

TRUTH AND RECONCILIATION COMMISSIONSECTION 29 HEARINGIN CAMERA

DATE: 19-05-1997 NAME: LT DOUW VERMEULEN
HELD AT: CAPE TOWN

CHAIRPERSON: Welcome everybody this morning. Welcome Lt Douw Vermeulen. You have been asked to appear this morning at this in camera Section 29 hearing as part of an on-going investigation on the Trojan Horse events that took place in October 1985. We are going to ask you to take the oath, and Advocate Denzil Potgieter is going to administer the oath.

ADV POTGIETER ADMINISTERS THE OATH

DOUW GERBRAND VERMEULEN: (sworn states)

CHAIRPERSON: Thank you. I am just going to introduce people around here, the main actors. I will start with you there. Welcome again Lt Vermeulen. You are represented this morning by your attorney and Advocate Adri Brand. Welcome. And Advocate Francois van Zyl, welcome this morning.

We have on our side, on the Truth and Reconciliation side, we've got a team of people as well. I would like to introduce them. On my right-hand side, immediate right-hand side there is Zenzile Khoisan. Zenzile is part of the investigating team who is going to lead the evidence this morning. On my extreme left there are Stanley Holmes and next to him is Deon Petersen.

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On the other side of Zenzile Khoisan is Mohamed Muller, they are all part of the investigative team who have been working on this case.

Of the Commissioners we have on the extreme right there is Glenda Wildschut, and we have next to her Mapule Ramoshala and next to Mapule we have Denzil Potgieter. They are Commissioners in the Western Cape region and they are appearing in this case. Mary Burton also is one of the Commissioners who will be sitting on the case in the next few days. My name is Pumla Gobota-Madikizela and I am chairing this morning's events.

The other additional introductions I want to make very quickly. I will start with Miss Zenariah Barends. Zenariah Barends is the head of the investigating team. And we have also our Interpreters this morning, Isabel Cillier and Gideon Strauss, and on the controls of the sound system we have Solly Terblanche. Welcome everyone.

I just want to mention to you very quickly that we are not going to make any decisions in this inquiry and we, Zenzile Khoisan and his team will lead the evidence but no decisions will be made. Findings will be made only at the end of the investigation which includes the next couple of days public hearings.

You were informed of your rights, I think, when you were sent the letter of subpoena and one of those is your rights to legal representation. I am glad to see that you are

represented. You, in addition to your rights, there are certain responsibilities that we would like to request or to mention and outline the most important of those is your duty to be honest at this inquiry, and to point out to you that perjury will lead to criminal charges against yourself. Now this is according to the Act, the Promotion of National Unity and Reconciliation Act.

ADV VAN ZYL: Chairperson before we proceed, as you've mentioned I appear on behalf of Mr Vermeulen, I am not au fait exactly with the operations of the Commission but I do know that at the end findings will be made on this matter of the Trojan Horse.

Now there is one aspect that I have been instructed to raise with you, and that is the position of Advocate Potgieter for whom I have the greatest respect, but he was a member of a team that conducted a private prosecution against my client and others in the Supreme Court in connection with this very incident on charges of murder. And I wonder if you have considered possibly that Mr Potgieter recuse himself of this hearing to do with the Trojan Horse incident, and if you have what the decision is, I am not sure. I just raise this, with the greatest respect, whether this has been considered.

CHAIRPERSON: Thank you Mr van Zyl. We have considered this.

We are in the process of discussing it and trying to arrive at a decision around it. But I just point out to you that all the Commissioners present this morning are not participating in the

inquiry, but they are present at the hearing as members of the Commission, but they are not themselves leading the evidence. The investigators are the people who are leading the evidence.

ADV VAN ZYL: No I understand that ...(intervention)

CHAIRPERSON: Yes, we have considered that ...(intervention)

ADV VAN ZYL: I was under the impression that we will have the investigators here this morning. I didn't realise that we were also going to have members of the Commission itself here. I raise this now because I don't want to raise this in an open session at a later stage.

CHAIRPERSON: As I pointed out the questions this morning will be led by the investigating unit. The question of the involvement of Advocate Potgieter in this matter is a matter that the Commission is aware of, but we do want to point out that Mr Potgieter is acting in the Commission in his capacity as a Commissioner. And in the previous case he was acting in his capacity as a lawyer. But we will take note of your comments. As of this morning the investigators are leading evidence.

ADV VAN ZYL: Thank you Chairperson. And then one other matter, I believe we are in camera and we are not sure exactly who is sitting behind us here, are there any members of the Press present?

CHAIRPERSON: These are members of the Commission, they are all investigators. In fact Brenda Holmes is a member of the investigating team and the other gentleman ...(intervention)

ADV VAN ZYL: Chairperson it's enough for us if we are assured it's not members of the Press.

CHAIRPERSON: Yes, now that you've raised it, it's just for the record, this is Brenda Holmes, I hadn't introduced them. The other gentlemen is Knott van Wyk and the other one is Kers Christian who have been working with us in the investigating unit since we started, and Mark Killian as well. They are all members of the Commission.

ADV VAN ZYL: Thank you. And one last matter Chairperson is that we have prepared an affidavit by Mr Vermeulen regarding this particular incident and I don't know whether you wish to receive this now, may we hand it in?

CHAIRPERSON: Yes please. Zenariah Barends. We will ask Miss Glenda Wildschut to explain the equipment with us very quickly.

MISS WILDSCHUT EXPLAINS CONTROLS

CHAIRPERSON: Thank you Glenda Wildschut. Zenzile Khoisan.

MR KHOISAN: Yes. Good morning Lt Vermeulen, how are you?

LT VERMEULEN: Fine thank you.

MR KHOISAN: I want to thank you for taking the time to join us here and just to start with would like to say at the beginning, at the outset here that this investigative inquiry in is respect of an incident which occurred on the 15th of October 1985 and that we will touch on the situation in and around that time and also the situation that obtained in and around the area of our inquiry immediately after the incident.

The incident, for the record, is an incident which has

become known throughout the world as the Trojan Horse incident, are you familiar with this incident?

LT VERMEULEN: I am familiar with the incident.

MR KHOISAN: To begin with Lt Vermeulen, just for the record, currently you are not a member of the police force, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: So you are currently employed in another capacity as a private individual outside of the parameters of the police force?

LT VERMEULEN: That is correct.

MR KHOISAN: Now in terms of the particular inquiry that we are trying to establish what occurred and why it occurred I would like to say, for the record, and we would want you to confirm, the Trojan Horse incident, as we understand it is one in which three persons are alleged to have died and somewhere in and around 15 people are alleged to have been injured, is that the position as you understand it?

LT VERMEULEN: That is correct, yes.

MR KHOISAN: Now in terms of the operation which specifically led to the incident which has become known throughout the world as the Trojan Horse incident, at that time, at all material times on or about 15 October 1985 what was your rank inside the police force and with which structure inside the police force were you located?

LT VERMEULEN: I was a Lieutenant in the South African Railway

Police Service stationed at Bakon in Bellville where I was the commanding officer of the regional office.

ADV VAN ZYL: Before you continue I want to ask a question, the English sounds to be very loud and it seems to be confusing which makes it very difficult for him to hear. I don't know whether this can be changed. Would there be speakers in the room?

CHAIRPERSON: Why is there an overlap of the two channels?

LT VERMEULEN: I can hear the Interpreter very well ... (intervention)

ADV VAN ZYL: No, there is some difficulty he is very soft. It would appear that there is a problem that there's interference from the English channel and he loses the Afrikaans channel on occasion, and cannot hear exactly what is being said to him and what is being interpreted for him.

CHAIRPERSON: Maybe Chris you want to check also with his headphones to see if he has the correct....

LT VERMEULEN: While the Chairperson speaks I could hear the Interpreter very well, but it is when Mr Khoisan speaks that there seems to be an interference. The English seems to be interfering then with the Afrikaans.

MR KHOISAN: Okay is that better now?

LT VERMEULEN: It seems to be better, yes.

MR KHOISAN: So on or about 15 October 1985 at all material times you were a Lieutenant in the South African Railway Police and you were stationed at Bakon in Bellville, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: And at that time, on or about 15 October 1985 who was your direct commanding officer?

LT VERMEULEN: My direct commanding officer was Major Chris Loedolf of the South African Railway Police.

MR KHOISAN: Okay. Now Lieutenant for the purposes of understanding the situation and to put us all in the picture maybe let's go back to the beginning and say we would like to ask you to explain how you became a member of the regional task force of the South African Railway Police in Bakon, could you give us some background on that please?

LT VERMEULEN: I started as a warrant officer. I will use the word seconded, I can qualify this by saying that members who were interested to be involved in such a specific unit, to be trained in such a unit, to be taken away from their current positions which they were in at that time and on alternative days such as Tuesdays and Thursdays there was a small beginning of this particular regional task force. I developed a particular personal interest and I joined this unit. This unit became known subsequently or rather was formed into a separate unit inside the Railway Police.

MR KHOISAN: Okay, when exactly was that task force started and who - is it the position that Major Loedolf was the commander of this?

LT VERMEULEN: Major Loedolf had a predecessor, a Major Wiessen. He was not the founder of the particular task team.

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The initiating concept was started by someone who at that time was a commander officer and that was Major Wiessen.

MR KHOISAN: When was that Lieutenant?

LT VERMEULEN: If I remember correctly, to the best of my knowledge that would have been prior to April 1994.

MR KHOISAN: 1994 April, or do you want to tell me another date?

LT VERMEULEN: My apologies, 1984, that was before I became an officer, when I was a warrant officer on the 1st of April 1984 I became a full officer.

MR KHOISAN: Okay. And when you became a full officer in 1984 on the 1st of April that's when you went to the regional task force. I am trying to establish when this task force exactly was started. I am trying to see if you could pin that down.

LT VERMEULEN: As I have mentioned to you it would have been prior to April 1984 and at that time the persons who took part in the task team, as you call it, came from a variety of units and only on particular days when they had a meeting they would have left their normal duties. At that time I was a lieutenant in command of the mobile unit, the Crime Prevention Unit, at that time it was known as the Passenger Service Unit and the task team members were called together on particular days for certain practices and they then would have left their normal work and went to the exercises of this particular unit.

MR KHOISAN: So just to make it clear for the record, you came

to the task force from the mobile unit, is that right?

LT VERMEULEN: That is the case.

MR KHOISAN: Okay, and what was the criteria that was used, according to your understanding, for selection of members of the Railway police to be part of this task force, what were the five or six things that according to you would have formed the basis for selection to the original task force?

LT VERMEULEN: As I have mentioned to you earlier, if I remember correctly, it would have been members who showed an interest to join such a unit or to take part in the activities of such a unit.

I want to add to this before we continue Mr Khoisan. You will note that I don't look in your direction and that is not because of a lack of respect, I only find it easier because of the fact that your English is much louder than the Afrikaans I find it easier when I look at the Interpreter and then I can see him and hear him better. So it's not a lack of respect if you will understand that.

MR KHOISAN: No that's quite okay with me. But in respect of this you say that the criteria essentially was for those who were interested in being part of this task force, but I am sure that like the police force, like any other military or paramilitary force or structure, you go according to ranks and you go according to a system of orders or a system that is based on a command structure, and in respect of this there must have been more than just somebody being interested in this,

there must

have been a selection process which involved a senior officer.

Can you explain that to us please?

LT VERMEULEN: As I have already mentioned, this was on a volunteer basis, people who volunteered to join the unit, I have already mentioned to you that there was a person involved at that time who was in command, Major Wiessen. I cannot recall exactly whether there was any physical system.

Initially you would have a lot of interest, then there would be less interest shown and then at the end of the day you would have a small group of people who would be able to exercise the function for which they had shown an interest initially.

MR KHOISAN: Okay. Now Lt Vermeulen can you explain to us what the mandate, the founding mandate of the original task force was? What were the things that were set out as the basis for the existence of the unit and also the objective, what kind of things did you need to do? What was the objective of this unit?

LT VERMEULEN: The task team, I believe the reason for its founding would have been to have a unit in existence without affecting the daily work of the Railway Police. In my case for instance, as the commander officer of the Mobile Unit, if I was taken away for three or four days then the Mobile Unit would have had certain consequences and difficulties.

If for instance you remove 30 men out of a variety of units, the Uniform Branch, the Detective Branch you would have

a certain effect on the normal functioning of these units and for this purpose this group was founded to be used should there be riots on Railway premises then this unit would be necessary.

In the case of Laingsberg for instance, if there were floods it would be a certain number of staff that you would be able to move in a mobile way without affecting the normal activities of any other unit of the Railway Police. That is why I believe this unit was founded.

MR KHOISAN: Would you consider the major task of this unit to have been one of dealing with the unrest problem that was obtaining in the country and especially in the region and more specifically on the Cape Flats at that time?

LT VERMEULEN: I cannot go entirely along with your statement.

I believe that with the founding of the unit the intention was partly to combat unrest on Railway premises where the Railway Police had the responsibility in the Cape Flats and other areas.

MR KHOISAN: Okay, but in terms of the situation, the founding objective might have differed from what actually obtained in practice. Would it be the position, and would I be correct in saying that the primary function of it, in terms of how it worked out in practice, is that the task force was primarily involved in "combatting" unrest?

LT VERMEULEN: Yes in support of the South African Police Force, only from - if I remember the date correctly - August of 1985, that would have been the first occasion on which the

Railway Police Regional Task Force would have been used to supplement the South African Police and other elements to be used outside of its proper area.

MR KHOISAN: Lt Vermeulen I am not going to fast forward to August seeing that we are now at the crux of the matter. Are you familiar with the concept of a Joint Operational Centre?

LT VERMEULEN: I can give you my version of how I would have understood this Joint Operation Centre if you want me to describe it?

MR KHOISAN: Yes please.

LT VERMEULEN: Since at that time in the particular area there had been considerable unrest and rioting it became, or a Joint Operations Centre was established with all of the security forces including the SADF, the SAP and the Railway Police, the two policing forces existing at that time, and there was joint planning on a daily basis with regard to what had to be done in various areas to return the situation to normal in the area. That is how I understand the JOS and its responsibilities.

MR KHOISAN: Okay. And would I be correct in saying that in and around the time of the incident, on or about 15th October 1985 the Joint Operational Centre, that you would essentially have interacted with, or received orders from a senior officer would have been the ones that was operating from Mannenberg, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: And your superior officer at that Joint

Operational Centre would be, who?

LT VERMEULEN: Major Chris Loedolf.

MR KHOISAN: Now on the specific issue of the 15th October 1985, for the purposes of getting your recollection and understanding so that you will be able to put something into the record concerning your activities on this day, can you describe the day, to the best of your recollection, what you were doing until about four o'clock on that day?

LT VERMEULEN: (NO TRANSLATION - THE INTERPRETER APOLOGISES!!)
I worked with the Gugulethu Unit and I was busy patrolling in that area.

MR KHOISAN: I am now going to show you a document and it will be handed to you by Investigator Stanley Holmes. Can you please take a look at that document and see if you recognise it.

LT VERMEULEN PERUSES THE DOCUMENT

CHAIRPERSON: Lt Vermeulen is reading the document passed on to him together with his legal representatives.

LT VERMEULEN: Ja, on the first occasion, since the date of 15 October or since the days when I finished my service at the Regional Task Force that I again see a document like this. If you will allow me I want to read through the entire document to become familiar with the entire document. I have not seen a document like this since then.

ADV VAN ZYL: We were supplied with the documents on which we will be questioned and relative to the evidence of Mr

Vermeulen, this was not supplied to us. So just bear that in mind. I wish to place that on record.

CHAIRPERSON: Thank you Advocate van Zyl. We will allow you to look through that document.

MR KHOISAN: Lt Vermeulen have you read the document?

LT VERMEULEN: Yes I have read the document. I did read through the document briefly. I recognise this as a typed version of a section on vehicles daily occurrences. This is normally written in hand in a log book or a log form.

MR KHOISAN: Okay, so just for the record, that is the record of the activities of the Regional Task Force on the 15th of October 1985. Can you read the exact title of that document into the record please?

LT VERMEULEN: As I've said to you this would appear to me to be a typed version, we called this a Log. I am not sure and I cannot recall exactly whether we might have referred to it as anything else.

MR KHOISAN: For now let us just proceed and say that I have given you that document because I asked you earlier to explain, to try to give me your best recollection of what happened on or about that day. Now I have put that record in front of you so that we can help you as we go through these proceedings to try to refresh your memory in respect of the incident known as the Trojan Horse Incident.

Now is it correct to say that you reported to duty at, on or about, in and around 6.30 a.m. on the 15th of October 1995?

LT VERMEULEN: If these particulars were typed correctly out of the original handwritten document then in terms of this document we came on duty at 06:30 in the morning.

MR KHOISAN: And so you were busy until - from 06:30, and let us take ourselves through, until 16H16, which is 16 minutes past 4. Can we go to 16 minutes past 4 on the document.

LT VERMEULEN: I am at that point in the document.

MR KHOISAN: Okay. And 16:16 at Mannenberg, you went to Mannenberg and you obtained an unmarked vehicle, registration number SAS RW53756, is that correct?

LT VERMEULEN: 53076.

MR KHOISAN: Then would it be correct that - would this be the same vehicle that you referred to as your - in your statement which you have, as a "Spook voertuig"? With all due respect we have given you your statement.

LT VERMEULEN: That is the particular vehicle, yes.

MR KHOISAN: That particular "spook voertuig" was one that was used in the incident that has become known throughout this region and throughout the world as the Trojan Horse Incident, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: In terms of the Trojan Horse Incident when exactly were you informed that this operation would take place and by whom?

LT VERMEULEN: As you will note from the log stat I was busy elsewhere through the course of the day and I received a radio

instruction to come in to the South African Police, Mannenberg where the JOC was situated, and upon my arrival I was received by Major Loedolf and I was informed of the situation.

MR KHOISAN: Okay. So according to you, and according to the best of your recollection the first time that you saw this vehicle or heard about the operation was when you received a call to come in to Mannenberg, to come and speak with Major Loedolf, or was there any other occasion before that particular day before October 15 that you discussed with any superior officer, or any other officer, that you would be part of a team of people who would be using a ghost vehicle to engage in an operation?

LT VERMEULEN: This would have been the first day on which I would have seen the vehicle when I arrived there, and I cannot recall now whether I had discussed at any other time any of the information which I would have received for the first time on that date.

MR KHOISAN: Okay, now in terms of this particular situation you had been out with your own team until about 16H16. At 16H16 you were with a whole different group of people, some of them you've been with them earlier in the day, but there are other people added to this team, was the fact that you will be with other people discussed with you on that day early in the morning, or at any other day by any other officer, with any other officer?

LT VERMEULEN: No.

MR KHOISAN: So the position is that you received a phone call to come in to Mannenberg, you had received a message on your radio, I guess, to come into Mannenberg Joint Operational Centre, is that what you're telling us?

LT VERMEULEN: I think you've asked me two questions. Did you ask whether I've received a telephone call or a radio call? As far as I know it was a radio call I received.

MR KHOISAN: Who made that radio call to you? Who called you in?

LT VERMEULEN: I just want to tell you how it looked at the JOC. It existed out of tents and caravans. There was a radio system and this was part of the Joint Operation of the South African Police and the radio operator who was working there would convey all instructions to the specific vehicle. I can't remember who the specific person was.

MR KHOISAN: No that is not that critical to us in this discussion. We want to find out if you are aware who gave that person who was handling the radio the instruction to call you in from the field. To the best of your recollection can you tell us who gave you that order?

LT VERMEULEN: If I remember correctly I had to report to Major Loedolf.

MR KHOISAN: So now just explain to us what happened. So you come into the Mannenberg Joint Operational Centre, and then what happened next? Did you go into Loedolf's office? Did he tell you you are going to use this vehicle? Just tell us what

happened from arriving at the Joint Operational Centre.

LT VERMEULEN: I have just lost the Interpreter, can you just repeat please.

MR KHOISAN: From the time that he arrived at the Joint Operational Centre, I want to know from Lt Vermeulen if he could inform us what happened, who he spoke to, what was the content of the discussion, etc? If he could just enlighten us about that, we need to know.

LT VERMEULEN: Good. When I arrived there I talked to Major Loedolf. It was the JOC, it consisted of tents and a caravan. I can't remember how many caravans. I talked to him, and can I read from my affidavit what happened after he summoned me. Can I go ahead?

During the afternoon of the 15th of October I was called to the caravan which was used as the Joint Operations Centre of the security forces in the area which was standing in the Mannenberg Police Station. Major Loedolf and he instructed me to - with a section - to go in the direction of Athlone, down Klipfontein Road in the direction of the Athlone Police Station, down Lansdowne Road and the old Kruis Pad and back to the Mannenberg Police Station.

