest you break up the</td>
<td>20 dealt with in some detail that there was no intention to</td>
<td>20 morning?</td>
<td>20 morning?</td>
</tr>
<tr>
<td>question, or explain what you mean by conduct, because the</td>
<td>21 surround the people, that that would have required far more</td>
<td>21 MR BIZOS SC: Are we adjourning early?</td>
<td>21 MR BIZOS SC: Are we adjourning early?</td>
</tr>
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<td>question as it is, is too vague in my opinion.</td>
<td>22 wire than they had, so that question raises all those</td>
<td>22 CHAIRPERSON: It's 5 past 4.</td>
<td>22 CHAIRPERSON: It's 5 past 4.</td>
</tr>
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<td>MR BIZOS SC: By showing force, by spreading the razor wire,</td>
<td>23 issues -</td>
<td>23 MR BIZOS SC: Oh, I'm sorry. I was</td>
<td>23 MR BIZOS SC: Oh, I'm sorry. I was</td>
</tr>
<tr>
<td>by using gas -</td>
<td>24 MR BIZOS SC: Let me use as a general -</td>
<td>24 looking at my watch.</td>
<td>24 looking at my watch.</td>
</tr>
<tr>
<td>CHAIRPERSON: I'm sorry, Mr Bizos, you</td>
<td>25 CHAIRPERSON: So I would suggest you</td>
<td>25 CHAIRPERSON: So can we resume tomorrow</td>
<td>25 CHAIRPERSON: So can we resume tomorrow</td>
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