"I don't want to argue the point": Evasive answers during cross-examination in the Oscar Pistorius Trial

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1. Introduction

Evading a question is a universally known phenomenon that is usually linked with politicians. However, politicians are not the only ones sidestepping questions, this evasiveness also occurs for example in taboo conversations, between friends, at work or in the courtroom.

The main purpose of this investigation will be to detect what different strategies are used when people try to sidestep questions. This purpose could only be achieved if there was enough useful data, namely evasive answers, available. Although, it would be interesting to investigate for example evasiveness between friends or at work, this investigation asked for a setting that consisted primarily of questions and answers. Secondly, this investigation needs a setting were evasiveness is likely to appear. The courtroom setting was therefore a well-considered choice, because this setting consists of different opponents such as judge-lawyer,
judge-defendant, defendant-lawyer but also, and maybe most important, between guilty and not guilty. The latter opposition causes much tension between the participants and it is this tension, in its turn, that causes evasiveness.

In contrast with what would be a psychological approach, this investigation is not interested in the reason behind the evasiveness, but it is interested in how this evasiveness manifests itself in the language use and how it affects the conversation.

The purpose of this thesis is triple: 1. to collect the non-answers in the Oscar Pistorius trial and categorize them, 2. to explore the impact of the evasive answer on the interrogation, for example does the evasive move triggers a sanction or does Pistorius succeed in ignoring the question without eventually being urged to answer, 3. to detect which category is represented most in the data and whether there is a relation between the frequently use of a specific category and the effectiveness of it.

The body of this thesis contains four main chapters. The first chapter will provide a theoretical background by focusing on previous work which is relevant for this analysis and this section will also define some key terminology relating to the analysis. The second chapter will provide a contextual background by supplying general information about the trial and by defining some key terminology characteristic for the South-African legal language. The third chapter will discuss some methodological issues. In the final chapter there will be a step by step analysis of the gathered data in order to detect the different evasive strategies and count how many times they occur.
CHAPTER I : THEORETICAL FRAMEWORK

This chapter will provide a general overview of previous research relating to questions/answers, courtroom discourse and evasiveness. The works of Harris (1991), Clayman (1993), Muntigl and Choi (2010), Drew (1992), Ehrlich and Sidnell (2006) are especially relevant for this investigation, since they introduce different 'evasive moves'. However, each of these works deal with only one move or only slightly with the subject of evasiveness. The purpose of this theoretical framework therefore is to collect previous findings in this matter and add some new findings or remarks where needed. Afterwards, these theoretical findings will be used when analysing the data drawn from the Oscar Pistorius trial.

1.1 Previous Research

There is a wide collection of research that deals with questions. Researchers already investigated questions relating to their syntax and semantics (Karttunen, 1977; Engdahl, 1986; Hintikka, 1976), their functions (Freed and Ehrlich, 2009), or investigated questions in interaction (De Ruiter, Jan-Peter, 2012). Furthermore question-answer sequences have been explored (Van Hekken and Wim Roelofsen, 1982) also in a courtroom setting (Berk-Seligson, 1999). Although these works provide some interesting ideas about question analysis, a detailed discussion of these works is beyond the scope of this dissertation. This investigation deals only slightly with questions and focuses more on the answers, more in particular on the non-answers.

Also courtroom discourse has been an topic of study for many researchers for example a lot of research has been done considering legal language (Charrow, 1979; Tiersma, 1999; Cotteril, 2004; Danet, 1985; Mertz, 1994). In addition, researchers have been interested in interpreting issues in the court (Hale, 2004; Morris, 1995; Berk-Seligson, 1991 & 2012). And also the field of forensic linguistics has been explored (Coulthard & Johnson, 2007; Olsson & Luchjenbroers, 2013). Moreover, Cotterill's work contains a linguistic analysis of the O.J. Simpson trial (2003) and questions in courtroom discourse are investigated by for example by Philips (1984). Power relations in court are explored by Stivers & Hayashi (2010) and Ehrlich & Sidnell (2006), there will be a short introduction to their works in the follow paragraph because their works provide useful background information for this research.
Power relations in court.

Because of the conversational framework of lawyers asking questions and defendants/witnesses answering these questions there is "little opportunity for the answerer to initiate talk" (Ehrlich & Sidnell, 656). During cross-examination the prosecutor not only controls the frame of the conversation as who may speak when, he or she also controls the content for example by asking the defendant to agree or disagree with some statement. The only person who has more power at that particular instance is the judge, who will only interfere when necessary. As Stivers and Hayashi argue: "Asking a question places significant constraints on what the recipient does next, and in this way places the questioner in an interactionally powerful position." (Stivers & Hayashi, 1) By not answering (part of) a question the defendant or witness is able to undermine that power. Or as Stivers and Hayashi claim the recipient "can and sometimes do resist these constraints" (Stivers and Hayashi, 2). Hence, the courtroom is a framework with dense power relations. Although, this research does not investigate power relations in courtroom interaction it should be taken into account that power relations have an important influence on the interaction, and thus also on this data.