He indicated a lorry in which there were wooden crates and informed me that my section should hide themselves in those crates. His instruction was that should we be attacked ... (intervention)

CHAIRPERSON: If you could just slow down a bit so that the

Interpreters could keep in line with you. Just slow down your reading of your statements.

LT VERMEULEN: I will do that with pleasure, thank you. Do you want me to repeat paragraph 5?

CHAIRPERSON: That's fine we have it on the records, but please do try to slow down. Thank you.

LT VERMEULEN: I will start on line 8 of paragraph 5.

And he indicated a lorry in which there were wooden crates, and informed me that my section should hide themselves in those crates. His instruction was further that should we be attacked or should we be stopped at roadblocks we should try to arrest the people responsible.

Major Loedolf also mentioned that should it become necessary that the members under my command should fire we must be careful that the people on the left side of the lorry should fire to the left side and those on the right side to the right to prevent that members on the left side of the lorry should not try to fire over and above those on the right side and therefore expose their colleagues to be wounded.

The persons under my command were under the command of Major Loedolf using side arms, 9mm pistols as well as shotguns.

The shotguns were loaded with birdshot or AAA shotgun bullets. The bigger type of bullets, namely SSG and LG were not in the possession of any of the members in this section. I inspected the section members myself and assured that their shotguns were not having other shotgun bullets or AAA.

The following members were under my command that day.

Can I stop there?

ADV VAN ZYL: Chairperson I am sorry to interrupt but it seems that Mr Vermeulen left out, what I think is fairly important words in the last sentence of paragraph 6, he referred to "donshaal" but not to AAA. The sentence actually reads, he said

"I inspected them myself and made sure that they did not use shotgun bullets other than birdshot".

He left out "other than birdshot", he left that out.

MR KHOISAN: That is, just for the record, that is his statement now. Just to establish and put into the record, Lt Vermeulen immediately after this particular incident you made a sworn affidavit in respect of the incident, is that correct? Can you just put that into the record. I just want to clarify so that we have - because right now we are ten years down the line, but just for the record, at the time you made a sworn affidavit in respect of this incident, is that correct?

LT VERMEULEN: Yes, I made an affidavit.

MR KHOISAN: Okay. Now in terms of the people that were with you, that were put together as the team for this particular operation, have you ever, besides the ones that you were working with during the day in your daily duties as a member of the original Task Force, did you know, or had you worked with on any other occasion any of the other members who were assigned to be a part of this operation?

LT VERMEULEN: Yes I knew most of the members and at certain occasions I also worked with them. They were not under my command and I was not under their command if you understand. Let me give you an example. Where there was a unit of the South African Police, when they cooperated with a unit of the old Railway Police, yes, I knew them and at certain instances I did work with them.

MR KHOISAN: So to all intents and purposes you were the senior officer of this operation? You were the highest ranking officer?

LT VERMEULEN: Yes that is correct.

MR KHOISAN: So are you putting it to us that you did not select the people who were going to be a part of this operation and that the people who would be a part of this operation were selected by persons other than yourself, namely Major Loedolf and others, is that correct?

LT VERMEULEN: Yes, I did not select those people they were chosen and indicated by Major Loedolf.

MR KHOISAN: Okay. Let us just get clarity here. So what you are trying to tell us here today is that you were the only one who was briefed by Major Loedolf, what happened, who briefed the other people, did you brief them?

LT VERMEULEN: Major Loedolf informed me and I, then on my part, informed the rest of the members.

MR KHOISAN: I will just hold my questioning for now and I will proceed in a minute. I just want to give a chance to the

other members of the Committee - (not talking into the microphone)

CHAIRPERSON: Who is it going to be - Deon Petersen.

MR PETERSEN: Could you explain to me what exactly you informed these other members?

LT VERMEULEN: Could you please repeat your question?

MR PETERSEN: What exactly you gave them in terms of instructions?

LT VERMEULEN: I communicated the instruction to them as I received this from Major Loedolf.

MR PETERSEN: What would this instruction have been, could you just give this to us?

LT VERMEULEN: I explained the operation to them, what the purpose of the operation would have been; where they had to sit; on the vehicle or in the vehicle; which arms they had to use; which particular route would be followed; what preventative measures they had to take should the vehicle be attacked; the positions from which they were to fire; the entire instructions as I received this from Major Loedolf.

MR PETERSEN: Did you give him instructions on when they should fire?

LT VERMEULEN: Yes I did give them such instructions, when they may or may not fire. I instructed them that should their lives be threatened they were allowed to use their firearms.

CHAIRPERSON: Stanley Holmes.

MR HOLMES: The morning when you reported, what exact firearms

were you issued? Which particular shotgun ammunition had been issued to you that morning?

LT VERMEULEN: If I recall correctly I was issued with AAA shotgun ammunition. Some of my members were issued with birdshot. This would be under correction if I recall correctly after all these years.

MR HOLMES: If I can interrupt you, I note that at the particular point 20 there was birdshot used. I assume that I also had birdshot in my possession.

MR HOLMES: Did you keep a record of the ammunition with which the members were issued in the morning?

LT VERMEULEN: If I can explain it to you, there are records kept. We had an ammunition truck, if you want to call it that, which would have been a steel truck which contained ammunition, firearms and so forth. This was stored in this truck and there would have been a person who issued the arms and ammunition in the mornings. This person would have logged the person's name, vehicle and number and issued the ammunition against this information. So there would have been records kept with regard to the issuing of arms and ammunition.

MR HOLMES: At 16H16 therefore, when you changed from one vehicle to another vehicle did you ask the members under your command whether they had AAA or birdshot in their possession?

LT VERMEULEN: Yes, before the members climbed on to the vehicle I did a physical inspection of the ammunition held by every person and with which their arms were provided.

CHAIRPERSON: Mohamed Muller.

MR MULLER: Lt Vermeulen, according to your planning of that specific operation you used the term "the SMECK", situation, mission, execution, coordination of instructions and command and control. So according to the command and control were you briefed by Major Loedolf that you must abide by certain plans and procedures on the question of firing to the left and firing to the right?

LT VERMEULEN: As I have already told you there had been particular instructions indicating, from Major Loedolf, and I'll read this to you again,

"He mentioned to me that should it be necessary the members under my command, if it was necessary for the members under my command to shoot we had to take care that the persons on the left of the truck had to fire to the left, and the persons on the right of the truck had to fire to the right. There had been such instructions and I communicated these instructions to my staff".

MR MULLER: So it's correct for me to say that that planned operation had a firing plan?

LT VERMEULEN: That would have been the case, should the members be attacked that planning would have been contained in the plan of action.

MR MULLER: Lt Vermeulen, are you aware of the basic procedures of crowd control on the use of force?

LT VERMEULEN: Yes I am aware of these.

MR MULLER: Can you explain, according to your understanding, the procedures from step 1 till step 8 please?

LT VERMEULEN: As you know I have been out of the police force for an extended period of time. I will not be able to give them to you point by point but as I understand it minimum violence should be used.....(...indistinct)

MR MULLER: Who would this person be?

LT VERMEULEN: Up to a level of maximum violence.

MR MULLER: Minimum force, can you explain the procedures under minimum force for me please Lieutenant?

LT VERMEULEN: In which scenario? Under which circumstances?

MR MULLER: In countering unrest in areas.

LT VERMEULEN: This would be a very difficult question to answer in the scenario which you have provided me. This would differ from scene to scene.

CHAIRPERSON: I suppose what you'd really like to know is just the context of the requirement of minimum violence, if you could describe to us, just briefly, what exactly it entails? What does minimum violence entail? What would it mean in practical terms if are a police entering an area? You could draw up scenarios for us but essentially we would just like to know what that entails, minimum violence.

LT VERMEULEN: As I have said to you earlier on I find it very difficult to explain a scenario where I don't have particular example. I will attempt to give you my understanding of

minimum violence. That would be that the lowest or least possible violence should be applied to counter an attack. Depending on the degree or level or step of minimum violence would be indicated by the extent of the attack which had to be countered. In other words, therefore, in for instance a situation of war should someone fire on my base with artillery then it would surely not help that I throw teargas at the artillery. I would then counter the attack with a most effective level of violence.

CHAIRPERSON: In the Trojan Horse for instance what would you perceive as minimum violence, I think that was the question really?

LT VERMEULEN: The action of myself and my people on the illegal attack on us, our own lives and our property had to be protected. I believe that what we in fact did, and the violence with which we responded to the attack I would describe as the minimum possible violence in terms of the attack.

LT VERMEULEN: Mohammed Muller.

MR MULLER: Lt Vermeulen, according to doctrine of the police, their standing orders for crowd control procedures, like you've explained to me that using a cannon or using teargas to counter a cannon are irrelevant to that particular situation. But let us go back to a scenario in Trojan Horse where crowds of young youth were occupying the street, there was some kind of information you've received by a superior officer, that there was unrest in that particular area, so the normal procedures

and standing procedures that are laid down in instructions of crowd control, according to your understanding, what was your force used, according to your understanding to counter that? Was it minimum or maximum?

LT VERMEULEN: I find it very difficult Mr Muller to understand your question, to understand exactly what you are asking me. I have difficulty understanding that. Could you possibly rephrase your question for me, I find it very difficult to understand and to answer you.

MR MULLER: I will reformulate my question. What are the standard procedures for crowd control?

LT VERMEULEN: There are standing procedures in terms of crowd control. There would be warnings; there would be teargas thrown, there are a number of steps until eventually one would fire on the crowd. If you are referring to the event of the 15th of October I did not consider this to be crowd control. I considered this to be a direct attack on the lives of myself and my personnel. I believed at that time that myself and my personnel were under under-protected danger and threat of our lives.

CHAIRPERSON: Deon Petersen please.

MR PETERSEN: Were you at all prepared for minimum level of violence, for instance teargas, did you have teargas available?

LT VERMEULEN: Yes we had teargas available.

MR PETERSEN: You inspected your staff, you said to us that they were provided with AAA and birdshot.

LT VERMEULEN: You asked me with regard to arms, they had AAA and birdshot, they also had teargas available.

CHAIRPERSON: Zenzile Khoisan.

MR KHOISAN: Alright. Now Lt Vermeulen let's just go back to the beginning, why - did Major Loedolf explain to you why you are using what, in your own words you call "spook voertuig" for this operation? And I am not satisfied that you have told us exactly why you were sent out there. Can you give us a much more full explanation of why you were pointed to a "spook voertuig", a "ghost vehicle"? Why you had a new team of people? And what was the purpose of the mission? I have read your statement but I need you to give us a more substantive account of your discussion with the then Major Loedolf. This obviously - we don't feel satisfied that he's enlightened us enough as to why there is going to be the use of a "ghost vehicle". After all he wasn't using a "ghost vehicle" the whole day, from 6:30 until 16H16. At "16H16" he's using a ghost vehicle and we need an explanation for why they are suddenly going to be using a ghost vehicle and what he was going to do in Thornton Road - we need a more substantive explanation from the Lieutenant, if possible.

ADV VAN ZYL: Chairperson I think it's very difficult for the witness to reply to a couple of questions rolled into one. I think I understand Mr Khoisan's difficulty, but if he perhaps spaces his questions, ask one question at a time and allow the witness to reply to that, and follow up on that if necessary.

CHAIRPERSON: Thank you Mr van Zyl. Mr Khoisan will repeat and space his questions.

MR KHOISAN: Okay. Lt Vermeulen, once again for the record we are not satisfied with your explanation. So from 06H30 until 16H16 on the 15th of October 1985 you are in another vehicle, you are carrying out normal duties, suddenly at 16H16 you are going to perform what can be best be described as an abnormal duty, is that correct?

LT VERMEULEN: No this was not an abnormal duty. Major Loedolf, as I've said to you, called me in. He was a senior officer of the Joint Operations Centre. He gave me the decision or the instruction to take this and use this particular vehicle. I was a member of the South African Railway Police, one of 12 units of the Transport Services. I did not consider this as a strange vehicle.

The instruction which we were given was that since there was a situation of rioting and unrest in the area, and since the effect had been the persons responsible for this rioting, the people who were instigating the violence could not be arrested, there was no success in arresting them, so we received the instruction to go in with this particular vehicle to take a particular route which was prepared beforehand by Major Loedolf and the Joint Operations Centre whom he represented as my commanding officer.

I then followed the instruction which I received. I indicated the personnel. I placed the personnel on the

vehicle. I inspected them, and we followed the route as we were instructed. The word "ghost vehicle" would probably be the worst word which one could use 12 years after the incident, at that time I don't believe that there had been that connotation. It was given the name "ghost vehicle" or "spook voertuig" to indicate that it was something slightly different from the South African Railway Police vehicle, or a Defence Force vehicle or a Police Force vehicle.

MR PETERSEN: Lt Vermeulen did you on any other day receive instructions from Major Loedolf to use a "ghost vehicle" in other instance? Did you use a "ghost vehicle" at any other time?

LT VERMEULEN: No I received no such instruction at any other time, but I had used other vehicles than normal police force vehicles, such as for instance "trains" which had nothing to do with the South Railway Police whatsoever, and that did not belong to the Railway Police as a section. I did not consider this truck to be strange, but I did not receive such an instruction.

CHAIRPERSON: Dr Ramashala.

DR RAMASHALA: Lt Vermeulen, you state that this was not an unusual operation, am I correct?

LT VERMEULEN: This was not an unusual operation, no.

DR RAMASHALA: How were you dressed for the operation? And how were the two people in front dressed?

LT VERMEULEN: I will describe the dress of the prior South

African Railway Police Unit, it was a camouflage beret, which I wore. I also wore a shirt of the Regional Task Force. This was identified with the Western Cape Regional Task Force flashers on both of the sides of the shirt, on the shoulders, with the emblem or insignia on the chest above the name of the particular officer, above the pocket on the shirt. I also wore a web belt, a military belt, and pants which was known in police language as a combat pants and brown boots. This was in fact the dress of the prior Railway Police. It was a combined camouflage clothing of black, brown and olive green.

DR RAMASHALA: Is that how you were dressed right before the operation?

LT VERMEULEN: That is how I was dressed every day as a member of the Regional Task Force on the Railway Police also on that particular day.

DR RAMASHALA: How were the two people in front dressed? I am not looking for details, I just want to determine if this was a normal operation as you say. How were the two people in front dressed?

LT VERMEULEN: If I recall exactly with regard to the driver, which is all that I can remember, he was wearing a khaki coat, his uniform pants and uniform shoes. I cannot recall whether the passenger in front was also dressed with the khaki coat or whether he was wearing the full uniform or not.

DR RAMASHALA: Lieutenant, with the crates on the truck and you people hiding in the truck, what is a reasonable person to

conclude about your hiding yourselves and the two people wearing clothes that could not be identified as official police? What is a reasonable person to conclude about the way you were dressed and the way you were "hiding", emphasis on "hiding", hiding in the crates, what is a reasonable person to conclude?

LT VERMEULEN: Let me begin by responding Doctor, my instruction had been for us to hide ourselves, myself and my members in these crates. To give you my personal opinion of what a reasonable person would think of this, the members, when they would have made their appearance, would have been in full uniform, they would have clearly identifiable as members of a security force, the Railway Police Force at that time in South Africa.

I cannot understand exactly whether you want to know either what the opinion of a member of the public would have been, I am answering as far as I can understand your question.

DR RAMASHALA: Okay. Here is an unmarked vehicle that would not be associated with the Police, number one. Here is a crate on top of the vehicle that would not be associated with the vehicle, number two. Here it goes into a community in a route that has been previously identified, in your own words, by Mr Loedolf. What is a reasonable person to conclude on that? That you really didn't want to be recognised by the crowd?

LT VERMEULEN: That is in fact correct. Our instruction had been that since the normal policing, using the yellow Police

vehicle with members in full uniform, if they were to approach a barricade or a stone-throwing event it became impossible to arrest people in order to bring the situation under control. And I believe that that is the reason why the members of the JOC made this decision to take this uncommon step and to use this uncommon procedure which would have enabled these personnel to come close to the people who were responsible for this kind of unrest. I believe they might as well have made use of a normal minibus in which the personnel would have been seated, or they could have used the vehicle of a detective, that is why I did not consider this Transport Services vehicle at all as something strange since I was a member of the Transport Services.

DR RAMASHALA: A final question. Is that then consistent with the idea of crowd control?

LT VERMEULEN: This action was particularly aimed at apprehending and arresting the persons responsible for the unrest. For crowd control you would use the particular armed vehicle or an appropriate vehicle and take particular steps. This action was intended to arrest persons responsible for the unrest. It was not intended for crowd control.

CHAIRPERSON: Advocate Potgieter.

ADV POTGIETER: Thank you Chairperson. I just want to follow up on this question. Do you agree that this was an uncommon action? Do you agree that this action was uncommon?

LT VERMEULEN: No it was not out of the ordinary.

ADV POTGIETER: Is your position still that it was not out of the ordinary? What was the purpose of this operation - Just wait a minute.

LT VERMEULEN: I thought you had finished.

ADV POTGIETER: No I will give you an indication when I've finished. Was the purpose of this operation not to entice people to throw stones at the vehicle?

LT VERMEULEN: No that was not the purpose of this operation. The purpose was to apprehend the responsible people should there be stone throwing or other obstacles in the road.

ADV POTGIETER: The senior officer indicated that that specific route you had to follow was a problem route because of stone-throwing, is that correct?

LT VERMEULEN: Yes that's correct.

ADV POTGIETER: Now this vehicle was camouflaged, from your point of view it was impossible to identify it as a Police vehicle and it's this type of vehicle, a kind-of a delivery van which was used and this was a specific target for people to throw stones at. If you say yes it could have been a target.

LT VERMEULEN: Yes but they threw stones at all vehicles. I wouldn't identify this one specifically.

ADV POTGIETER: Yes Lieutenant really you were involved in this unrest situation, you know if two White people were sitting in front of a presumably private delivery van, if they travelled into Athlone where there was stone-throwing, that the chance was about 100% that that vehicle would be attacked.

LT VERMEULEN: Yes, that's correct, all vehicles were attacked.

ADV POTGIETER: No not all vehicles, I'm referring to this specific one, do you agree? In other words before you entered that area you knew stones would be thrown at that vehicle.

LT VERMEULEN: We did not know that, but we foresaw that.

ADV POTGIETER: In other words is it not a reasonable conclusion that the purpose of the police at that specific day was to entice the people of the community in that area to commit a crime so that you can act against them?

LT VERMEULEN: No I don't think that is a reasonable conclusion. ADV POTGIETER: You didn't think the idea was to entice people to throw stones and to commit a crime?

LT VERMEULEN: No that was not the idea.

ADV POTGIETER: And then you carried weapons, you were hiding in closed crates and as soon as the people did those things whom you reasonably accepted that they would do, you would shoot them?

LT VERMEULEN: No that was not what we were expecting. We expected that we would get near to the people who were throwing stones, who were putting roadblocks up and then we would apprehend and arrest them.

ADV POTGIETER: And they could recognise that at a distance like an ordinary Police vehicle twice that day you followed that route before they started throwing stones at you.

LT VERMEULEN: No. I want to say that the route started at

the old Klipfontein Road, we turned west into Belgravia Road and we went back down Thornton Road, the driver turned back to get to Lansdowne Road again. No we did not follow the route twice.

ADV POTGIETER: Did you turn around in Thornton Road?

LT VERMEULEN: Yes we turned round in Thornton Road.

ADV POTGIETER: What do you say I accept we turned around?

When we came back we were in Thornton Road, you made a U-turn and then initially when you started action you were in Thornton Road.

The first stage when this vehicle moved down Thornton Road no stones were thrown.

LT VERMEULEN: Not as far as I know.

ADV POTGIETER: No Lieutenant. Were stones being thrown at the vehicle?

LT VERMEULEN: No, no stones that I know about.

ADV POTGIETER: What does that answer mean?

LT VERMEULEN: It means what it means, I do not know that stones were being thrown.

ADV POTGIETER: Would you know if people threw stones at you?

LT VERMEULEN: Yes I would have known, I would have heard of something - if a stone hit the vehicle.

ADV POTGIETER: So let's assume then at that point when you went down Thornton Road no stones were thrown. You made a U-turn and came down, back down that road again. It was not good enough that no stones were thrown, you followed the same route

again and with the purpose to entice people so that they can throw stones at the vehicle.

LT VERMEULEN: The vehicle had to come down Lansdowne Road to continue on its route and I think the driver turned round where Thornton Road stopped to get back into Lansdowne Road to follow the route.

ADV POTGIETER: But you said you turned west in Klipfontein Road to Belgravia then you turned right to Thornton Road.

LT VERMEULEN: The vehicle went down Belgravia Road to the bottom, it came back in Thornton Road, it made a U-turn to go back to Lansdowne Road and then it went down Lansdowne Road and old Klipfontein Road.

ADV POTGIETER: Did you initially turn into Belgravia Road from Klipfontein Road? But Thornton Road also goes into Klipfontein Road, why was it necessary to make a U-turn?

LT VERMEULEN: I can't remember at that stage whether there was a junction, whether there was an intersection there, but all I know is that the vehicle made a U-turn to get back to Klipfontein Road.

ADV POTGIETER: The only conclusion, or reasonable conclusion I can make is it just turned round and go that way again to see whether the people would start throwing stones again.

LT VERMEULEN: It's better to ask the driver why he made that U-turn and why he came back.

ADV POTGIETER: Forget about the driver, you were the commanding officer, so we are asking you.

LT VERMEULEN: No I don't know why he made a U-turn. He turned round to go back to Lansdowne Road according to what I remember.

MR KHOISAN: Lt Vermeulen you know what Advocate Potgieter was just trying to get out of you, and I'm going to put it to you directly, I'm going to ask you a direct question, could it be that - first of all, were you sent directly, were you told by Major Loedolf, go to Thornton Road, go to Athlone, was that part of the instruction? I mean you weren't just told to ride around the Cape Flats, take a turn in Bridgetown, Kewtown - I mean the Police Force is an organised force where there are command and control structures, it operates on the basis of orders, what were your orders, to which area did you go with this "ghost vehicle"? Where did Major Loedolf tell you to go to? Did he say go to Athlone, Thornton Road?

LT VERMEULEN: I want to tell you exactly what Major Loedolf said. He said the route that you will be following will be from Mannenberg Police Station, down Klipfontein Road, up to Belgravia, there you turn to the left, you go down Belgravia Road, you come back by means of Thornton Road, go back to Lansdowne Road, go Old Klipfontein Road till you get to the Mannenberg Police Station. Various roads were mentioned, not only Thornton Road in Athlone.

MR KHOISAN: Okay, so the thing is here that a junior officer, one who was driving the vehicle did not have it in his power to just suddenly do his own thing. You were the senior officer on

the scene, and let us not put it in his province, let us not deal with Sgt Smith and say that he had the right to make that decision. You were the senior officer and so for all intents and purposes on site you were guiding his direction, is that true? Because you had radio control, right? There was a radio communication between you and the people in the front, is that correct? He had a radio and you had a radio at the back.

LT VERMEULEN: If I can give my meaning according to Smith, he followed the route that was indicated. That road was indicated at the Mannenberg Police Station and that instruction was given by Loedolf and I conveyed that to the members, back to Lansdowne and back to the old Kruispad. That was the route which was given to us at Mannenberg Police Station.

MR KHOISAN: So you were given a map, you were given a basic route, go this way, that way, that way, right, and while you were riding you had radio control, there was radio communication between the people who were hiding themselves in the crates, which included yourself, you were also hiding in a crate, and the people who were camouflaged who were in front, is that correct? There was radio communication? Let us just clarify that point quickly, get it out of the way.

LT VERMEULEN: Yes there was radio communication.

MR KHOISAN: How many times from Mannenberg ...(intervention)

ADV VAN ZYL: Can I interrupt Chairperson. The question was also whether he had a map, that was the first part of the question ...(intervention)

MR KHOISAN: Whether he had a plan, shall I change that to whether he had a plan and he just explained to us. He's just told us that Major Loedolf gave the plan to Sgt Smith about how they would ride, he just put that in the record. So let us not revisit that point. We wanted to establish the fact that Sgt Smith was a junior officer, he did not have the right to just go and freelance with this operation. He was under orders and the orders were given to him by Major Loedolf which Lt Vermeulen just told this panel.

ADV VAN ZYL: Mr Chairperson will I be allowed to address this Committee?

CHAIRPERSON: Yes, my apologies, you will have the chance to speak, you can speak into the record.

ADV VAN ZYL: Thank you Chairperson. The question was asked whether he had a map and he wasn't given the opportunity to reply to that. I am just scared that the record is going to read that he has confirmed that he had a map by not answering to the question. ...(intervention)

MR KHOISAN: Let me rephrase that.

ADV VAN ZYL: And I understand that the evidence is I was given instructions as to what route to take, that's one thing.

I understand if you give instructions what route to take you can be given that instruction, that's something different from a map or a plan. That's just the first part of the question.

As to the second part of the question I think the witness has answered that. There might be room for confusion, I just

want to clear that up.

CHAIRPERSON: I think you will remember that you also asked that we ask the questions very clearly and spaced out, and I think we are reminded about that, and Mr Khoisan will do so now.

MR KHOISAN: Okay. So just for the purpose of the record, Lt Vermeulen Sgt Smith was not there operating on his own instruction but on the instruction of senior officers which included yourself and Major Loedolf, is that correct?

LT VERMEULEN: Yes he acted in accordance with the instruction of Major Loedolf.

MR KHOISAN: Okay. Right now on the question of radio contact. Who at the back of the crates had the radio and who in front had the radio?

LT VERMEULEN: If I remember correctly I had a radio, and if I remember correctly I think it's also visible on the video that Sgt Sayer, he was a passenger in front, also carried a radio.

MR KHOISAN: Okay now how many times did you make radio contact from 16H16 to 16H56 when the incident occurred, how many times, according to the best of your recollection, did you communicate between the people in the front and yourself, and you've mentioned Sgt Sayer as the one who had the radio?

LT VERMEULEN: If I have to answer you today I cannot remember how many times we communicated that day.

MR KHOISAN: Maybe once, maybe twice? Did he communicate with you at all?

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LT VERMEULEN: As I have just said I can't remember how many times we communicated, I can't remember today.

MR KHOISAN: Did you communicate with them or did they communicate with you, otherwise why would you have radios? It's not used as toys, it's used for very specific purposes in a very specific operation.

LT VERMEULEN: As I have just told you I can't remember whether we talked to one another, I've said yes, I did carry a radio and yes, Sgt Sayer did carry a radio, but I can't remember how many times we communicated and whether we did communicate with one another. I know those radios were not toys.

MR KHOISAN: Okay. So to put the position to you that you had gone out on an unusual operation with ten officers on an operation, eight on the back of the truck, two in the front of the truck, you in command, from 16H16 to 16H55 it's a long time in an unusual operation for people not to communicate with each other because obviously at some point somebody is going to throw a stone or something could happen, so are you trying to tell me for the whole period that you guys were riding around there was no communication, or are you putting it to me that you don't know or cannot remember?

CHAIRPERSON: I think he did say that he communicated but he wasn't sure how many times he communicated. I think he has made the point that he communicated.

ADV VAN ZYL: Chairperson to the best of my recollection he

said he couldn't remember whether he had communicated or not.

He said that twice.

MR KHOISAN: Okay. So you are putting it to us that you cannot remember, you cannot recall whether you had communicated at all?

LT VERMEULEN: Yes as I have said to you I cannot remember whether I spoke to Sgt Sayer and in addition if I can remember, or if I did speak to him I cannot remember how many times and about what I might have spoken to him.

MR KHOISAN: Now with what was the guns loaded? They were loaded with AAA as you pointed out and what kind of shot, was it no.9, no.6, no.7, no.1?

LT VERMEULEN: To tell you today if I can recall it would have been armed with AAA, some of them would have been armed with birdshot and today, as I sit here, I cannot remember what number of birdshot this might have been.

MR KHOISAN: Okay. Now you are in possession of the record that was drawn up as a result of that operation. It is with your attorney over there and can you just read into the record who fired and what shots they fired once arriving in - just so that we get clarity as to what kind of shot was fired based on that record.

LT VERMEULEN: I will read to you as it is typed here.

"Lt Vermeulen, seven times AAA 0.

W/O Swart, six times AAA shot.

Constable A J Smit, six times AAA shot.

Constable Rossel, four by no.1 birdshot.

Sgt Burger, one AAA shot.

Sgt van Niekerk, four times no.1 birdshot.

Constable du Toit, three times AAA shot.

Constable Pugert(?) four times no.1 shot".

and this is how it is indicated on this document.

MR KHOISAN: Okay. So is it the position that no.1 and AAA, just for the record, is sharp ammunition, is classified as sharp ammunition?

LT VERMEULEN: I don't think this is classified as sharp ammunition. I think it is classified as a kind of shot. I don't know how exactly they classify shot, but in my view sharp ammunition would have been the bullet of a revolver or something like that. I see these as various kinds of shot ammunition.

MR KHOISAN: Okay, we won't - we will revisit that particular thing at another time unless one of the panel wants to proceed, Deon.

CHAIRPERSON: Deon Petersen.

MR PETERSEN: Lt Vermeulen could you indicate to us how many of the crates had holes through which you could see what was happening outside?

LT VERMEULEN: I cannot recall that on the 15th of October any of the crates had such holes through which we could see what was happening outside.

MR PETERSEN: Could you describe for us the size and height of

the crates in relation to your body for instance?

LT VERMEULEN: 12 years ago if I could indicate to you if you would excuse me Chair -

(The witness is standing up and is indicating that the crate would be roughly midway through his torso - maybe a metre, metre and a half from the ground, maybe slightly less than a metre and a half from the ground)

It would have been large enough, the crate, so that I myself, and one other person would have been able to be in this crate as we drove around.

MR PETERSEN: So there were two personnel per crate?

LT VERMEULEN: No necessarily two per crate, but myself and W/O Swart were in a single crate. I cannot recall who else might have been in crates on their own or sharing the crates with anyone else.

MR PETERSEN: The teargas and rubber bullets that you had were these also inside the crates should you have used these in the case of minimum violence?

LT VERMEULEN: As I have indicated we had teargas with us. I did not refer to rubber bullets. This would have been the kind of teargas that you would have, carry on your body and that you could throw.

MR PETERSEN: What distance from the people throwing the stones were you at? Were you supposed to arrest the instigators what would have been the distance from the people instigating the event and yourself?

LT VERMEULEN: No we were right in the middle of these people.

MR PETERSEN: You are now inside the crate which takes you about midway through the torso and your intention was to arrest the instigators, the people standing right at the front throwing the rocks, what would you consider to have been your chances to have arrested these persons, for you to have been able to jump out of the crate and run to the person and arrest the person in terms of your original purpose?

LT VERMEULEN: Yes this would have been very easy in my view. Yes it would have been very easy, it's very easy to get in and out of these crates.

CHAIRPERSON: Glenda Wildschut.

MS WILDSCHUT: I am just concerned Madam Chair that Lt Vermeulen has left out Sgt Sayer in the listing of people with different -so if he could just read into the record what Sgt Sayer had.

CHAIRPERSON: Thank you Miss Wildschut. Deon Petersen wants to add follow-up question on that.

LT VERMEULEN: My apologies Miss Wildschut. I am not doing this on purpose, I can't read well - I am not very good at this, Sgt Sayer had four times AAA shot.

MR PETERSEN: You also left out Sgt van Niekerk in your statement made to us. The presence of Sgt van Niekerk seems not to be mentioned in the statement. You read up to 6.8, this is on page 4.

LT VERMEULEN: I have some difficulty with some of the names

on the list. If I look at my original statement which I had made I, with regard to W/O Swart, Smit, Sayer, Rossel, Burger, Pugert and du Toit these would have been mentioned on that original statement. I did not add van Niekerk to that original statement. I have seen this per chance. I cannot explain this to you where exactly van Niekerk fits into the events and where he does not fit into the events. In fact I am entirely confused, I cannot recall whether he was on the vehicle or not.

This is the statement which I had originally made and as I have mentioned and as you also have now commented his name is not on this statement either.

MR PETERSEN: Do you know Sgt van Niekerk or do you know who he is?

LT VERMEULEN: I know of a Sgt Frank van Niekerk.

MR PETERSEN: You know that he was the only non-White member on the vehicle?

LT VERMEULEN: If you would say so, yes.

CHAIRPERSON: I, sorry if I may Lt Vermeulen, I understand you mention that you are a bit confused, but I think you - what I am finding difficult to understand is that you don't remember one of your men, you know, on the truck, one of the people you were tasked to be in charge of, and I wonder if this is a correct reflection of the situation if you say you've forgotten, you don't remember him even now, I mean do you still feel that you don't remember him, whether he was present or not? Is this the correct reflection of your state of mind?

LT VERMEULEN: Madam Chair if I recall correctly on the previous occasions I've given testimony that there were nine persons in the vehicle, two at the front and seven at the back. If I quickly look at the statement today and count the number of persons - (the witness is counting) - then I seem to again reach the amount of nine persons. If I look at the statement I gave exactly after the event then there are also nine people mentioned. Then if I add Frank van Niekerk I will get to 10 persons and that is the difficulty that I am having.

I want to honestly say to you that for me the Frank van Niekerk, at this point in time, with an effort to recall everything and to assist the Commission as far as possible, the harder I think about this the greater difficulty do I have to know whether Frank was present or not.

I want to apologise if this creates a problem for you, but I must say that this creates a difficulty for me myself to place all these names at the event. If I look for instance at the Log of the shooting incident then the name of Frank van Niekerk is mentioned. If you will give me an opportunity I can count - (witness counts) ... (intervention)

CHAIRPERSON: The issue is not - at least I don't the issue is whether the count is correct or not, the issue is whether van Niekerk was on the truck or not.

LT VERMEULEN: If one goes to the Log that was handed, which I believe was typed on the information handed through from the actual scene, then the name of Sgt Frank van Niekerk is in fact

mentioned, I would then believe that Frank was on the vehicle.

CHAIRPERSON: Dr Ramashala.

DR RAMASHALA: Lieutenant I want to put three issues to you. The first one by your own admission there was a plan from which you received instructions from Brigadier Loedolf, am I correct?

LT VERMEULEN: That is correct.

DR RAMASHALA: And on that plan there was mention that the route that was to be used by the vehicle had been identified before, am I correct?

LT VERMEULEN: That is also correct, yes.

DR RAMASHALA: Okay. Lieutenant this suggests premeditation, that this plan was contrived before. Let me move - I don't expect you to answer to that, but let me move to the second issue, that if this plan was drawn and you take an unmarked vehicle with two White people into a Black area to me that suggests instigation, that you wanted some action, you wanted something to happen. By your own admission you said the probability of having stones thrown at the vehicle was 100%, am I correct?

LT VERMEULEN: It would be the case that several of these vehicles, vehicles driven by so-called White people, or government vehicles were in fact - stones were in fact thrown at these vehicles. If you look at the Log of the particular day I was in a variety of areas at that time known as the so-called Coloured or Black areas as well as squatter settlements. What you say would be correct.

DR RAMASHALA: Thank you. Now having admitted to that issue of premeditation and the issue of instigation let me get to the third one, the element of surprise. The element of surprise you said, by your own admission, that arrests did not work before so you wanted something much more drastic. The nature of your dress, you and your men, the crate in the back of the truck, going out and coming back again, the element of surprise - in fact if you look at the video when you people started shooting there was clearly the element of surprise, would you agree? In other words Sergeant you did not go there to arrest you went there to kill, when we take the issue of ammunition also, you went there to kill, to surprise and to kill.

LT VERMEULEN: As I've said earlier to you today in view of the instructions which I received the intention of this operation had been to move into and among such a crowd or group of people, to be able to identify the responsible persons and to arrest these persons since it was not possible to arrest these persons from normal marked police vehicles. There had been no other intentions with this operation than to arrest the responsible persons.

DR RAMASHALA: As the senior commanding officer of the operation how would you have identified and arrested these people from hiding in the crates?

LT VERMEULEN: I am now talking in the situation if I were to see the situation in a different light, in a different way, say for instance we were at a burning barricade, if we were to stop

at a burning barricade if you could get out of the vehicle, see the people standing around the burning barricade, if we then could jump out and arrest the persons we would have arrested them. That is how we would have gone about arresting these persons.

MR KHOISAN: Lieutenant Vermeulen let us just get a couple of things clear here. What I don't understand is, your job was to go - you were sent out there by Major Loedolf to do what? To go out and arrest stone-throwers or to go out and arrest leaders, "voorbokke en belhammels", those were the people that you were supposed to go and arrest, is that true? I am trying to understand.

LT VERMEULEN: I will try to convey to you how I understood my instructions, and that is to arrest the people who were responsible for the unrest and the various incidents in these areas, to arrest these people.

MR KHOISAN: Okay. So your firing plan was that the people on the left would fire to the left and the people on the right would fire to the right, and according to the best of your recollection where were the stones coming from? Were they coming from the side or were they coming from the front? And how would that gel with your firing plan?

LT VERMEULEN: There are quite a few questions all in one. Yes, the plan was should the vehicle be attacked people on the right side should shoot to the right and people on the left side should shoot to the left, and the people who were in front

to the front, and those at the back to the back.

If you are asking from which side the stones were coming, and I've just said one said "it was raining stones", the stones were coming from all sides.

MR KHOISAN: Ja, I don't want to go in - because we do have another hearing that will take place and I think some of the areas will not be exhausted yet. But what I am trying to understand, you see why I am asking you about your firing plan and about what you were supposed to be doing while stones were thrown, is that I am trying to establish whether you who were hiding in a crate could actually see who was throwing the stones or the people who were in front, who had a line of vision to the crowd would identify those people to you over the radio, and that is why I asked you the question about the radio in the first place.

Was the plan that the moment stones were being thrown or you went upon a crowd that the person in front would tell you by radio what was going on, would give you situation reports? That's why I'm going to the radio. We need to know that.

LT VERMEULEN: Like I've told you our instruction was to apprehend people. The fact that we were attacked and that we encountered a mass of people whom we did not expect there caused us to act like we did that day. We did not expect to be attacked by a crowd of people from all sides. I do not want to describe it as stone-throwing being identified by people in the front of the vehicle, it was just an attack on us, nothing

else.

MR KHOISAN: Okay, so you had gone to - you were going there to arrest people who were responsible for the unrest. You just put it to us, you just put it to us earlier in this particular interaction between yourself and us that the problem of unrest was not being dealt with, that the cause of the unrest which, let me rephrase or let me paraphrase what you are saying, the cause of the unrest was these people - and let me put it in the lexicon, in the language of the Police, "die voorbokke en die belhannels", these are the people who are the agitators and the ringleaders, they are the ones responsible for the unrest. Now you are a seasoned police officer, you are not a boy scout in this operation, you know, and in respect of this you understand that "belhannels en voorbokke" are not people who are just putting themselves open to being shot by police. They are not naive people. These are people who are seasoned. They stand usually behind a crowd which you know from your years in the police force.

So how would you be able to identify the stone-throwers, what was the plan to identify the ones - because I mean were you planning to arrest the whole 200 people, or 100 people that you found on the street, or were you planning to arrest specific people?

LT VERMEULEN: Like I've told you previously I understand that the people responsible for the unrest had to be apprehended. Should we encounter a situation where I could see those people

I would leave the crate and if I could identify those people I could have jumped from the vehicle and we would have apprehended them after we have identified them.

Please excuse me for answering in such a short way. You've asked a very long question and I have difficulties in remembering everything. Could you please ask me shorter and more specific questions, one question at a time please.

MR KHOISAN: Okay. Now let me ask you this question Lieutenant Vermeulen, so you are hiding in a crate and you want to arrest stone-throwers, now in a crowd of maybe let's say 100 people how are you going to identify a man who is throwing a stone while you are still hiding in a crate? And if - okay now let me just ask you that before I go to the next question, to be quick with the question. How are you going to ID the man who threw the stone against that vehicle if you were hiding in a crate?

LT VERMEULEN: It was just for the route we travelled that we had to hide in the crate. We would approach this crowd of people and at that stage we would have left the crates, we could see what was happening, we could react accordingly and arrest the necessary people. But in this case when we arrived there the vehicle was attacked in such a manner that we could never progress with this previous plan.

MR KHOISAN: So why did you get up immediately, the moment the stones were thrown, why did you get up immediately out of the crate and not jump out and run and arrest the people, why was

your first action, a second after the stone was thrown to get up and fire in rapid succession seven rounds of AAA? Why did you not jump out and start jogging around to arrest people?

LT VERMEULEN: Like I have said the attack on us was so indiscriminate and the people were not protected and we had to counteract immediately and then we could arrest the people. The first thing we reacted according to was to counter-attack this attack on our lives.

MR KHOISAN: Lieutenant Vermeulen I want to remind you that you are under oath. I also want to remind you that you gave evidence at an inquest in respect of three people who were killed in that incident, and I also want to remind you that the magistrate in that particular inquest made certain statements with regard to the evidence that you are giving right now.

And I really want to impress upon you the fact that that particular vehicle was photographed by Mr Clifford Wyatt, Inspector Clifford Wyatt, okay, and that particular vehicle was found not to have the serious damage that you are talking about. In fact the driver's side of the vehicle, the windscreen was not thrown out and in your statement you say that the windscreen was thrown out, it was never thrown out. It was damaged.