As far as evasiveness is concerned this phenomenon is already been investigated by many researchers (see below). However, the findings of this previous research is more or less spread over different research areas, such as conversational analysis and critical discourse analysis in the field of linguistics but also psychological approaches (Himmelfarb, Samuel and Edgell, Stephen E. (1980); Forgas, Joseph P. and Cromer Michelle (2004)). Not only is the phenomenon investigated in different disciplines there are even different contexts within each research area, for example in linguistics evasiveness has been investigated in two major contexts a political context (Harris, 1991) and in a courtroom setting (Beach and Metzger (1997); Drew, (1992)). The following paragraphs will discuss some of the previous research in these both contexts because they present some interesting ideas that are also useful for this investigation.

To start the works of Harris (1991) and Clayman (1993) introduce some interesting ideas for this research, even if the context in which they did they research differs from the context of this thesis.

Harris, for example investigates the aspect of evasiveness in the context of politics. In 'Evasive Action: How politicians respond to questions in Political Interviews' Sandra Harris
applied a quantitative analysis of evasiveness when she investigated the answers of politicians in interviews. She wanted to test whether or not politicians did "fail to answer interviewer's questions" (Harris, 76) Before she started her quantitative analysis she designed a "coding framework" (Harris, 76) that "classifies 'responses' (whatever follows a question) into three broad categories, each one sub-divided again" (Harris, 76). This "coding framework" (Harris, 76) enables her to measure evasiveness as can be inferred from the following figure:

Figure 5.1

Answer  Direct answer containing explicitly expressed 'yes' or 'no', 'of course' 'right', etc. or 'copy' type answer involving deletion or the selection of a disjunct.

Direct answer which supplies value for a missing variable in response to a 'wh' question.

Indirect answer which involves inference (either selection of some intermediate position between 'yes' or 'no' or either 'yes' or 'no' can be inferred from the answer), or a value for a missing variable can be inferred.

Indirect answer from which neither 'yes' nor 'no' can be inferred or a value for a missing variable but which maintains cohesion, topic coherence, presuppositional framework and illocutionary coherence.

Challenges of one or more of the presuppositions of a question.

Evasion  Challenges of the illocutionary force of a question.

(Harris, 87)

The three categories separated by Harris are direct answers, indirect answers and challenges. The challenges are at the bottom of the scale which means that she considers this category as evasive answers. Later on this category will be further discussed, since the category is also relevant for this study.

In addition, Steven Clayman investigated evasiveness in a political context. In 'Reformulating the question: A device for answering/not answering questions in news interviews and press conferences' Steven Clayman focuses on "one particular response practice which (he) is calling 'reformulating the question'"(161). This kind of response may sometimes contribute to a better understanding of the question and the answer one is about to give as Clayman says
that: "this way of responding sometimes functions innocuously to indicate how a complex question will initially be dealt with"(161). However, he further states that: "it may also enable a public figure to sidestep or avoid some aspect of the question"(161). When the latter is the case, it can be considered as an evasive move. Thus, so far two evasive moves are introduced already, the first one by Harris, namely a 'challenge' the second one by Clayman, namely 'reformulating' the question.

In 'Not remembering as a practical epistemic resource in couples therapy' Muntigl and Choi investigate what impact people's 'memory', and more specific the communication of remembering/not remembering something, has on the ongoing interaction (Muntigl & Choi, 2010). The idea that "displays of not remembering is to index an avoidance or resistance of conforming the therapeutic agenda" (Muntigl & Choi, 331) is in particular interesting here because it indicates 'not remembering' can be a way to resist. In their article they investigate how "not remembering works to resist various accountability an rhetorical issues" (Muntigl & Choi, 345). Here, 'not remembering' will be considered as one of the evasive categories and will be labelled as the black-out strategy. The category will be discussed in more detail below.

Other investigations considering 'not remembering' as a evasive strategy are for example Coulter (1985) and Drew (1985 & 1992).

Finally, evasiveness is been investigated in a courtroom setting, inter alia, by Beach and Metzger. In 'Preserving Alternative Versions: Interactional Techniques for Organizing Courtroom Cross-Examinations' Beach and Metzger state that "Speakers may claim insufficient knowledge via 'I don't know and 'I don't remember' to combat alternative versions of reality"(749). The response set 'I don't know' and 'I don't remember' is also analysed by Drew (1992) . In 'Contested Evidence in Cross-Examination' he focuses on witnesses' responses during cross-examination and one of his findings is that: "Not knowing/remembering can therefore be an object conveniently used to avoid confirming potentially damaging or discrediting information" (Drew, 481). It is indeed a fact that one has to be careful about what to say during cross-examination because if an answer can be interpreted in different ways this can be damaging for one's version, since the prosecution will always chose the interpretation that proves their opponents untruthfulness or guilt.

Drew (1992: 481) gives the example of a women who witnesses during a rape trial. She was the victim of the rape and the defendant's attorney asks her if the defendant "did ask her to go out with him"(Drew, 481). Drew (1192: 481) states that her response is 'I don't remember'
because she is "anticipating that what she is being asked to confirm will turn out to be prejudicial to her story and the prosecution's case" (481).