But I am trying to understand. What made it so impossible for you, as a seasoned police officer of the Special Task Force, to jump out of this crate and go and arrest the - because you were under orders, your orders from Loedolf was to

go and arrest the causes of the unrest which was "voorbokke en belhammels", so why didn't you go and arrest them? Why did you just begin to shoot to the right?

LT VERMEULEN: I've told you that we started shooting to the right because we were fiercely attacked. We counter-attacked and I know that you also made statements regarding the damage to the vehicle and I regard this damage still as serious, and I know I am still under oath.

MR KHOISAN: Okay, Lt Vermeulen did you ever give a warning? Did you get up and say, "this is the police", whatever you say, "this is the police, if you continue with this action you will be dealt with", did you give a warning?

LT VERMEULEN: No I did not direct a warning to the people because the attack on us was so fierce that I believed at that stage that we had to counter that attack and I thought that it was good to do this by firing a few rounds.

MR KHOISAN: So who was your target? Was your target somebody who had thrown stones, or was your target anybody who was around?

LT VERMEULEN: People who were attacking the vehicle and my staff they were the people in whose direction I fired those shots.

MR KHOISAN: How did you know that those people were firing those shots - I mean throwing stones at you, how did you know?

LT VERMEULEN: I saw them ... (intervention)

MR KHOISAN: You were in the crate, you were hiding in the

crate, how could you see them from - I mean did you have infrared scopes or some - no please we are trying to get to a line of questioning here, we need to find out from the Lieutenant how he could see from hiding in a crate who was throwing stones.

ADV VAN ZYL: Chairperson.....

CHAIRPERSON: Yes, Advocate van Zyl. The remark as to whether he had infrared scopes or something and how could he see from inside the crate, with respect it's uncalled for. Allow the witness to reply, whether he made his observations before he got up, after he got up when he could see, this we must investigate with respect.

CHAIRPERSON: Thank you. I would to withdraw that remark, but would like the witness to answer how he could see that the people were throwing stones at him if he could explain to us how he could see if he was inside the crates. Could the witness answer that please.

LT VERMEULEN: While I was inside the crate I could hear that the vehicle was being stoned. The vehicle died, the engine of the vehicle died in the road, that's what it felt like to me. The vehicle stopped or stalled, I then stood up, I could see the people who were then throwing stones at myself, my personnel and the property involved.

MR KHOISAN: So did you get up and observe the situation so that you could see who was throwing stones, or did you get up and shoot immediately?

LT VERMEULEN: I stood up, as I stood up I saw the people who were throwing stones at us and I shot in their direction.

MR KHOISAN: Okay.

CHAIRPERSON: Stanley Holmes.

MR HOLMES: Lt Vermeulen after the instruction from Major Loedolf to go into this area were you subsequently in radio contact with Major Loedolf prior to the incident as such during the course of the operation?

LT VERMEULEN: As far as I can recall I was not in contact with him. Allow me to ask you - I know you are asking the questions but I want to make sure that I am answering you correctly, from when I received the instruction from him till when the incident occurred, during that period of time we were not in radio contact as far as I can recall.

MR HOLMES: So after you were briefed from then you were on your own, you had to make your own conclusions and take your own actions?

LT VERMEULEN: Yes that is correct.

MR HOLMES: Could you tell me, there had not been an alternative plan should things have gone wrong, you had no fall-back plan?

LT VERMEULEN: Not as far as I can recall, no.

MR HOLMES: When you discovered that as you say it was raining stones on you why did you not contact your control office, the Command Centre, to provide you with assistance?

LT VERMEULEN: At the moment when I emerged from the crate I

realised that the attack was so intense that we had to counter the attack before we could do anything else and that is what we did.

MR HOLMES: Do you not believe that it would have been better to withdraw from the area?

LT VERMEULEN: At that time I realised Mr Holmes that if the attack was not countered at that point then I and my personnel would have been killed or would have been seriously wounded.

MR HOLMES: Do you not believe that it would have been better to just withdraw from the area?

LT VERMEULEN: No I do not believe that that would have been the best course of action. I believe that the attack was of such an intensity that the decision to counter the attack would have been inappropriate.

MR HOLMES: How many of you were there on the vehicle?

LT VERMEULEN: I think there were about ten.

MR HOLMES: How could ten persons enter an area to counter or arrest people who were rioting, it just doesn't sound right to me? Ten policemen go into an area where there's 150 or 200 people that you wanted to counter and to arrest the ringleaders. LT VERMEULEN: I know of incidents where even

smaller units of three or four went in and carried out arrests.

I do not understand the nature of your question and I do not understand what you are trying to determine through this line of questioning.

MR HOLMES: Where would you have held the persons that you

arrested?

LT VERMEULEN: We would have arrested the persons. We would then have asked for reinforcements from the patrol vehicles to carry them away.

INTERPRETER: (Sorry - the Interpreter did not hear the question)

CHAIRPERSON: Could you repeat the question please?

MR HOLMES: Lieutenant do you not believe that it would have been more dangerous if you went in to arrest the persons?

LT VERMEULEN: No I do not believe that that would have been more dangerous.

MR HOLMES: It has been stated to you that these persons would not have allowed you to arrest these persons. They would have become more riotous.

LT VERMEULEN: Yes. There were 13 persons arrested on the scene that day.

MR HOLMES: That is after you opened fire on the crowd.

LT VERMEULEN: That is correct. However, 13 persons were arrested on the scene.

MR HOLMES: What I find strange additionally is that earlier in the day there were confrontations where police vehicles - where stones were thrown, there are three incidents mentioned if I remember. There were SM3, SM2 and an SM6 carried out, is that correct?

LT VERMEULEN: Did you find this on the Log? Ja, I note an incident at 14H32.

MR HOLMES: In that incident you used teargas, is that correct?

LT VERMEULEN: That is correct.

MR HOLMES: What was the effect of using the teargas at that particular instance?

LT VERMEULEN: I note here the group dispersed after the action.

MR HOLMES: Why then, when you were in a similar situation, did you not make use of teargas again?

LT VERMEULEN: With respect to the Chair, if I read the situation as described against that time, it says that the fire brigade was prevented from going to a fire scene and stones were thrown at a police vehicle. The action was then taken by ZM3, 2 and 6, these were three casspir vehicles. I do not believe that these are similar incidents or that these incidents could be compared. The incident which we are discussing today was an attack on a particular vehicle, the attack had already begun, people were unprotected, people were already in danger of their lives.

MR HOLMES: Lieutenant, you are entering Thornton Road, you know Thornton Road is a problem area, why did you not take proper or make proper efforts to protect yourselves with say helmets or shields?

LT VERMEULEN: We went in to make arrests, that was the purpose of this operation. I do not know whether you have attempted ever to run with an unrest helmet on, it has a

plastic shield at the back and if you run then it shifts onto your face. With a shield also one could not run to make an arrest.

MR HOLMES: If it was your intention to make arrests, if you had this on your head surely your life would not have been as threatened?

LT VERMEULEN: The members in the front of the vehicle were already in danger. The vehicle was being attacked, the vehicle had been brought to a stop. The front windscreen had already been broken. When I came out of the crate I saw that the stone-throwing was not stopping and we had to counter the attack.

CHAIRPERSON: Deon Petersen.

MR PETERSEN: Lt Vermeulen I want to quote from your original statement immediately after the incident. ...(intervention)

LT VERMEULEN: Would you allow me to interrupt you Chair. Would it be possible if we could ask for a short adjournment. I need to visit the toilet, would that be possible?

CHAIRPERSON: We are going to break for lunch at two, but if you wish you can take a five minute break, you can go to the bathroom.

LT VERMEULEN: Thank you.

CHAIRPERSON: The proceedings will resume at 13H25.

COMMITTEE ADJOURNS

ON RESUMPTION

MR PETERSEN: Lt Vermeulen I just want to refer to a statement

you made just after this incident, the last paragraph of the statement before you took the oath. Can I read it. In that you say,

"There was only firing on the people who were throwing stones at the vehicle and therefore the people who were killed....."

and look at the next words,

"....they were definitely people who were participating in throwing stones".

That was the statement you made just after this incident. All those who were throwing stones, those who were injured were stone-throwers, and that 11 year old boy who was killed, Michael Cheslyn Miranda he was also throwing stones, did any of the members see that that specific boy was throwing stones? Because you put it in your statement, you stated clearly that he was also throwing stones.

LT VERMEULEN: I did not see him personally. Perhaps you would like to address this question to the other members.

MR PETERSEN: Did you see any of the people who were killed throwing stones at you?

LT VERMEULEN: I saw Shaun Magmoed.

MR PETERSEN: But you said definitely all the people who were killed were throwing stones. That is what you said in your statement. That was a statement that was made by yourself.

LT VERMEULEN: Yes, I did make that statement. I cannot remember why that term was used if I only saw Shaun Magmoed. I

can't remember why I used that term "definitely".

MR PETERSEN: You told my colleague, Stanley, that if he should have - if we used helmets and shields it would have been difficult to arrest those people. You were in those crates, were you comfortable in those crates?

LT VERMEULEN: No it was a very limited space inside, but we were not uncomfortable.

MR PETERSEN: Every person carried weapons and 9 mm pistol.

LT VERMEULEN: Ja.

MR PETERSEN: And it was your purpose to apprehend those people. How easy would it have been to get out of the crates with a shotgun in your hand, jump out and to apprehend those instigators?

LT VERMEULEN: It would have been easy.

MR PETERSEN: It would have been easy to jump from those crates with a shotgun?

LT VERMEULEN: It would have been easy, yes.

MR PETERSEN: Thank you.

CHAIRPERSON: Mohamed Muller.

MR MULLER: Lt Vermeulen, I'll just take you back to your answer you gave my fellow colleague a while ago. You said that you heard the stones hitting the vehicle and after that you stood up and saw the specific individuals that were throwing stones at the vehicle, but if I go back to the video you just got out of the crates and started firing.

LT VERMEULEN: Yes, like you have said I heard how stones were

being thrown at the vehicle. You were right to say that I got up, I saw what was happening on the right side of the vehicle, and yes I did start to shoot.

MR MULLER: So that was a split-second decision? You observe and you fire, simultaneously.

LT VERMEULEN: That is correct.

MR KHOISAN: Lt Vermeulen coming back to the ammunition type you were using, specifically no.1 and AAA shots, according to your understanding, and as a Lieutenant, an officer in the Police Force, do you regard AAA and no.1 as sharp ammunition?

LT VERMEULEN: I regard them as a kind of shot. I don't regard it as a kind of sharp ammunition. I regard a 9mm round as sharp ammunition.

MR KHOISAN: Lt Vermeulen, according to procedures laid down by your commanding officers what is the classification of AAA and no.1?

LT VERMEULEN: It's classified as AAA or no.1 or no.7 shot. I understand your question. The classification is there.

MR KHOISAN: Let me put the question to you like this. What is the category of that type of ammunition?

LT VERMEULEN: It's a kind of "shot".

MR KHOISAN: So you don't regard that as sharp ammunition?

LT VERMEULEN: No I don't.

MR KHOISAN: Okay. Lt Vermeulen, in the Police Force decisions about classification of ammunition at times are made by senior officers, would you agree?

LT VERMEULEN: That is correct.

MR KHOISAN: And I'm going to remind you that you are under oath, and I'm going to ask you, did you at any time, in and around the period that this incident occurred, know about or were you aware of any document relating to the classification of AAA and no.1?

LT VERMEULEN: No I can't think of any document referring to the classification of AAA and no.1.

MR KHOISAN: Did you make any statement in a court, in any inquest or any other proceeding relating to the fact that you had knowledge of a document which classified AAA and no.1 as sharp ammunition?

LT VERMEULEN: No. If I think back today, if I think back about the matters about which I testified and I think in one specific incident mention was made of police documents belonging to the old South African Police in which we agreed that such documents would also be in possession of the Railway Police, and if I remember correctly they were about procedures during activities and they referred to specific kinds of ammunition, but I cannot remember documents referring to the classification of ...(intervention)

MR KHOISAN: Okay, so you are not aware of - so I am just trying to inform you that you have been on the record, and I am trying to find out if you could jog your memory about whether in respect of any inquest in relation to the Trojan Horse matter whether you agreed, whether you stated that you had

knowledge of an order from a superior officer, maybe from a Major General relating to the classification of AAA and no.1 as sharp ammunition?

LT VERMEULEN: As I have just answered, yes, I can remember that I testified about this matter at some or other stage, but I cannot remember whether it was concerning the classification of ammunition. I can remember it might have been about guidelines and procedures regarding the application of ammunition. I can't remember what I did testify, but I can remember I mention something like that, I can't remember what specific details.

MR KHOISAN: Okay, now let's go back to the seven shots AAA that you fired. You said that you definitely saw Shaun Magmoed throwing stones, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: Who else did you see throwing stones specifically?

LT VERMEULEN: I can't remember specific people. What I can vividly remember is, like I've said before, is that the person whom I had described as an adult person and he was a boy of 16 years of age, 1,6 metres high, and I compared him to me with a height of about 5' 10", but he - I can remember him as a person whom I could identify.

MR KHOISAN: So the seven shots that you fired, you said that - you put it to us that you fired at people who were throwing stones, and right now you've identified two people that you say

were throwing stones, so shall I put it to you that you fired at Shaun Magmoed and this other person and let's say you fired one shot at each of them, to whom did you fire those other shots?

LT VERMEULEN: I had said that I shot in the direction, or fired in the direction of Shaun Magmoed. The other person that you are referring to I cannot recall having said that I fired at this other person. This person to whom I am referring is Shaun Magmoed, that I can recall, I fired seven shots in the direction of this person.

MR KHOISAN: So let that stand as the record that you are putting to us that you fired seven shots AAA in the direction of Shaun Magmoed?

LT VERMEULEN: That is correct.

MR KHOISAN: Okay. Now when you got up and when you observed the situation in those few seconds, or that one second before you started firing, how many people exactly did you see?

LT VERMEULEN: I cannot tell you exactly the number of persons that were on the scene. It appeared to me to have been between 100 and 200 persons in my range of vision. That was the estimation that I made of the number of persons present.

MR KHOISAN: So in your line of vision there were 150 to 200 people. Let me put it to you that on the right-hand side of the truck, in your line of vision there were 150 to 200 people, is that what you are telling this inquiry right now?

LT VERMEULEN: I have said to you that within my range of

vision by my estimation there would have been between 100 and 200 persons.

MR KHOISAN: Now in paragraph 6 of your sworn affidavit which was taken on the 19th of October 1985 and of which you are in possession, paragraph 6, you say that there were a group of youths, plus/minus 150 to 200, now did you see a 150 to 200 people on the right side of the truck in your line of vision, or how many did you see?

LT VERMEULEN: As I have already said to you, here it is typed between 150 and 200 persons, 100 to 200 would have been the estimation I made on that day, that I saw on the right-hand side of the truck.

MR KHOISAN: Okay. I am going to put it to you that you are under oath Lieutenant Vermeulen and that the - if I have to add up the figures because you, by all accounts, you had nine other people who were junior to you on this operation and let's assume that each of them were just counting the people in the line of vision that they were seeing, now you saw a 150 to 200 youths in your line of vision on the right-hand side of the truck and that would exclude the amount of people that was on the left-hand side of the truck and in front of the truck and maybe to the back of the truck, which was not in your line of vision. Would that be correct for me to deduce from your statement that what you are telling me is that you could only see 150 to 200 youths?

LT VERMEULEN: That is correct.

MR KHOISAN: So then we have to add in what the rest of the people saw in order to get the total number of people who were on the scene that day, is that correct?

LT VERMEULEN: Yes.

MR KHOISAN: Okay. I think we are going to run into quite a huge sum of people and I want to put it to you that the magistrate that dealt with the inquest in respect of Miranda, Magmoed and Claasens was concerned about your cognitive ability to see 150 people because everybody, the statements that we have in front of us which relate, not to you, which relate to the other people, who were also part of this operation, all of them saw between I believe 150 to 200 people, so I mean we have to count up the fact that they were all talking about what they could see in their line of vision. And if we have to make that mathematical equation we can end up with somewhere around 1,000 people who were on the streets of Thornton Road and St Simons Road where this incident occurred on that day, is that correct? Or what is the position?

LT VERMEULEN: I have already said to you what I saw. I have given you an indication of what I could observe.

I have agreed with you that the persons to the back, the left and the front, the people who looked at those directions would probably have seen different people.

And you would probably be correct if you had to make a calculation where you add these people to get some sort of notion of how many people would have seen. You have made a

mention of the magistrate who had a difficulty that we could have seen that many people.

In addition I think one would have to say that the video focus would have been on the truck and the persons immediately surrounding the truck, the video would not have been able to have a wider range of vision and it would therefore be very difficult to calculate exactly how many people were present on the scene, in fact.

MR KHOISAN: Would you agree Lt Vermeulen that there's a large difference between say 150 to 200 people and say 1200, which is a conservative estimate if we add up all the figures?

LT VERMEULEN: I don't know what the other members said, or what testimony other people gave with regard to the people on their sides of the vehicle. I can only give testimony of my own observation and my own calculation of the number of people that I could actually observe.

MR KHOISAN: I want to put it to you under oath, and I want to ask you whether you saw the statement of other police officers who were under your command in and around the time that this incident occurred, or whether you have ever seen any of these statements?

LT VERMEULEN: This is the fourth time that you remind me that I am under oath, and I must observe that I know that I am under oath. Yes I have seen statements of other members who were present on the scene.

MR KHOISAN: So isn't it strange that all of them saw just

about the same amount of people? And given the fact that this is a split second thing, you were seeing - you're recording what you are seeing in your line of vision, not your peripheral vision, and you know we don't know but who was about the thing about the radio communication between the front and back and we'll get to that at another point, but I want to ask you, did Sgt Sayer, at any point as you were approaching St Simons Road and Thornton Road communicate to you on the radio about how many people you were about to confront?

LT VERMEULEN: Madam Chair I have a difficulty. We have worked through estimations of people then we've discussed radio communications, then we've talked about whether Sgt Sayer spoke to me and I would love to answer Mr Khoisan but on which question should I answer Mr Khoisan? Should I answer him on the estimations or on what? I have a difficulty to determine what he's asking me.

MR KHOISAN: Okay. The first question I'm requesting an answer on is how you arrive at the conclusion that there were 150 to 100 people on the scene? You are putting to me that that's what you saw.

LT VERMEULEN: As I've said to you that is my estimation of the number of people which I had within my field of vision.

MR KHOISAN: Okay. And then I'm asking you the second question which is, did Sgt Sayer at any time, in and around the specific time frame that this incident occurred, inform you of the situation? Did you get a situation report from the front

of the truck before you went over to action?

LT VERMEULEN: Earlier today I've said to you that I cannot recall whether we spoke to each other since, or from when we left the Mannenberg base till the time of the incident. I cannot remember whether we spoke to each other and I've mentioned this already earlier today.

MR KHOISAN: Okay. So the 150 people that you saw in your line of vision, when you fired off the seven shots did you fire in the direction of this 150 people, or did you fire in the direction of specific people in that 150 to 200 people?

LT VERMEULEN: As I have already said to you I shot in the direction of Shaun Magmoed. I shot in the direction of people who were throwing stones at myself and my members. I assume that that would have been in the direction of these 150 to 200 people mentioned.

MR KHOISAN: Why did you not put the issue, what you've just told me, in your sworn affidavit of the 19th of October 1985? Why did you not put that information in there? I mean I don't see specifically that you are saying you shot in the direction of Shaun Magmoed.

LT VERMEULEN: You are correct that this is not included. I cannot recall why this is not included.

MR KHOISAN: Could it have been that you didn't want to be the one held responsible for the death of Shaun Magmoed?

LT VERMEULEN: As I have said to you I cannot recall the reason why this is not included.

MR KHOISAN: So could it be possible that you are the one responsible for the death of Shaun Magmoed? Could it have been that Shaun Magmoed died as a direct result of you firing shots in his direction?

LT VERMEULEN: As I have said to you I shot in the direction of Shaun Magmoed. I do not know whether I in fact hit him.

MR KHOISAN: So you didn't see him fall from your line of fire?

LT VERMEULEN: No I did not see him fall.

MR KHOISAN: Now I want to just ask you about this 10 year-old who was on the side street.

CHAIRPERSON: Yes Advocate Potgieter first.

ADV POTGIETER: Thank you Chairperson. Just before Mr Khoisan moves away from Shaun Magmoed Mr Vermeulen you have said that you definitely saw Shaun Magmoed throw stones?

LT VERMEULEN: Yes I definitely saw him throw stones.

ADV POTGIETER: Is this the only person that you definitely saw throw stones?

LT VERMEULEN: No I saw a whole lot of people throw stones, but this is a person I particularly recall.

ADV POTGIETER: When you saw him for the first time was he busy throwing stones or what was he doing?

LT VERMEULEN: Yes he was throwing stones at that moment.

ADV POTGIETER: At what, at the vehicle?

LT VERMEULEN: Yes at the vehicle.

ADV POTGIETER: Were you standing upright already?

LT VERMEULEN: Yes I was standing upright already.

ADV POTGIETER: What happened off that stone, did it do damage to the vehicle?

LT VERMEULEN: I cannot recall. I did not register where the stone went exactly, whether it in fact hit the vehicle or any particular person. I do recall that he had thrown stones.

ADV POTGIETER: You cannot say whether the stone did any damage

LT VERMEULEN: I cannot say.

ADV POTGIETER: Can you recall how many times you saw him throw?

LT VERMEULEN: I cannot recall.

ADV POTGIETER: He was throwing stones all the time.

LT VERMEULEN: Yes he was throwing stones all the time.

ADV POTGIETER: Now you start firing and this is the first person at whom you are firing. Or if I could say it differently on your own version, you say that you fired all seven of your rounds in his direction?

LT VERMEULEN: That is correct.

ADV POTGIETER: When you fired the first round of AAA shot at or in the direction of Shaun Magmoed how did he react?

LT VERMEULEN: I cannot recall.

ADV POTGIETER: So when you shot the first shot you cannot remember whether Mr Magmoed was throwing stones or not?

LT VERMEULEN: I have already said to you that Shaun Magmoed was throwing stones all the time at us. I cannot remember

whether after the first shot he bent down to pick up a stone, this is a matter of seconds.

ADV POTGIETER: So you are saying to us, if I understand your testimony correctly, that when you fired the first shot at Mr Magmoed you are not able to remember whether he was throwing stones or not?

LT VERMEULEN: No when I fired the first shot at him he was throwing stones at us.

ADV POTGIETER: So the first time you fired he was throwing stones at the vehicle?

LT VERMEULEN: That is correct.

ADV POTGIETER: It would then not be that you cannot remember, you can definitely remember that he was throwing stones, is that correct?

LT VERMEULEN: That is correct.

ADV POTGIETER: Your earlier answer when I asked you what Mr Magmoed was doing when you said that you cannot recall, that would have been mistaken?

LT VERMEULEN: If I heard correctly you asked me what happened immediately after firing the first shot.

ADV POTGIETER: What is the difference?

LT VERMEULEN: I think there is a considerable difference.

ADV POTGIETER: After you fired the second shot, when you fired it, do you understand what I am saying?

LT VERMEULEN: I understand what you are saying.

ADV POTGIETER: What did Mr Magmoed do then?

LT VERMEULEN: I cannot recall.

ADV POTGIETER: You cannot recall whether he was throwing stones or not?

LT VERMEULEN: As I've said to you, as I can recall the events of the day as long as I was firing Shaun Magmoed was throwing stones at us. I cannot exactly recall what occurred after the third or the fourth shot. I only have an encompassing picture of the day.

ADV POTGIETER: Mr Vermeulen I do not understand your answer. Unfortunately I must have clarity on what you are saying to us. When you fired the second shot can you recall whether Mr Magmoed was throwing stones or not?

LT VERMEULEN: No I cannot recall.

ADV POTGIETER: Is it possible that he might not have been throwing stones?

LT VERMEULEN: It's also possible that he might have been throwing stones.

ADV POTGIETER: And when you fired the third shot what was Mr Magmoed doing then?

LT VERMEULEN: As I've already said to you for the duration of the time while I was firing in the direction of Magmoed he was throwing stones. I have already said to you that I will not be able to answer you with regard to what exactly happened after the second, the third, the fourth, the fifth shot, I've already said this to you. What I can recall today, 12 years after the incident, is that Shaun Magmoed threw stones throughout the

period of time while I was firing. I cannot tell you exactly what happened after every shot.

ADV POTGIETER: I am sorry but I don't understand this except if there's something wrong with me. You are saying to us that Mr Magmoed continually threw stones while you were firing at him, is that correct?

LT VERMEULEN: Yes that is what I said to you.

ADV POTGIETER: In the same breath you are saying that when you fired the second shot at Mr Magmoed you cannot recall what he did.

LT VERMEULEN: That is what I said.

ADV POTGIETER: How do we connect this, can you assist us? That is why you are here, you are here to assist us as a Commission. Let me explain this to you, this is not a hearing, this is an investigation. It is part of an investigation. There will be a hearing in the next days but this is an investigation. To put it clearly on the record and to make my own position clear, because this has been mentioned earlier, this is an investigation, this is not a hearing. You are here to assist us if you want to. We cannot force you.

LT VERMEULEN: As I have said to you I want to assist you. As I have also said to you this is what I can recall with regard to Shaun Magmoed. I have also said to you that I cannot recall exactly what occurred after every individual shot. I cannot give you a different or a better or a more acceptable explanation. That is how I recall the events today, 12 years

after the event. If I had been able to recall more than this I would have told you so to assist the Commission, and I've said this to you already.

ADV POTGIETER: If we sum up your position what you are saying to us is that when you fired the first shot Mr Magmoed was without question throwing stones at the vehicle in which you were, is that correct?

LT VERMEULEN: That is correct.

ADV POTGIETER: When you fired the second through to the seventh shot you are not able to say whether Mr Magmoed was throwing stones or not, is that correct?

LT VERMEULEN: No, what I said is that Mr Magmoed during that period of time continually threw stones at us. If you want to state it in your way, between the second and the seventh shot.

ADV POTGIETER: So he was - you're saying he was definitely throwing stones while you fired the second shot?

LT VERMEULEN: No this is not what I said. What I said is that when I shot - when I fired for the first time at him he was busy throwing stones. I cannot exactly tell you that he threw at the third or ...(intervention)

ADV POTGIETER: So you cannot say what he was doing?

LT VERMEULEN: What I have said to you is that I can recall that during that period of time until I fired the final shot he was intermittently and constantly throwing stones.

ADV POTGIETER: This I cannot understand which is what I am trying to explain to you. Let us get to the point then. It is

therefore entirely possible that between your second and seventh shot that Mr Magmoed might not have been throwing stones?

LT VERMEULEN: No I have said to you that he was in fact throwing stones.

ADV POTGIETER: So until the seventh shot Mr Magmoed was definitely throwing stones, that's what you are saying to us, you saw him?

LT VERMEULEN: Yes I did see him.

ADV POTGIETER: When you fired the second shot in what direction was Mr Magmoed throwing stones?

LT VERMEULEN: Mr Magmoed's stones were all aimed in our direction.

ADV POTGIETER: When you fired the second shot did that stone do any damage?

LT VERMEULEN: I have already said to you - you said that when I fired the second shot, I have already said to you that Shaun Magmoed continually and intermittently threw stones. I cannot recall what occurred at any of the individual shots and where the exact stones went. What I recall is that Shaun Magmoed continually and intermittently threw stones until I fired my final shot.

I am trying to assist you but I am not able to. I have not said here that when the second shot was fired that stone did this, I have not said anything like that. I am attempting to assist you, but with all respect to the Commission, I am

trying to tell you what I remember and it does not appear to me as if you are accepting what I am saying to you.

ADV POTGIETER: Maybe you did not hear what the Chair explained to you at the beginning. There are no findings made here.

LT VERMEULEN: I did hear this.

ADV POTGIETER: This is an investigation, you were a policeman, you know what an investigation is. You realise what the nature of an investigation is and we've told you that there will be no findings here. I want to repeat this to you so that we understand each other clearly. We are not making any findings we are attempting to find out what exactly occurred on this particular day. You have granted that you are here to assist us so we understand each other and there would be no difficulties.

CHAIRPERSON: Advocate Potgieter is entitled to go deeper into the inquiry if he is dissatisfied with the answer, if for any reason he finds that there is something inconsistent based on the information we have and what you are telling us now, and also based on the manner in which you respond to his questions.

I think this is not a question of him not accepting what you say, but when the Commission tries to establish clarity on some of the issues that are in front of us we have a right to do our best to get to the bottom of what the issues are, and that is the spirit within which he is pursuing the inquiry.

ADV POTGIETER: Thank you Chairperson. Mr Vermeulen it's common cause that you saw the video, we saw the video, you saw the video, we all know what is on the video, when you stood up from the crate and when you started to fire, you fired continuously and intermittently is that not the case?

LT VERMEULEN: That is the case.

ADV POTGIETER: At what - how many stones or where would Mr Magmoed have found all these stones while you were firing these seven shots, where would he have found these stones? Did he throw with both hands?

LT VERMEULEN: I have already said to you Advocate Denzil I would love to give you all of these answers, this attack on us was of such an intensity that I cannot recall the detail. If I could recall the detail I would have given you the detail. I understand that you would love to have as much detail as possible for your investigation. I have answered you on this point everything I can recall.

I understand what you as Chair is saying to me but in all honestly I am not able to answer you to greater depth than I already have answered.

ADV POTGIETER: Mr Vermeulen let me explain the question to you. You fire seven shots continuously, seven rounds continuously with AAA shot, this is a deadly kind of ammunition, you are firing in the direction of Mr Magmoed. Now you are saying to us that you shot at him, you fired at him because he was continuously and intermittently throwing stones

at you and this is what we are testing to see how this fits into the likelihoods and the facts that might at a later point be confirmed with the purpose at a later stage to make findings on the part of the Commission. This means that we are involved in an entire process and we are attempting to determine how your version fits into the whole picture that we are attempting to determine.

If you are firing seven shots at someone then surely that person must have been a remarkable danger, or constituted a danger. We are attempting to determine the exact nature of the threat which would have justified seven rounds of deadly shot containing about 100 individual kernels in each shot and that is why we are attempting to determine what you were doing. Were you trying to kill this person?

LT VERMEULEN: Advocate Denzil as I said to you I was shooting in the direction, firing in the direction of Shaun Magmoed, but on the right-hand side of the vehicle there were other persons than Shaun Magmoed and many of these persons were also throwing stones at us. I want to repeat that I cannot tell you what happened at - I shot this many or that many, that this person had stones in his pockets, that he bent down to pick up stones, what I can recall from the event is that Shaun was firing stones continuously and intermittently. The picture that I have is that of the events of the day, and as I said to you he was not the only person present on the scene, he was not the only person throwing stones at this event.

ADV POTGIETER: Mr Vermeulen you know that AAA shot can kill?

LT VERMEULEN: That is correct.

ADV POTGIETER: What was your intention while firing at Mr Magmoed?

LT VERMEULEN: My intention while firing in the direction of Mr Magmoed was to - with regard to the attack on ourselves, my people, who had already been attacked the intention was to counter this attack.

ADV POTGIETER: Did you realise while firing that you might kill Mr Magmoed?

LT VERMEULEN: At that moment I did not think, today if I were to think back I would probably have to grant that I could have killed someone. I also realised that I could have died myself that day.

ADV POTGIETER: As you have answered Mr Khoisan already today you did not shout any warning, did you fire any warning shots?

LT VERMEULEN: No.

ADV POTGIETER: After firing the first shots in the direction of Mr Magmoed did you stop to determine what the effect of your shots were?

LT VERMEULEN: No I did not. I fired these seven shots and after firing the seven shots the stone-throwing stopped. I did not stop and wait to see the effect.

ADV POTGIETER: Would it have been possible for you to stop?

LT VERMEULEN: The throwing of stones and the attack continued consistently. I continued firing until the attack had been

countered.

ADV POTGIETER: Would it have been possible for you to determine what the effect had been after firing the first shot?

LT VERMEULEN: It would have been possible I did not do so because of the continuation of the stone-throwing and because the attack had not yet been warded off effectively.

ADV POTGIETER: Did you realise while firing these shots that you were not only putting Mr Magmoed's life in danger but also the hundreds of persons present on the scene, that you were in fact endangering all of these people's lives?

LT VERMEULEN: I could probably have realised this. At the same time I realised that my own members were in a life-threatening situation.

ADV POTGIETER: Were you not concerned that you were firing in an urban area with these very dangerous arms and ammunition in a direction or a situation where there were many people present?

LT VERMEULEN: I was firing on people who at that time were threatening my life and the lives of my personnel. I believed very certainly that I would have died on that scene.

ADV POTGIETER: Were you worried about killing innocent persons?

LT VERMEULEN: I did not consider this at all, I only intended to counter the attack, to ward this attack off.

ADV POTGIETER: What are your feelings now about these actions on your part?

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TRC/CAPE TOWN

LT VERMEULEN: I beg your pardon?

ADV POTGIETER: What are your feelings with regard to these acts on your part?

LT VERMEULEN: With regard to the seven rounds fired?

ADV POTGIETER: Ja.

LT VERMEULEN: It is my feeling that the intensity of the attack on that particular day was of such a nature or of such an intensity that I did what I did to ward off the attack. That is my feelings.

ADV POTGIETER: You have no remorse?

LT VERMEULEN: I did not say that I do not feel any remorse. The entire incident affected my life subsequently.

ADV POTGIETER: Do you have remorse with regard to your actions?

LT VERMEULEN: The fact that people and particularly a young child lost their lives in the event is something which will stay with me to the end of my life. I do feel remorse with regard to this Mr Denzil. I have children.

ADV POTGIETER: Since that day, since that time have you approached the family to show your sympathy? Did you attempt to do anything to assist them?

LT VERMEULEN: Mr Denzil in all respect do you understand what you are asking? Do you know what it would mean for an old policeman under that system at that time to have gone to a family like that to say to them, Mr and Mrs Magmoed I am sorry that your child has died. Parents of Michael Miranda I am

sorry that your child died. I also have children Mr Denzil.

ADV POTGIETER: That is human, that is why I am asking you this, why did you not do this? What would have been wrong with that?

LT VERMEULEN: Under the old system that was not done. It is not something that would have been allowed. You must excuse me that I am crying, I have very close feelings with regard to children.

ADV POTGIETER: You will appear at the public hearing and the family will be present. We will leave the rest to your conscience. You can decide how to act on this. As a Commission we are attempting to facilitate this kind of thing. This does not have to do with prosecution, we are not a persecuting body, we are attempting to gain access to the truth and to repair what had happened. That is the intention of the entire process. But you will have an opportunity to deal with this in public and that might help you.

CHAIRPERSON: Thank you Advocate Potgieter. I just want to ask something from Lt Vermeulen. We note that you are moved by what has been said to you just now and we want to tell you that it's often very difficult to look back to these events and to put oneself in the place, position where one was at the time, and often any such incident when people die, particularly when, as you say yourself in those years it was not possible to pursue what your heart told you that you have said yourself, it was hard to do that in those days because you were a policeman

in that order.

And we just want to say to you that we understand your emotions at this stage and we understand the difficulty. People like yourselves were involved in combat-type situation where you were thrown into situations of high risk sometimes and often the consequences of your activities were often not what you might have wanted to have been involved in yourselves.

I am touched particularly by your statement that you have children yourself. It's very sad when we think about what we've gone through, all of us, in this country, the kinds of pain that we've gone through; the kinds of things that some of us have done, have been involved in, things that perhaps they would not have been involved in had they had the choice.

And I think what we are trying to do, one of the things that we are trying to do in the Commission is to talk even about the difficulty for people like yourselves to disagree or to be opposed to some of these principles. I think that it's important for us to understand where we come from in this country.

It's important for us to state for the record that it was hard for people like yourselves and that you were put in a difficult position and when you look back it is very painful, it is all very painful, and I think it's important for us to note that. To note your pain and to note your difficulty under the circumstances.

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I think I want to state again that that pain is important to be recorded for us to understand the difficult circumstances under which many of you had to work.

I would like to - before I propose that we adjourn for lunch I don't know whether anyone wants to say - Ms Wildschut wants to say something.

MS WILDSCHUT: Lt Vermeulen I noted earlier on that you found it very difficult to help us understand the classification of the shot that you had at the day. I am not asking you about the classification, I am wanting to understand why you hesitated so much to tell us how you would classify the shot?

LT VERMEULEN: You asked me with regard to the classification, and as I interpret that classification I said to you that I would have to give a broad classification. There would have been AAA and there would have been birdshot, that all would have been shot ammunition. Personally I do not see any kind of shot as sharp point ammunition. If you understood by that I was hesitating, no I did not hesitate.

I am attempting to express myself as clearly as possible and this morning I told the Commission that I would attempt to assist you. I meant that honestly. As I have to Mr Denzil I would like to help you to greater depth, unfortunately this is my opinion. I am trying to express it as clearly and in the best words I have.

MS WILDSCHUT: Was it because the idea was this particular shot was in fact lethal?

LT VERMEULEN: No it was not for that reason. As I've already said to you, to try and give you the best words to allow you to understand me, that is why I hesitated.

MS WILDSCHUT: But we are all aware that somebody died because of that shot?

LT VERMEULEN: Yes we are all aware of that.

MS WILDSCHUT: And the question really was, is it fair of us to deduce that out of that, the shots that you had fired, Shaun Magmoed died, is it fair for us to deduce that?

LT VERMEULEN: I do not think that that would be fair, as I have said to you honestly and directly, I have fired in the direction of Shaun Magmoed. I do not know whether other members on the right-hand side of the vehicle in fact fired in his direction. I do not believe that it would be fair and just. I have said to you honestly and openly that I fired in Shaun Magmoed's direction, but to make that entirely my personal responsibility would not be fair. One might want to ask the other members in what direction they fired. I do not think that that would be a fair deduction to say that I killed Shaun Magmoed. I did not honestly personally know whether I in fact hit Shaun Magmoed.

CHAIRPERSON: We will allow one last question from Dr Ramashala before we break for lunch.

DR RAMASHALA: Lieutenant in your experience what kind of damage is expected from a AAA or no.1 shot? What kind of damage to the body?

LT VERMEULEN: Doctor you are asking me a very difficult question. Again there could be a thousand different scenarios.

Subsequently I have seen what it looks like when, for instance, a single kernel of bird shot, or shot, is under a person's skin. I have also seen people who died because of shot. To be able to answer you would be very difficult because of the range of possibilities as indicated. I have seen two extremes of what is possible.

DR RAMASHALA: Taking into consideration the velocity, the distance and the decision about the kind of ammunition to be used, I'd like you to give me the benefit of your experience. I mean you have seen people who have been on the receiving side of AAA and no.1 shot and you've had extensive experience in this work, you can't say you don't know. I am just trying to get the benefit of your experience, that when the decision is made to use AAA and no.1 what kind of damage was expected from that?

LT VERMEULEN: Doctor I hope that you don't overestimate my experience. On the 26th of August 1985 I was involved in rioting. This is the first time that I saw an incident like this, this incident occurred two months after my first experience of this kind of event. I cannot answer you with regard to the velocity as I've said to you I have seen people die because of shot. I would not know from what distance they were shot or how many kernels in fact hit them. I've also seen a single kernel simply embed itself immediately underneath the

skin. I would like to answer you more extensively but I don't have any further expertise which I can make available to you.

CHAIRPERSON: Thank you Dr Ramashala. We will break for lunch. We will be back here at 3:30. Thank you. Okay, 3:15, no people need a break, we've been at it for a long time really, 3:15.

COMMITTEE ADJOURNS

ON RESUMPTION

DOUW VERMEULEN: (s.u.o.)

MS BURTON: Right, good afternoon, as I explained Pumla has been called away for some crisis and I am standing in for her until her return, so we will continue with asking you questions Lt Vermeulen. Which of us wants to start off. I am asked to remind you that we are continuing the proceedings and you remain under oath.

LT VERMEULEN: That is correct.

MR KHOISAN: Lt Vermeulen with all due respect to you and to your legal team we would like to say that if it appears that the questioning might be a little bit aggressive it is not our intention to make you feel uncomfortable, and if that situation obtains you know just bear with us. We will try as best as possible to make this as bearable an inquiry as possible.

But with respect to the situation with regard now to the incident, for the record this incident is related to the Trojan Horse incident which occurred on 15 October 1985, when you arrived at the scene and when, according to your understanding

the stones were thrown and you had to get up, can you describe as best you can what exactly was in your line of sight? What specifically did you see?

LT VERMEULEN: As I've said to you earlier, or rather let me start up, thank you for the assurance which you've given me that this is not personally aimed as I have said to you earlier this day I will, as far as possible, be as open and honest with the Commission as it is humanly possible for me.

To return to your question, what I saw when I looked there, when I stood up I saw, as I've given you my impressions, I saw a group of about 150, maybe 200 people. I saw stones coming from all directions, raining down on us, and I realised that I was going to die at that place that day. That is what I saw.

MR KHOISAN: Okay. Why did you say in, I believe paragraph 3 of your statement, that the front windscreen, the windscreen of the vehicle had been thrown out? And this relates to your statement which was made on the 19th of October 1985. To quote for you,

"The front windscreen of the vehicle had been thrown out and the body of the vehicle was greatly damaged".

Why did you make that statement?

LT VERMEULEN: I made this statement - if you look at the video you will see that the front window of the vehicle had been thrown out as I've described it and the body of the vehicle had in fact been considerably damaged.

MR KHOISAN: Okay. Lt Vermeulen with regard to that particular situation that you described there, according to a statement that we have here and according to people that we've spoken to, it is the view, or shall I put it another way, were you aware that there was a photographer that was brought to the scene who took pictures of the truck including the body and the windscreen of this vehicle?

LT VERMEULEN: I am aware of the fact that photographs were taken of the vehicle. I am not sure whether that was taken on the scene but I do know that at a later stage photographs were taken although I was not personally involved in that.

MR KHOISAN: And when the photographs were taken at Mannenberg the view was that only the left-hand corner and not the whole window was damaged and that the visibility on the side of the driver was not obscured. In other words there was no damage to the windshield on the side of the driver which would be Albertus Myburgh Smit, are you aware of that? Are you aware of the fact that there was no damage to the driver's side of the windshield?

LT VERMEULEN: I am speaking under correction, if I recall correctly the video clearly indicates where the stones on the right-hand side, so if I was standing behind the vehicle and I was looking forward therefore on the driver's side of the windscreen that in fact rocks did hit, or stones did hit this front window and damaged it. That is what I can recall from the video.

MR KHOISAN: But there's a difference wouldn't you agree Lt Vermeulen, there's a difference between a couple of places where there's damage to the windshield and the windshield is thrown out? Why did you say in your statement that the "front windscreen was entirely thrown out"?

LT VERMEULEN: If I recall correctly these are the words in my statement and if I recall correctly one of the stones penetrated the front window entirely, that is what I would have meant by saying that the window had been thrown out. It went right through - one rock went right through the window. From the video that's what I can recall.

MR KHOISAN: Okay, so for the purpose of just clarifying your statement and if you at any point in the future want to change your statement you would not say that the "windscreen was thrown out"?

LT VERMEULEN: The entire front window had not been thrown out, but the windscreen had in fact, and if I can recall correctly, it was in front of the driver where one of these bricks penetrated the glass of the window. That's if I can recall correctly is what I meant by that statement.

MR KHOISAN: No, Lt Vermeulen why then did you say in your statement that the "body of the truck, the vehicle had been greatly damaged, seriously damaged"?

LT VERMEULEN: I will use the example, I cannot recall where in this entire case I have used this where I explained to the Court that for instance one of the marks of the stone was on

the framework of the door. If I can show you with my fingers, a distance as indicated by a finger, that would have been a metal piece and it would have a depth as I am indicating of this - (as indicated by the hand of the witness right now). I consider that to be serious damage to the vehicle.

I know that I have been asked a variety of questions about the number of marks and dots and spots and holes in the vehicle, in my lay person's opinion I considered this to be considerable damage to the vehicle that would have been costly to repair.

MR KHOISAN: So you would not say that the body of the vehicle had been greatly damaged, but there were dents on the body, is that how we could state it?

LT VERMEULEN: The damage done to the vehicle by stones and other objects I considered to be serious damage. If you were to understand by that that the entire left panel of the vehicle was gone and the front bumper was missing that is not what I have meant by that. What I had meant by serious damage was for instance the dent that I have just indicated to you. This does not mean that the entire front buffer and bonnet of the vehicle would have to be replaced as one would have if there was serious accidental damage as in a motor vehicle accident.

MR KHOISAN: Why then did you not state it in that manner in your statement?

LT VERMEULEN: As I've said to you I stated it in my statement as being seriously damaged because that is how I understood the

damage at that time. It's probably far easier today to give an exact description of what I meant by that. When this statement was drafted I did not consider this to be - or that it would ever be necessary to give a detailed description or comparison of the damage.

MR KHOISAN: But there were people killed and there were people who suffered injuries on the scene, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: Your statement, therefore, would have been an important and serious part of the evidence in any related case, is that correct?

LT VERMEULEN: That is correct.

MR KHOISAN: So in other words Lt Vermeulen this would in fact be a situation where if somebody was just looking at your statement they would assume that because the front windshield was thrown out and there was serious damage to this vehicle that this would constitute a reason to shoot, wouldn't that be the necessary conclusion that any reasonable person would draw?

LT VERMEULEN: Mr Khoisan it is again difficult for me to answer you because of your very long statement. I am going to attempt to answer this. Were I to have been the person who made such a conclusion if I saw the dent as described to you I would have made the deduction that this was a serious mark. If this had gone through an open window and if it would have hit a person against the head then that person would have been very seriously injured.

In the light of that, and in that context I drafted my statement with regard to the damage to the vehicle. It was not to create a wrong impression or a mis-impression of the degree of intensity of the attack.

MR KHOISAN: Okay, now let's go to the firing. The moment you got up why did you fire?

LT VERMEULEN: Because it was clear to me at that time that we were being attacked not by what we would normally have considered to have been a small group of people simply at a barricade, we were surrounded with people. In all of my life I have never expected such a large crowd of people. We were already under attack, stones were already falling. The two members in the front of the vehicle were already under threat, they had no protection.

MR KHOISAN: Okay. Lt Vermeulen, just a few weeks earlier, on the 28th of August 1985 there was what is known as the Pollsmoor March, are you aware of that? Did you know about that incident?

LT VERMEULEN: I had heard of this incident.

MR KHOISAN: And on that instance there were thousands, and thousands and thousands of people who were marching all across the Western Cape, can you attest to that?

LT VERMEULEN: I had heard of that incident as I had told you although I was not personally present at that incident.

MR KHOISAN: Okay, and that was a large crowd.

LT VERMEULEN: In your - if you would say so, yes, I wasn't

present, I would not be able to judge as to its size.

MR KHOISAN: Okay. So what you are saying is up till the 15th of October 1985 you had never seen a crowd of the size that you confronted in Thornton Road on that day, on the 15th?

LT VERMEULEN: No I had never had to deal with a crowd of that size, no.

MR KHOISAN: So how would you have known how to handle a large crowd? And why didn't you ask for instructions from your commanding officer, because you had a radio?

LT VERMEULEN: As I have said to you, when I arrived there the observation that I made at that moment was such that I realised we were already under attack. In all of my life I had never thought that there would be such a crowd of people. I realised that the lives of the two members in the front of the vehicle were under threat. As I said to you earlier today I first warded off the attack.

MR KHOISAN: Okay, now who gave the instruction for subordinates to shoot?

LT VERMEULEN: Earlier that day I had said to them that were we to be attacked should they not be able to hear me and should I start firing then they must know that I would have given them the command to fire. However, to qualify this, say the person on the left of the vehicle were to not have any threat in front of them then I would not have required of them to start firing.

However, I was warding off an attack on my side of the vehicle.

SECTION 29

TRC/CAPE TOWN

MR KHOISAN: Okay I will leave the other investigators - Deon?

MR PETERSEN: Lt Vermeulen could you tell me during what year you received your initial training, your basic training?

LT VERMEULEN: It was during 1976 I was in the Railway Police College.

MR PETERSEN: In the use of which firearms were you trained?

LT VERMEULEN: In those days there was the 303, the GN, the .38 revolver and those would have been the firearms in which training was provided.

MR PETERSEN: Were you trained with a shotgun?

LT VERMEULEN: I had subsequently been trained in the use of the shotgun.

MR PETERSEN: While receiving training with regard to the shotgun did you fire at targets?

LT VERMEULEN: Yes.

MR PETERSEN: Do you know what the difference would be when you fire at targets? There are a variety of distances at which you fire.

LT VERMEULEN: Correct, there would be stand, sit and lie.

MR PETERSEN: What about 10, 20 metres?

LT VERMEULEN: 10 metres, 5, 15, 20 whatever.

MR PETERSEN: With what rounds did you fire, birdshot or AAA, did you use all of the various ones or what?

LT VERMEULEN: I would assume that I was trained with all of those. If I were to tell you that on a particular date I used AAA and on a particular day I used birdshot I would not be able

to.

MR PETERSEN: That is not what I mean. You have seen what damage a AAA or birdshot would do to a target?

LT VERMEULEN: Yes I've seen this.

MR PETERSEN: On a distance of 10 to 20 metres this would be considered to be one of the most lethal firearms, do you realise this, do you have knowledge of this? This is with AAA as well as with bird shot at a distance of 10 to 20 metres.

LT VERMEULEN: Yes at 10 to 20 metres it could well be lethal.

MR PETERSEN: You made a statement to me earlier that you were at a distance of, from these persons, so that with a shotgun in your arms you would have been able to jump out of the crate and arrest the persons, what distance would you consider yourself to have been from these persons when the vehicle was brought to a standstill?

LT VERMEULEN: Again I will have to make an estimate or give you an estimate. With the vehicle standing in the road there would have been a small piece of road and then the pavement would have started. There were already people there and then on the surrounding erf. It's very long ago ...(intervention)

MR PETERSEN: You mentioned to me that you were entirely among the people so this distance would have to be within at least a 20 metre range, it would not be further than that?

LT VERMEULEN: Yes.

MR PETERSEN: You've seen the damage that AAA or birdshot could do to a target so you must have realised the lethal

nature of your use of firearms shooting into the crowd.

LT VERMEULEN: Mr Petersen I am saying this with respect if you say that I realised what the situation was, if you shoot at a paper target I don't think that one realises or knows the nature of the consequences of such a shot to a human body. So, yes, I had seen what damage this does to a target, the number of holes in a target. I do not believe, with all respect, that it would be fair to say to me that I knew what the consequences would be on a human person.

MR PETERSEN: Surely you must have received training, classes during training with regard to the use of a variety of firearms, at what distance a particular bullet or some or other ammunition would do to the human body at various distances, this is offered to everybody, is that not the case?

LT VERMEULEN: The lectures to which you are referring and that which I can recall was normally offered by an instructor. There would be information about the velocity and so forth and as a student who had not previously used the firearm I must say with respect to anyone who provides training this would be irrelevant information. It's a large number of numbers and detail and at the end of the day when you are taken to a shooting range, you are told to remember how you were trained to load the firearm, then you load and you go through the process.

MR PETERSEN: (Not translated....)

LT VERMEULEN: Allow me to continue. During none of the

lectures which I received was it indicated to me what damage the firearm would do to a human body.

MR PETERSEN: You were not for instance told that within 10 or 20 metres this would be a lethal firearm?

LT VERMEULEN: No.

MR PETERSEN: So you had a basic idea of the kind of damage that this firearm would do to a target at 10 to 20 metre range, now you say that you were amongst the members of the crowd, the people in the crowd which must have been within a 20 metre range, nonetheless you continued to fire on these persons from, or within a distance of 10 metres range.

LT VERMEULEN: Mr Petersen earlier today on several occasions I said to you that the shots which I fired on that day, the shots which I fired into this crowd was intended to ward off an attack which had already started on myself and my personnel.

MR PETERSEN: That was not my question to you Sir, my question was whether you realised what damage this could do to the persons surrounding you?

LT VERMEULEN: At that time I realised in this first place that this attack on myself and my members would cause our deaths. In terms of that realisation I warded off the attack by firing seven shots into the crowd.

MR PETERSEN: That would mean that you realised that the likelihood of a person being killed at the distance which you were shooting in would be considerable?

LT VERMEULEN: I realised this.

MR PETERSEN: Nonetheless you continued.

LT VERMEULEN: I continued until the attack was warded off and then I desisted.

MR PETERSEN: You were the person of highest rank in these crates, did you at any time give people a command to desist from firing?

LT VERMEULEN: Yes.

MR PETERSEN: When was this?

LT VERMEULEN: After I had fired the seventh shot I noticed that the stone throwing had stopped and I then gave the command to stop with the firing.

MR PETERSEN: What would have been the reaction of the crowd after your first shots? Would they have started running away or what would their reaction have been?

LT VERMEULEN: In one of the previous cases I've said that there had been an astonishment, people were shocked, surprised, and if I recall correctly I had said that the stone-throwing had continued until I fired the seventh shot and then the stone-throwing stopped.

MR PETERSEN: What you were saying to me is that there were nine persons, or maybe eight persons on the back of the truck in the crates, 39 shots were fired on the crowd, and only then did they begin to flee from you, is that what you are saying?

LT VERMEULEN: I have said to you that after my seventh shot the crowd stopped firing.

MR PETERSEN: You also said to me that you gave instructions

to stop fire at that point, so 39 rounds were fired altogether until you gave instructions to halt the fire. And you were in command of all of these members, they were acting under your instructions.

LT VERMEULEN: I had not counted the number of rounds. If you say it's 39 that would, I suppose, be the case. Yes, I had been in command.

MR PETERSEN: So what you are saying is the crowd only started running away after 39 rounds had been fired?

LT VERMEULEN: What I had said Sir - you used the number 39 and that after 39 rounds had been fired, if I had fired the seven rounds, you count that to the other people yes, then that would be what I have said.

MR PETERSEN: There is an additional question I want to ask, how many rounds can you put in a shotgun, the shotgun that you used on that day?

LT VERMEULEN: The standard shotgun that we used I think was a Pita(?) Beretta, I am under correction but I believe it takes seven rounds, but as I have already mentioned this is 1997, I have been out of the force for seven years.

MR PETERSEN: I want to state to you that it takes six and that there would be one in the barrel, you would therefore have fired an extra round.

LT VERMEULEN: That is correct.

MR PETERSEN: Thank you.

CHAIRPERSON: Mr Khoisan.

MR KHOISAN: Just on that particular question Lt Vermeulen, so just for the record, are you saying that you emptied your weapon of all ammunition in the process of this operation, on your side?

LT VERMEULEN: Yes.

MR KHOISAN: Why was it necessary for 39 rounds to be fired on a small crowd of about, according to your own observation, 150 to 200 people?

ADV VAN ZYL: Chairperson with all due respects I don't think that this was the evidence of this witness that 39 shots were fired at a small crowd of between 150 and 200. His evidence was that on his side, in his field of vision he estimated 150 to 200. Before lunch we had a problem that he cannot say what was behind the truck, in the front of the truck or on the other side of the truck, these 39 rounds were not only fired, I presume, to the right-hand side of the truck.

CHAIRPERSON: Mr Khoisan, yes, you will have to rephrase your question.

MR KHOISAN: Yes, with all due respect Madam Chair the evidence that was given by Lt Vermeulen in the inquest was in fact questioned by the Judge and this particular issue was raised by the Judge. In fact the magistrate, Magistrate G O Hoffman took issue, not only with Lt Vermeulen, but with every one of the persons who were involved in that particular proceeding and that particular issue is well-known to Lt Vermeulen because he was part of that particular proceeding you

know. And at some point we can actually produce the finding, but just to make sure that this particular evidence was questioned inside the magistrate's court during the inquest proceedings.

But I want to get to the point of saying that out of the crowd that you confronted, if you fired 39 shots, and given the view that you were trying to fire at people that were throwing stones, are you saying that more than 39 people were throwing stones or all the people were throwing stones?

I mean the fact is that there were people on the left-hand side of the truck, there were people on the right-hand side of the truck, that's four a side, and then there was one in front.

So why were all those shots being fired?

And did you identify seven people to shoot at, or did you have eight people to shoot at or what was the target?

I am trying to get - because Lt Vermeulen was the commander of that operation for all intents and purposes. So is it that everybody who was shooting had identified specific agitators or belhammels or stone-throwers, or were they firing in general? Were you just firing in general? That's one question. Were you firing in general or were you and your men firing at specific targets?

LT VERMEULEN: As I have already mentioned I have fired particularly on the people who were attacking the people with stones. What the rest of my personnel did you would have to ask them.

MR KHOISAN: Okay, now on the right-hand side of the truck how many stones did you personally see hit the truck in the process of shooting? Because you are saying that you were firing at people throwing stones, and we have already isolated the Shaun Magmoed issue, that you said Shaun Magmoed was throwing stones.

But how many people did you personally see throwing stones to your side of the truck?

LT VERMEULEN: If I heard correctly then the first part of your question would have been how many stones hit the truck, I did not count them. I have already mentioned previously that this attack - I have described the attack as a rain of stones, the crowd of people that I noticed I have mentioned 150 to 200 people. The moment when I stood upright this attack was happening and it appeared to me as if every single person in the crowd was throwing stones at us.

MR KHOISAN: Now on your side of the truck, that's the right-hand side, you say you can definitely say, and you've put it to this Commission, that you saw Shaun Magmoed throwing stones?

LT VERMEULEN: That is correct.

MR KHOISAN: And now you are putting it to us that it could well have been that every one of those 150 people were throwing stones at you, is that true? At the truck.

LT VERMEULEN: I did not identify Shaun Magmoed earlier today as the only person who threw stones. I said earlier today that I specifically remembered that Shaun Magmoed was throwing stones at the truck. I say again and I have said already

earlier that my view of the scene in front of me was that every single person in the crowd was taking part in throwing stones at the vehicle.

MR KHOISAN: And just make an estimate, how many of those stones hit the truck?

LT VERMEULEN: I don't want to make that kind of estimate after 12 years, I don't think that would be fair to anyone.

MR KHOISAN: No, let me put it to you Lieutenant that your life was - you claimed that your life and the life of your fellow officers on the truck was endangered, so I want to find out, we want to establish the issue of the danger. You say stones were being thrown and if like 150 stones hit the truck then there should at least be 50 dents on the truck. We are trying to test your evidence. If there were 150 people throwing stones then a certain amount should have created some damage to the truck, how is it that the photographs that were taken of that truck, of which you are well aware because they were part of a legal proceeding, don't back that up.

ADV VAN ZYL: Chairperson may I ask that the photographs be made available to the witness so that he can see for himself as to the damage and that the questions then be repeated ... (intervention)

MR KHOISAN: Okay.

ADV VAN ZYL: And please may I ask that the questions be repeated separately because again we have a whole stream of questions, it's very difficult to answer.

MR KHOISAN: Okay. Okay I will rephrase the question.

CHAIRPERSON: Do we have the photographs?

MR KHOISAN: I will rephrase the question, okay, can you say with certainty how many stones hit the truck?

LT VERMEULEN: No I cannot say how many stones hit the truck, and as I've said before I cannot - I considered this as a rain of stones. I would not be able to say this number of stones or that number of stones.

MR KHOISAN: Did any of the stones hit the crate that you were in or the crates next to you?

LT VERMEULEN: As I have already said to you I experienced this as a rain of stones. To now say that three hit the crate or six hit the crate I did not experience it like that as individual countable stones. I actually experienced it as a rain of stones. I cannot link any number to the stones.

MR KHOISAN: Okay, and when you and your fellow officers stood up and these stones were raining upon this truck did any of these stones hit any of the officers on the back of the truck?

LT VERMEULEN: I don't know.

MR KHOISAN: Did any stones hit you personally?

LT VERMEULEN: I cannot recall, none which left a mark, but I cannot remember what hit me or did not hit me.

MR KHOISAN: So you cannot recall if anybody was injured besides the two in front who were lightly injured?

LT VERMEULEN: No.

MR KHOISAN: Okay. Then what was the reason for you to say to

this Commission that your life was in danger?

LT VERMEULEN: I have already said to you stones were being thrown at the vehicle while it was driving. One could clearly hear the stones hit the vehicle, the vehicle stalled. When I stood up I could see a view of these people, 150 to 200, there was a rain of stones, you do not know what the stones are going to hit. And you realise there is not a possibility of jumping off and running into the first house and asking for help.

It is widely and commonly known what the modus operandi had been in those days when a vehicle was brought to a halt the tyres were cut open, the vehicle was put to fire and that is what I had imagined would happen that day. That is how I experienced the stone-throwing that that is what would have happened on that day.

MR KHOISAN: Was anybody in the crowd armed with any automatic weapon or any other lethal weapon, besides stones?

LT VERMEULEN: Not that I could see.

MR KHOISAN: Okay. And you don't know if you or anybody else had been injured by any of the stones that were thrown?

LT VERMEULEN: No.

MR KHOISAN: Okay. Then I come back to the question, how did you arrive at the conclusion that it was not just - that your lives were in danger?

LT VERMEULEN: The vehicle had stalled. It had already been attacked with stones, the two members in the front were unprotected, we were standing up, there were maybe 150 to 200

people who were throwing stones as far as I could see. I experienced this as being in a life-threatening situation.

MR KHOISAN: Why did you state an untruth in your affidavit and why are you re-stating that untruth that the people in front were "onbeskerm", undefended, when somebody in front was actually armed, so they were defended?

ADV VAN ZYL: With all due respect Chairperson I don't think, with respect, that it is an untruth in that sense. It's a matter of what the witness meant by saying "hulle was onbeskerm" ...(intervention)

MR KHOISAN: Okay then maybe the witness should ...(intervention)

ADV VAN ZYL: With respect, may I just complete what I was trying to say. Clearly when you say "persons in the front were undefended" there was only glass around them, they were not protected in that sense. It is something entirely different to say that they were unarmed and he never said they were unarmed, he said they weren't protected, they were sitting with glass, nothing over the glass, that is what he meant. To state that is an untruth is, with all respect, not fair.

MR KHOISAN: Okay, so then let us put it clearly that the people in front of the vehicle were also armed. Do you agree to that?

LT VERMEULEN: Ja as far as I know they were armed.

MR KHOISAN: And their weapons were loaded with what is classified according to a standing order out of the police as

sharp ammunition. They were loaded with either AAA or no.1, their weapons?

LT VERMEULEN: Yes their weapons were armed with either AAA or no.1 shot.

MR KHOISAN: So I can necessarily conclude that they had the capacity to defend themselves?

LT VERMEULEN: They would have been able, probably, to defend themselves.

MR KHOISAN: And I can also necessarily conclude that the people at the back had the capacity to defend themselves?

LT VERMEULEN: That is correct, ja.

MR KHOISAN: Okay. Now in terms of the danger that was presented here the danger was in respect of damage to the vehicle or damage to your lives.

LT VERMEULEN: That is correct.

MR KHOISAN: Which one of it was it, or both?

LT VERMEULEN: It would have been a threat against our lives, my own life, the life of my personnel as well as a threat to the vehicle.

MR KHOISAN: No let me put it to you Lt Vermeulen that you actually went into that operation knowing full well that anyone of a number of situations could have occurred and therefore you and your men were prepared for any eventuality, is that true?

LT VERMEULEN: We went, as I have said earlier today, on that day to arrest people throwing stones at these particular scenes or at barricades. I had not at all expected a crowd of people

as had occurred, this was a surprise to me, entirely a surprise to me. I never expected this kind of situation to have arisen.

MR KHOISAN: No I am concerned about this thing about danger.

Wouldn't it be that at the beginning of the operation that the factor of danger will be very clear to everybody because you were going in there literally with the intention of enticing people to throw stones at you, by hiding in a truck and not coming out and showing that you are policemen? Wasn't that the intent, to entice people to throw stones at you so that you ... (tape ends)

LT VERMEULEN: No that was not the intention to entice anybody.

MR KHOISAN: Then why were you hiding in crates? Why weren't you just upfront about what you were doing?

LT VERMEULEN: As I have already said to you our purpose was to arrest these persons, to come as close as possible to them since we've had the experience that normal police actions did not allow you to arrest persons as they simply ran away when they saw the marked police vehicles.

MR KHOISAN: So why didn't some of your men jump off the truck while you fired your seven rounds of AAA in the direction of Shaun Magmoed, et al and go and arrest people? Why did everybody get up and fire the moment you started firing?

LT VERMEULEN: In all respect I think you would have to ask them ... (intervention)

MR KHOISAN: No but you are the commander.

LT VERMEULEN: If I were to give you an answer ... (intervention)

MR KHOISAN: But you are the officer in charge.

ADV VAN ZYL: Chairperson may the witness just complete his reply.

MR KHOISAN: Okay.

LT VERMEULEN: I do not believe, although I was the officer in command, that I could answer for another person on the left-hand side of the vehicle why they shot at that time. I think you would have to allow them to answer that for themselves.

MR KHOISAN: But you just put it to us Lt Vermeulen that you had told them earlier on in the day when it was put to you about the instruction to fire, who gave these people the instruction to fire, you had already put it to us that earlier on in the day you had given them that allowance, that indeed you go over to action then you begin to fire.

Now why wasn't the plan that you fire, one of you fire and that the rest of the 7, 8, 9 or 10 or how many other people on that truck go and carry out the arrests? Why was it necessary for everybody on the truck, besides the driver to fire on that crowd of 200 or more?

LT VERMEULEN: As I have said to you earlier today I fired because of my summation of the attack on myself. I had given instructions and you are correct when you say that, that I had told them that if I were to have fired, or if I had given a normal instruction to fire that they would know that they could

fire, but this person is also a trained police officer, and that person would have to decide, in view of what they had in their sight, whether they were under attack or not and how they had to respond to that or not.

I want to say again that the question, why any other member fired would have to be asked of those members and they would have to be asked what they saw and why they did not jump off or run away or why they also started to fire.

MR KHOISAN: Lieutenant I just want to put it to you that a constable, there's a big difference between a constable and a lieutenant, and that if there's a lieutenant on an operation and that there are constables and sergeants, you know given the fact that especially during the years of apartheid, which is what this inquiry is about, given the fact of how well-oiled the structure of the police was at that time, a constable wouldn't just go and freelance, do his own thing. People were under orders as you were under orders of Major Loedolf. You couldn't just go and pull your own job. So you were under orders of Major Loedolf and those people were under your orders. In other words you were responsible for those men.

So what I am asking you is on the right-hand side you could see that there was a danger, but as the commander of this surely you should have found out what the position was on the left-hand side? Because by everybody getting up and firing you are defeating your purpose which is essentially, as it's been stated, to go there and arrest stone-throwers. I mean was

it to arrest stone-throwers and my question to you is, was it to arrest stone-throwers or to go out and shoot stone-throwers?

LT VERMEULEN: As I have said earlier today the intention was to arrest people throwing stones. However, we were attacked in Thornton Road to such an extent that the vehicle stalled. When I made my observation there was an attack underway, already underway and I had to ward off the attack. And in consequence of that people were arrested on the scene.

CHAIRPERSON: Mr Petersen a question.

MR PETERSEN: Lt Vermeulen could you repeat to me on whom you fired?

LT VERMEULEN: Could you repeat that?

MR PETERSEN: Could you repeat to the Commission on whom you were firing on that particular day?

LT VERMEULEN: As I have said earlier today on several occasions I fired on the people throwing stones in general.

MR PETERSEN: And the particular person that you mentioned, that you noted?

LT VERMEULEN: I have also said that I fired in the direction of Shaun Magmoed.

MR PETERSEN: From your statement, paragraph 7, could you tell me whether this was the person to whom you are referring in this particular paragraph.

"On the right-hand side of the vehicle, the side on which I found myself there was an adult Coloured man throwing stones. He was running away in the

direction of a house and someone fired on this person".

Earlier on you said to Advocate Denzil Potgieter that you fired on this person while he was throwing stones at you, but here in your own statement you said that he was running away when you started firing on him.

LT VERMEULEN: Mr Petersen that is how the statement reads and I had in fact signed that statement but the statement was drafted by a Sergeant Steyn. Sergeant Steyn typed out the statement in the form in which it appears here. The use of words would have been correct had it read, "A Coloured man throwing stones was fired on, who subsequently ran away", then the order of words would have been correct.

The order in which the words are stated in the statement I would agree with you that one could interpret it as indicating that one would have been firing on a person who was running away but that was not the state of affairs.

MR PETERSEN: You did sign this statement?

LT VERMEULEN: Yes.

MR PETERSEN: So this is how the statement was placed before the Court?

LT VERMEULEN: That is correct.

MR PETERSEN: So it was accepted by the Court that this is what occurred?

LT VERMEULEN: I have already explained to you what my opinion would be with regard to that portion of the paragraph.

MR PETERSEN: You are responsible, are you not, to read the statement after it is drafted? We could assume, therefore, that this is what you did say?

LT VERMEULEN: It is what I did say. It is not what I had intended with that paragraph.

MR PETERSEN: There was an oath taken or the statement was sworn to.

LT VERMEULEN: The oath did indicate that this is what I wanted to say but it is not what I had intended. I have explained to you what my intention was with the phrase, and I said to you earlier today that I would be as honest with this Commission as humanly possible. That is why I indicated to you now that the order of the words, prior to you asking me about this, I indicated to you that the order of words should be as I have now mentioned. There was no ulterior motive with that statement.

MR PETERSEN: What I want to say to you is that I will accept what is typed down here and that this is the exact words that you wrote in your statement. Did you write out your statement or did a person come to you and write out the original statement to you in pen?

LT VERMEULEN: This is not my own handwriting. The additional statement would have been that of Colonel Potgieter and you could check that. I do not have a copy of a handwritten statement, I only have the typed version.

MR PETERSEN: Can you recall whether you wrote out the

original statement in your own hand or did someone take down the statement from you?

LT VERMEULEN: I cannot recall whether I wrote this out in my own hand. I note that the oath was taken down by a Sergeant Steyn but I cannot recall whether I wrote this down in my own hand.

MR PETERSEN: According to this statement the actual state of affairs would have been in contradiction to your answer to Advocate Denzil Potgieter when you said that the person was throwing stones continuously and intermittently, is that not the case?

LT VERMEULEN: That is what I said to Advocate Potgieter and that is when you asked me the question I qualified the sentence.

MR PETERSEN: In the statement - we can leave that particular point, but if we continue you will note that in the statement you say that people ran after the person and found his corpse in the house.

LT VERMEULEN: Ja I say in the same paragraph I state that the person was followed and was found dead in the house.

MR PETERSEN: Could you tell me about the damage to the wall, how it reads with regard to that?

LT VERMEULEN: Could you give me a closer indication with regard to the page or paragraph?

MR PETERSEN: It's in the same paragraph.

LT VERMEULEN: In the process one of the windows of the house

was damaged by a shotgun shot.

MR PETERSEN: So it was clear from that that there were people shooting at him while he was running.

LT VERMEULEN: If you look again you will note that after I had stopped firing there were maybe two, maybe three shots fired.

MR PETERSEN: You have just told us under oath that when you stopped firing you immediately instructed people to stop fire, now you are changing your statement.

LT VERMEULEN: No I have not changed my statement, I shouted stop fire. After I had shouted "Stop Fire" I would be under correction but I think that there were two or three additional shots fired subsequent to that.

MR PETERSEN: By members who had already jumped off the vehicle?

LT VERMEULEN: No by members who were standing on the truck. You can note from the video that after the final shot was fired the members left the vehicle.

MR PETERSEN: So none of them were therefore running behind the person and firing at him?

LT VERMEULEN: No.

MR PETERSEN: There were members who were running after him into the house?

LT VERMEULEN: Yes, after the final shot.

MR PETERSEN: How then do you explain that the window of the particular house had been broken in the process of taking him?

LT VERMEULEN: No I did not write that the window was broken by a shot while following him. It reads ... (intervention)

MR PETERSEN: "Daar is skade in die huis".

LT VERMEULEN: Yes, there had been damage to the house.

MR PETERSEN: The house was definitely not a stone-thrower.

LT VERMEULEN: Ja, and it was shotgun shots that had in fact hit the house.

MR PETERSEN: Okay, thank you.

MS BURTON: I just note that my colleague has returned, Pumla do you want to come back. Mr Holmes.

MR HOLMES: Lieutenant on the scene you jumped out of the crate, if you put yourself in the position in the crate, if you look in this office how far would the crowd have been from us in this office?

LT VERMEULEN: I have already answered and I think we've said to one another already that from the vehicle immediately next to the vehicle to against the houses the crowd was all over.

MR HOLMES: Could you tell me roughly where would the first person have been?

LT VERMEULEN: As I have already said this vehicle was surrounded by people. We were entirely surrounded by a crowd.

I don't want to tell you that they were two metres or five or twelve metres away, we were surrounded by people.

MR HOLMES: You must have been able to see, you stand up from the crate and you see there someone is standing, how close would the closest person have been?

LT VERMEULEN: I will repeat that we were surrounded by people. There were not people at some distance from us, we were surrounded by people. There were people all around us.

MR HOLMES: Lieutenant you say that your purpose had been to arrest people?

LT VERMEULEN: Yes.

MR HOLMES: You say that the reason why you fired on persons was to ward off an attack?

LT VERMEULEN: That is correct.

MR HOLMES: Why then did you fire directly at them to ward off the attack? Why would you not have been able, for instance, to fire at their feet?

LT VERMEULEN: You are Mr Holmes is that correct?

MR HOLMES: That is correct.

LT VERMEULEN: I've already said earlier today to you that I fired in the direction of the people throwing stones with the intention of bringing the attack to an end.

MR HOLMES: You said that your purpose was to arrest people, if you fired at people's feet you would have done less damage to these persons. Maybe these people would not have been killed.

LT VERMEULEN: I said to you earlier today, to this Commission, that I fired in the direction of the crowd. I have not said to anyone that I aimed at their heads or their legs or their arms or their feet. I fired in the direction of the crowd.

MR HOLMES: So you cannot recall whether you fired directly at them or into the air or into the ground or what?

LT VERMEULEN: No.

MR HOLMES: You cannot recall?

LT VERMEULEN: No.

CHAIRPERSON: Mr Petersen.

MR PETERSEN: I want to return to your statement, and in your statement you mention in the paragraph immediately prior to the one handled a moment ago that,

"The group of youth of between 150 to 200 persons immediately dispersed when we began to fire on them".

this would indicate that the moment you began firing the people started running away, however, you fired 39 rounds on these youth.

LT VERMEULEN: I have already said to you that I fired seven rounds.

MR PETERSEN: And the other members under your command were under command to fire.

LT VERMEULEN: While I fired on them people continued to throw stones, after I had fired seven rounds they had stopped throwing stones.

MR PETERSEN: Now I really don't understand you. You say in your statement that they immediately dispersed after you began firing on them. There's a difference between one shot and seven shots, between immediately and later.

LT VERMEULEN: I have already said to you that while we were

firing on these people that throw stones on us this is what I've said.

MR PETERSEN: Thank you.

CHAIRPERSON: Advocate Potgieter.

ADV POTGIETER: Thank you Chairlady. Let me just round off that. Mr Vermeulen would you be claiming that Mr Shaun Magmoed would definitely have been the person that you saw throwing stones?

LT VERMEULEN: I have already said so to you, yes.

ADV POTGIETER: Would that have been the person who had been found dead in one of the houses?

LT VERMEULEN: That is the case.

ADV POTGIETER: You have no doubt about this?

LT VERMEULEN: That is the case.

ADV POTGIETER: How did you identify Mr Magmoed?

LT VERMEULEN: In previous testimony I have mentioned that I saw him as a Coloured man, a person of about 22 years in age. It was subsequently stated to me that he was 16 years of age and I have admitted to this. His length was indicated to me, I am 5' 10" and I believe it was mentioned that he was 1.6 or 1.8 metres high. I described him as a person wearing a light green shirt. I have been asked on many occasions what kind of shirt he was wearing and I've said that all I can recall is that it was a light green shirt. I cannot recall the colour of his pants or of his shoes.

ADV POTGIETER: You have indicated that the person with a

green shirt would have been Mr Magmoed?

LT VERMEULEN: The person whom I saw in the crowd was later identified to me as Shaun Magmoed. That would have been the same person as was carried out of the house on my observation.

ADV POTGIETER: Could I ask you to explain the statement which you handed in this morning at these proceedings on page 6 paragraph 14. I will read to you from the second sentence.

"I remember specifically that I also fired at a person with a green shirt who was throwing stones at us. Although I cannot recall whether I in fact hit the person a person with a green shirt whom I believed...."

and that is what I want to emphasise, "believed"

"... was the same person as the person at whom I had fired. This person was subsequently found after the incident dead in the house next door".

And then the final sentence.

"I subsequently discovered that this person was Shaun Magmoed".

What do you mean by your statement that you had "thought or believed" that this was the same person? You are not saying to us that this was definitely, to use the prior terminology, that this was without doubt the same person. You say that you had "believed" that this was the person.

LT VERMEULEN: (The paper of the witness is in front of the microphone and the Interpreter cannot hear it).

ADV POTGIETER: So in other words what you are saying to us is that you are not entirely sure whether this is the same person, you simply thought that this was the same person?

CHAIRPERSON: Mr Vermeulen please could you put your papers or move the mike so that your voice can go to the mike, it's not reaching the Interpreter.

LT VERMEULEN: Sorry.

ADV POTGIETER: So in other words what you are saying here is that you cannot say without doubt that the person with the green shirt that you had seen throwing stones was in fact Mr Shaun Magmoed?

LT VERMEULEN: I believe that this is the same person.

ADV POTGIETER: So you thought that this was the same person? You cannot tell us today that this was definitely the same person?

LT VERMEULEN: It would be very difficult to do so as I have said to you the person whom I saw there that day, that that was Shaun Magmoed, it appeared to me to be the same person that was carried out of the house. I thought in myself that this was the same person.

ADV POTGIETER: I understand that, but that would mean that you cannot say without doubt that it was the same person?

LT VERMEULEN: The person that was carried out of the house I can say to you again looked like the person whom I saw. To link the words "definitely" or "without doubt" to that I would rather say that it is likely that this was the same person. It

appeared to me to be the same person.

ADV POTGIETER: So it's possible that it was not the same person, correct?

LT VERMEULEN: That would be the other side of the coin, yes.

ADV POTGIETER: So the person who was shot and killed might have had nothing to do with throwing the stones?

LT VERMEULEN: As I have said to you I believed that this was the same person, the person referred to as Shaun Magmoed and that would have been the same person, and it would have been the same person that was carried out.

ADV POTGIETER: I realise this. The point that I want to make, and that would appear to be a logical deduction from the situation you are sketching is that Mr Shaun Magmoed might have been someone who was killed innocently and that had nothing to do with the throwing of stones.

LT VERMEULEN: As I have said to you the person at whom I fired, in whose direction I fired and whom we had subsequently referred to as Shaun Magmoed appeared to me to be the same person that was carried out of the house. If that person was Shaun Magmoed then it is the same person.

ADV POTGIETER: So it's possible that it would not be the same person?

LT VERMEULEN: I don't know. It appeared to me to be the same person.

ADV POTGIETER: Let's take it the next step. This is a simple question and I'm going to repeat this to you so that you can

exactly answer to this question. It is therefore possible that Mr Shaun Magmoed would be a person who had nothing to do with the throwing of stones?

LT VERMEULEN: The person on whom I fired, the person that I have described as the person wearing the green shirt was throwing stones, without doubt I saw him throwing stones, if the person that was carried out of the house, if that person was not the same person as the person on whom I fired then it might be someone else. But the person on whom I fired, if that person was Shaun Magmoed, then Shaun Magmoed had thrown stones.

ADV POTGIETER: And if it was a different person then there's the possibility that this was an innocent victim of the shooting, is that correct?

LT VERMEULEN: Then we are not talking about the same person.

ADV POTGIETER: That's right.

LT VERMEULEN: Then this person could ...(intervention)

ADV POTGIETER: Could be an innocent victim.

LT VERMEULEN: That's right, and ...(intervention)

ADV POTGIETER: Thank you.

MR KHOISAN: Okay, just on that particular question and before we go to ...(intervention)

CHAIRPERSON: Sorry, Mr Khoisan, just to get the record straight.

MR KHOISAN: Okay, just on that particular point Lt Vermeulen, are you hearing us, are you with us?

LT VERMEULEN: Apologies I've got the English and the Afrikaans in the two ears, it did not sound that well, but I can hear correctly now.

MR KHOISAN: Okay. Lt Vermeulen we will revisit the scene of the incident, but I just want to branch off quickly on another question, this incident affected your life in the police, very much, right?

LT VERMEULEN: That is correct.

MR KHOISAN: Would I be correct in saying that at some point in and around 1987 you may have told a person or persons, or you may have spoken to people with regard to how dissatisfied you were about this, about the way things turned out with regards to the incident? Shall I rephrase that?

LT VERMEULEN: If you will rephrase it please.

MR KHOISAN: Okay. Did you discuss the fact that this incident affected you and your life in the Police Force with anyone?

LT VERMEULEN: If you will allow me could you explain to me in what sense, because certainly it affected my life also in the Police. Briefly or shortly thereafter, if I recall correctly in January of 1986, I asked to be transferred to another branch of the service, if that is your question then, yes, it influenced my life in the police service.

MR KHOISAN: Okay. Shall I be correct in saying that it is the fall out of the Trojan Horse incident which prompted your move from the original task force to National Intelligence, or

to the Intelligence structure?

LT VERMEULEN: No, I left the regional task force and I went to crime prevention on the mobile unit, the previous mobile unit, crime prevention on the normal passenger service. I did not go to any intelligence service. Subsequently I was promoted to Captain. I acted as station commander, or acting station commander in a number of police stations. And in the year of 1990 I was departmentally transferred to the South African Defence Force.

MR KHOISAN: Okay. And in the South African Defence Force you worked in an intelligence division or not, I am just trying to clarify some issue to get it out of the way.

LT VERMEULEN: I was in a unit, the name of the unit was counter-intelligence. This was a unit that was responsible for internal investigations.

MR KHOISAN: Okay, so you were part of counter-intelligence at one point?

LT VERMEULEN: That is correct.

MR KHOISAN: Okay. Now just back to the incident. Immediately after the incident Lt Vermeulen did you receive a call from any senior officer or any senior member of the government to congratulate you on a job well done? And I will remind you that you are under oath.

LT VERMEULEN: I cannot recall with regard to this particular incident that I had been congratulated by any person of a higher rank than myself. I can, however, recall an incident

where the previous Minister Vlok, when I became a captain, wrote me a letter in which he congratulated me with my advancement to the level of captain but this did not refer to this particular incident.

MR KHOISAN: And you are aware that Minister Vlok was very well aware of the Trojan Horse incident?

LT VERMEULEN: I would not know whether he was aware of this or not.

MR KHOISAN: How was he aware of you, you were - I mean was he aware of you through your superiors? I mean after all you were a lieutenant, I mean there are hundreds of lieutenants all around the place and some of them you know doing lots of little jobs for which they could be commended. I mean the Minister must have caught your eye, you must have done something to make the Minister catch your eye.

LT VERMEULEN: I, if I can recall correctly, received the congratulations shortly after my birthday in the year of 1989 when I became a captain. The last part, the latter part of the year I served at Politsi at a base during the Christmas season, Minister Vlok, General Colyn, Colonel de la Rosa were on regular base visits. I don't know whether at that time, this is now Christmas and my birthday and despite all of this I am on duty, that might have been a reason for him - this was simply a photocopied form. He probably sent it to all of his officers. I did not consider this to be something exceptional or personally intended for me. That is all that I could

imagine might be the case.

MR KHOISAN: Now Lt Vermeulen, and just to put it on the record you know, the Trojan Horse incident was part of a national and an international discussion and given the immense publicity throughout the world it had placed a lot of pressure on the government, would I be correct in saying that at some point you felt - shall I rephrase that. Did you at any point feel, after this incident, that the senior officers of the Police and the government officials who were responsible for the policy that was being carried out by the Police had left you to carry the bag for this incident?

LT VERMEULEN: No I would not say that. After this incident, as I have already said to you, I was advanced to a captain at the age of 29 years, I would not say that I was put in the back of the cupboard and left in the dark.

MR KHOISAN: But were you concerned about the way things turned out with regard to Trojan Horse, because the Trojan Horse incident was not something that was a sort of a feather in the cap of the police force, it was a black eye wasn't it?

LT VERMEULEN: With all respect to you Sir I do not know whether I am able to answer you. If I were to say that the wider Police Force experienced pressure, whether in this country or internationally or by means of the media or whatever, I don't consider myself to be in a position where I can offer testimony of the effect of that on the Police Force. I do not believe that I personally was either privileged or

disadvantaged because of this incident.

MR KHOISAN: So what did Major Loedolf tell you immediately after the incident?

LT VERMEULEN: I returned to the caravan and I don't think that I discussed the incident with Major Loedolf.

MR KHOISAN: When did you discuss this incident with him because he was your superior officer and people had been killed and people had been injured and this was going to be one mess, so when did you discuss it with your superior officer? Because he sent you out and your operation resulted in the death of three people and injuries to untold numbers. So when did you discuss this thing with him, how long after the operation?

LT VERMEULEN: If you will allow me a moment I will respond to your question shortly. If you page to the Log Stat of that particular day there would be an entry at 16H58, under correction, if I recall C1 therefore would have been the command centre,

"C1 was informed of the incident briefly and requested to provide ambulance...."

and then illegible note,

"...Reinforcements to the scene..."

and it was mentioned that a certain number of persons were arrested. C1 was the point at which Major Loedolf was on duty, that was the caravan at the command centre.

I would not know which of the gentlemen here present would

have been police officials previously, but I believe anyone who is a Police officer would know that a radio message is sent through, you repeat what you've received, the log is kept on both sides and at the end of the day the log which you gave would have to be the same as the log at the receiving end. Major Loedolf, in my view, was at that time informed by radio of all of the events, I saw no necessity of discussing this with him since he was already au fait with the situation.

MR KHOISAN: So at what time, and when did you discuss it with him over the radio?

LT VERMEULEN: I did not discuss this with him over the radio.

Sgt Sayer was the notary of the group. If I recall correctly I believe that he would have been standing right next to me on the video where the details that he was writing down as notary, that it was given through to the Command Centre.

MR KHOISAN: You know I cannot understand this, I really cannot understand this Lieutenant, because here is an operation which is an unusual operation from which Dr Ramashala has already extracted from you the fact that you admit that this was an unusual operation, that it was planned, that you were called out to carry out an operation that wasn't normally done by the special task force of the Railway Police. There were other branches of the Police Force that were part of your grouping, especially Frank van Niekerk who was part of the then riot squad, which is a different command than yours, and other people who were not necessarily part of the South African

Railway Police, so you had to go back and report that this special mission that he sent you on had botched up.

So when did you discuss this with him? You cannot come to this Commission and come and say that this thing was never discussed because there was an immense outcry. You went there to stop unrest and in fact you inflamed the whole Western Cape, the whole country went mad about this incident. So when did you discuss this with Major Loedolf? Because he tasked you to do a job and that job ended in the death of three people and injuries to 15 others and a court case and a whole lot of other stuff. So at some point you must have discussed this matter with him and when did you do that? When did you discuss this with Major Loedolf?

LT VERMEULEN: If I can understand the Interpreter's words, which I believe was yours in English then I surely must at some stage have discussed the matter with Major Loedolf and I would agree with you that probably I would have discussed that with Major Loedolf even if only during some of the court cases. On that particular day I did not discuss the incident with him. I was present when the details were given through to him. He was at the control point in the caravan where the transmitter is situated, where the logs are noted down. I then went to Athlone. I cannot recall having discussed the matter with him on that day.

MR KHOISAN: Now just to say this, that if you had just gone and done an operation which resulted in the killing of three

people and injuries to 15 other people, didn't you have a worry or a concern that this could result in some legal problem for you?

LT VERMEULEN: Would your question to me be whether I was concerned that there would be legal consequences for me from this incident?

MR KHOISAN: Yes.

LT VERMEULEN: No I was not concerned over this.

MR KHOISAN: Could it have been that the reason why you were not concerned is because you had the support of Major Loedolf?

LT VERMEULEN: No I would not say that.

MR KHOISAN: Did Major Loedolf ever express support for you and your men in case a legal problem erupted?

LT VERMEULEN: I do not believe that Major Loedolf would have been in a position to offer me support should there have been legal action as a consequence. I don't understand what the import of the question might be. I cannot think if anything that he might have specially - what special support he could have called on with regard to the outcome of legal action. He is a mere major although he is a senior officer in the police force, I cannot think of any action he could have taken in this regard.

MR KHOISAN: Now with regard to the issue of what you had just done, for instance if there was an order that was enforced at that time from a senior member of the Joint Security Staff that before you use AAA and no.1 that you had to use other methods,

wouldn't it be that you would be in trouble for going directly to AAA and no.1 in an incident?

LT VERMEULEN: This was an instruction I had received from my commanding officer and I don't think the senior officer had ever denied that he had given this instruction. I believe he is sufficiently senior that should he have given such an instruction he would be able to explain why he had given such an instruction. Also with reference to any documentation that might have existed I believe that this person, or such a person, in this case Major Loedolf, would have been able to explain his actions.

MR KHOISAN: Okay. So what you are just saying is that you have just been responsible for the deaths of three people, injuries to 15 people, somebody's house had just been shot up, somebody's door had just been tramped open, so wouldn't that be a great concern to you and wouldn't you discuss that with your senior officer? I mean three dead people on a scene, 15 injured and a helluva mess.

LT VERMEULEN: The details of this incident up to and including the arrest of the last person arrested on the scene, all of these details were given to the Command Centre. The person who had given the instruction was on duty at the Command Centre, 17H35, complete situation report to C1. C1 is the Command Centre. At 20H01 situation report per item 44, and that would be with regard to the persons arrested. Provided to C1 telephonically. The person who noted the log would have

written that down there. This person would have been physically present at the Command Centre where these radio messages would have been received, all of the details would have been received, the log would have been kept. Later that evening once the names of the persons arrested had been made known then the person noting down the log would have been informed telephonically of that. It is my opinion that Major Loedolf would have borne full knowledge of all the detail of the incident.

MR KHOISAN: But Major Loedolf had just sent you out on a special mission, and because of the fact that that mission had gone wrong all hell was going to break loose as it did in the Western Cape. So you are trying to tell me that you did not go back and talk to him about that? He gave you a special mission, it's not something that you do on an ordinary day. He told you take a "spook voertuig" go over there, get in crates, go and - and you ended up killing three people and 15 people injured in the operation, you mean you didn't go back and tell him that look here the thing really went wrong, not at all?

LT VERMEULEN: As I have said to you shortly before now he was present in the caravan. All of the radio messages given back to the radio room was given through to the senior officers present no matter how insignificant a detail, he had all of these details available and there was no necessity for me to go and discuss it with him.

MR KHOISAN: Did he tell you, look Lieutenant what happened

over there in Thornton Road, did he approach you? I am not talking about you approaching him. He is your senior officer, it was his mission because he's the commander of the Joint Operational Centre, did he call you in and ask you what the hell happened in Athlone? What happened in Athlone? Did he ask you "wat het daar gebeur"?

LT VERMEULEN: I cannot recall that he has asked me that. In my opinion he had all the information since he was present when the radio messages were received.

MR KHOISAN: You know I feel like I am getting nowhere with this, but I will say this, and I will ask you this one more time, under oath, did you ever receive a call commending you on a job well done from any senior police officer or member of the force or any government official in respect of the Trojan Horse incident?

LT VERMEULEN: I cannot recall any such government official or senior police force official or senior officer or anyone that phoned me to congratulate me in this regard. I can recall no such telephone call.

MR KHOISAN: But you cannot say that it didn't happen?

LT VERMEULEN: I think I would have recalled such an event. I cannot imagine that I - I have never had such a phone call so if I had had such a phone call I would have remembered it surely.

CHAIRPERSON: Mr Muller, and then I think we must try and draw the questions to a close.

MR MULLER: Lt Vermeulen in our first session you have noted to the panel that AAA is lethal or if AA (as the speaker stated) was fired from a short distance it would be lethal, I just want you to keep that in mind. Coming back to the standing procedures on the use of classified ammunition, no.9, no, 8 and no.7 that is birdshot classified under official documentation, your official documentation as policemen at that time, coming back to AAA no.1, SSG and SG it's regarded as sharp ammunition, so according to - am I right to make a conclusion, you've loaded your weapons with AAA and no.1 you went there with the intention of harming the people in that specific area and even causing death, for firstly why a conclusion of any reasonable person can come to that conclusion, because why, you went there with a "spook voertuig", an unmarked vehicle where you were the commanding officer of your fellow subordinates, you shot at those specific people on the ground there. I mean you said it was for the intention of defending the property and lives of your colleagues and the property, I mean shooting with sharp ammunition I mean that will result in the question of death. Do you perhaps have any reasonable explanation? Because what we are trying since this morning's session to get a reasonable explanation from you why that specific force was used.

LT VERMEULEN: Mr Muller I will ask you in the first place, the Interpreter asked me whether you could reformulate the question, he lost you at some point and I also lost everything

that you were asking. The Interpreter must confirm this, it was impossible to follow the argument of Mr Muller. A long statement was made, it had something to do with the classification of ammunition. It had to do with the instruction given and I don't honestly know what your question might be. If you could reformulate it then the Interpreter could tell me. I saw that he also lost you at some point and ja the Interpreter can confirm this. I asked that they ask to reformulate the question I can't follow it.

MR MULLER: Lt Vermeulen why did you load your weapons with deadly ammunition?

LT VERMEULEN: I received an instruction from Major Loedolf that I had to load my firearm with AAA.

MR MULLER: Okay, so you are saying, for the record, that Major Loedolf is the one who gave the order for the weapons to be loaded with AAA and no.1, just for the record?

LT VERMEULEN: That is correct.

MR MULLER: Thank you, no further questions in that regard.

CHAIRPERSON: Mr Petersen are you - I hope nearing an end to your questions?

MR PETERSEN: Lt Vermeulen, Major Loedolf did he tell you on that particular day to use anything other than AAA and birdshot?

CHAIRPERSON: He particularly said to us to load AAA which we did.

MR PETERSEN: Did he tell you to - you were not provisioned

with rubber bullets, you had teargas with you, did he tell you to use teargas or did he only refer to the AAA and birdshot?

LT VERMEULEN: I cannot recall.

MR PETERSEN: You have just said that he gave you the instruction to use AAA and birdshot.

LT VERMEULEN: Yes, and then you asked me with regard to teargas. Your question to me was whether he told me to use teargas and I've said to you that I cannot recall.

MR PETERSEN: So you cannot recall that, you can only recall that he gave you an instruction with regard to the use of birdshot and AAA, is that the case?

LT VERMEULEN: That is the case.

MR PETERSEN: So his instruction to you was that if you were attacked you had to use AAA and birdshot?

LT VERMEULEN: That is the ammunition with which he gave instructions that I had to load my shotgun.

MR PETERSEN: And with which you had to counter an attack?

LT VERMEULEN: That is correct.

MR PETERSEN: So it would not have made any difference what manner of attack it would have been?

LT VERMEULEN: Yes, then we would have warded it off with the ammunition which we were instructed.

MR PETERSEN: So it nothing to do with the size of the crowd, it had only to do with the fact of attack?

LT VERMEULEN: The instruction which he gave me was to load with AAA.

MR PETERSEN: That is what we wanted to know from you. Thank you.

MR KHOISAN: Lt Vermeulen, given the fact that this was a very unusual operation did Major Loedolf at any point discuss with you that the decision to launch this particular operation came from a higher authority?

LT VERMEULEN: Major Loedolf was my direct commanding officer in the Railway Police. He was the representative of the Railway Police at the JOC. I would assume, and I have said this previously, that this decision must probably been a decision of the JOC on that day. As a representative and my commanding officer he would have communicated the decision to me. He did not say to me that this or that person made a decision.

MR KHOISAN: So this particular thing came from a higher authority?

LT VERMEULEN: Yes, from my direct commanding officer.

MR KHOISAN: Did you know that Major Loedolf attended a meeting, maybe on that day or the day before where the unrest situation was discussed?

LT VERMEULEN: No, I did not have information with regard to his movements.

MR KHOISAN: But he didn't tell you that other people had discussed this matter?

LT VERMEULEN: No he did not.

MR KHOISAN: So he just told you "go and take the ghost

vehicle and the crates and put no.1 and AAA in your shotguns and go to Thornton Road"?

LT VERMEULEN: As I have said to you earlier what Major Loedolf's instructions were to me on that day.

MR KHOISAN: Okay, now just to finish up this thing. Given the fact that this was such an unusual operation, given the fact that you were using a "ghost vehicle"; given the fact that any one of a number of things could happen and the moment the operation was finished of course other police forces were - other people, members of the force, SADF and SAP were on the scene did you discuss that situation with anybody on the scene?

The question is very simple, after the thing stopped and Dolf Odendaal and these people arrived did you discuss this matter with them?

LT VERMEULEN: No, I did not discuss the incident with them. If I recall correctly I then left the scene with my members to the South African Police offices at Athlone.

MR KHOISAN: H'n. And just to be very clear about it, you are saying that that sworn affidavit was actually written up and typed up by Smit and that you just signed it, Sergeant Smit, Smith, Sergeant Steyn, for the record Steyn? That he wrote it up and you just signed it?

LT VERMEULEN: It would be E P Steyn. If I recall correctly he typed it himself. I think I've used the word "tradition", it was the practice in the Railway Police that the detective sergeants would type their own statements. I believe that

Sergeant Steyn typed this himself.

MR KHOISAN: Okay. Now then at the bottom of this thing it says,

"I certify that the deponent has acknowledged that he knows and understands the contents of the declaration; that he has no objection to taking the prescribed oath; that he considers the oath to be binding on his conscience. Sworn before me - E P Steyn. Detective Sergeant (with his number) - 19 October 1985".

So when you signed that, when you signed that, the passage as read, did you know at that time that you were signing a statement, by your account had so many faults?

LT VERMEULEN: When I signed that statement I believed that it would have been the best version of the event. Today I have qualified some of its contents and indicated what my intention had been with some words and phrases. But on 19.10.85 this was true version of the events in my view.

MR KHOISAN: And that was the closest, I mean that was the nearest to the truth of the situation because it was four days then. It was four days then, I mean it would have still been fresh in your mind, right?

LT VERMEULEN: Yes, it was four days after the event.

MR KHOISAN: So why did you say that the man was running away, why did you make these things about the - make these statements about the situation, the damage to the vehicle and a number of

things that you have clarified for us, why would you sign? I mean you were a lieutenant in the Police Force, how would you sign a document, a sworn affidavit that has so many faults? You were a lieutenant, I mean you should have been an example to your men who were under you.

So are you saying that you were tired or just didn't have - what is the reason for you signing a sworn affidavit if you are not aware of the fact that it had so many problems?

LT VERMEULEN: I have indicated to you in detail already that at that time I considered this to be a correct statement. If today I had qualified some of its elements it is because I am being honest and forthright with the Commission. I have given an answer that on the 19.10.85 I saw no problems with this. I have given you my answers on questions with regard to the meaning of some phrases.

CHAIRPERSON: Dr Ramashala.

DR RAMASHALA: Lt Vermeulen I don't know if you know or not but I am curious to know how similar your statement is to the rest of the men. Do you have any idea?

LT VERMEULEN: I don't want to make a wild guess but I believe that it would be in a similar vein and would indicate a similar course of incidents. I do not know whether it would be the same paragraph by paragraph, I was not present when the statements were drafted so I would not be able to answer you.

I really cannot assist you on that question.

DR RAMASHALA: But you think they might be similar?

LT VERMEULEN: I do believe that they would be similar. It was an illness or a disease in the police for an investigative officer when there were two witnesses and they were there at the same time they would be drafted in a similar style or the same style. In many investigations that would be the case. So they would probably have the same style if I were to give you my opinion.

DR RAMASHALA: Thank you.

CHAIRPERSON: Mr Muller.

MR MULLER: Lt Vermeulen just to branch away. While you were working in counter-intelligence, I mean probably you gained a lot of experience especially within the military field etc, so coming back, especially looking to the planning of the operation in Thornton Road, according to your knowledge were there any scouts of the Joint Operational Centre on the ground?

LT VERMEULEN: Mr Muller, and all respect to you with regard to your knowledge surrounding counter-intelligence, do not connect some sort of phobia to something which does not exist.

I worked at counter-intelligence at the SADF. I was attached to the Army. I was working on the internal investigative unit which investigated the own members of the Army.

To give you an example. Let us say that you are in a sensitive position, however you have an alcohol problem to such an extent that it might be to the disadvantage of the Army, then it would have been my responsibility to generate the information in the form of a statement to collect the

information, as you would do your investigations in this investigative unit, and to report this to a higher position. This is nothing sinister. I did not gain additional information with regard to scouting efforts. That is the task of the counter-intelligence investigative unit where I served.

MR MULLER: Excuse me Lt Vermeulen perhaps you are understanding me wrong. I asked you specifically, at the Joint Operational Centre were there any scouts, "in an intelligence sense" would there have been any scouts on the ground in Thornton Road at the time of the operation?

LT VERMEULEN: I would not know, you would have to ask the SADF. Today it is the first comment that anyone makes towards me with regard to that. I have not imagined(?) this up yet so I would not know.

MR MULLER: Thank you Lieutenant.

CHAIRPERSON: Mr Vermeulen thank you very much. We have put you through a long day. I did have some questions that I would have liked to ask myself but I think we will have another opportunity later this week so perhaps I will keep them for that.

I do think that I would like to say though, what I also say in public, that it is part of our task to try and reach the truth and hence of course the many questionings and investigations that we undertake. It is also my belief that it is part of our task to try and understand what is in the heads of the different sections of our population during the years of

conflict, and for me trying to understand what prompted this action is important. It was so different from the things, for instance, that you had been doing earlier in the day, different from other actions, I find it hard not to think of it really as being a response to the incidents that had been taking place in the previous weeks, of attacks on civilian delivery vehicles by stone-throwing in many parts of the Peninsula, and that there was, as you have said, this inability of the Police to be on the spot when such a thing happened, and therefore to be able to effect arrests. So I cannot help looking at this incident as a kind of bait, to catch people. And I think that perhaps in a way we need to agree that that was what was happening.

But then how do the people who are being used in that way feel in such an operation that is quite different from a normal police operation? Those are the things that I am grappling with really, to understand how the people who made the decisions, made that decision, and how the people who were used to carry them out feel about that work. And whether at the end of the day people say well now the operation was a success because in some way we dealt with people who were part of the unrest, or was it a failure because something went wrong in it and people got killed when we hadn't intended. For my part I haven't reached that answer in my own head. I think that that is part of what the Commission is trying to do, to try and understand what it was that all the different parties in the

conflict were trying to achieve.

I think today we've done a little bit of that work and I guess there is more of it still to come, but thank you for your part in it today, and for assisting us to the best of your ability. Thank you. Thank you Mr van Zyl.

ADV VAN ZYL: Thank you Chairperson.

LT VERMEULEN: Thank you Chairperson.