To a certain extent also Stivers and Hayashi deal with evasiveness. They investigated how people resist yes-no question's constraints, more in particular they analysed "transformative answers" (Stivers & Hayashi, 2010). They define a transformative answer as follows: "with a transformative answer the question recipient (dis)confirms a somewhat different question than was originally posed" (Stivers & Hayashi, 2). The article shows that there are two kinds of transformative answers: question's turn design and agenda transformation. (Stivers & Hayashi, 7) The former type of transformative answer include the transformation of "lexical, syntactic or morphological components of a turn" (Stivers & Hayashi, 7), the latter type of transformative answer changes for example the "focus, bias or presupposition" (Stivers & Hayashi, 7) of a question. According to Stivers and Hayashi "many of the evasive answers we associate with news interviews and courtrooms are of this [second] variety" (13).

The first 'subcategory' of agenda transformation is the 'change in focus'. Stivers and Hayashi explain that the focus of the question is changed for example when respondents only reply to part of the question (Paraphrase, 13). The second subcategory involves "bias transformation" (Stivers & Hayashi, 17); the article gives the following example:

(17) JAPN6228

1 JUN: .hh a nani jaa sannoze: kara da to rino tte chikai no ka na:.  
   oh what then San.Jose from CP if Reno QT close FP Q FP  
   ‘.hh Oh, so is Reno close from San Jose?’

2 (0.4)

3 KAN: → kuruma de rino da to:, go jikan gurai.  
   car by Reno CP if 5 hour about  
   ‘It’s about 5 hours by car.’

4 (0.6)

5 JUN: a sonna mon de iku n da.  
   oh such thing in go N CP  
   ‘Oh it’s just that.’

(Stivers & Hayashi, 17)
The question "requests confirmation of a relative evaluation" (Stivers & Hayashi, 17), namely 'is Reno close' the answer contains an absolute measure 'about 5 hours' (17). Similar question-answer sequences can occur with measurements of "distance, age temperature, and so on" (Stivers & Hayashi, 17).

The final subcategory changes one or more presuppositions of the question, this subcategory is therefore somewhat similar to a kind of challenge move. Argumentation is therefore always needed before placing an utterance into one of these two categories.

Also Drew deals with a kind of "transformative answer" when he discusses what he calls "alternative descriptions" (1992).

In 'I think that's not an assumption you ought to make' : Challenging presuppositions in inquiry testimony', Susan Erlich and Jack Sidnell investigate how Michael Harris resists the constraints of questions that were asked him. They state that lawyers "attempt to control and restrict his responses" (Ehrlich, Sidnell, 655). Their conclusion was that Michael Harris could escape most of these restrictions because he was not pressed to give 'type conforming' answers (674). Furthermore, they detected that Harris escaped the questions' constraints by "addressing some presuppositions of the question directly" (674), sometimes he 'challenges' the presuppositions sometimes his 'answer' is a disguised transformation of a presupposition into something less damaging (paraphrase, 674). The work of Erlich and Sidnell is interesting because it supports Sandra Harris' theory of 'challenges'.

1.2 Public figures

Steven Clayman indicates that: "Public figures are closely scrutinized when they are dealing with members of the press" (Clayman, 160) and furthermore that this scrutiny "continues when news writers select excerpts from interviews and press conferences to construct sound bites on the nightly news and quotation sequences in print" (Clayman, 160).

Considering Pistorius' case this tendency for scrutiny is present as well because he is a well-known athlete. Every step of the process was covered by the mass media with different sources bringing news about what Pistorius' evidence was, illustrated with sensational quotes. Afterward, those quotes became a discussion topic on the internet, where the public shared their ideas about the events, about what he said and about the manner in which he said it. But
also within the courtroom setting, he has been scrutinized by the prosecutor, who noticed everything. Not only did he decide whether Pistorius’ answer is acceptable or not he also scrutinized how this answer was formulated, e.g. in what tone it was said and if there was any hesitation in his answer. If he answers too slow that can be interpreted as if he is inventing something but if he is answering too fast that can be interpreted as 'rehearsed'. Even his body language is closely examined when for example prosecutor Nel asks what is wrong with Pistorius’ eyes after Pistorius was rubbing his eyes before answering.

When investigating Pistorius' responses it should be taken into account that the fact he is being scrutinized may influence his behaviour and his responses as Van Dijk argues: "Conversely, whatever defendants, in their inherent position of subordination, may say, it 'may be used against them,' which places a special burden on their talk." (Van Dijk, 38)

1.3 Discourse analysis

The discourse analyst does not stop reading after one sentence, he carries on because he is in particular interested in the relations between sequences of sentences or even sequences of texts. It is his attempt to investigate how these sentences or texts 'interact' with each other. Because sentences, sometimes even texts are intertwined with one another as the ideas introduced in one sentence or text may be elaborated in another. Because the discourse analyst is in particular interested in those ideas 'behind' the language he is, in fact, obliged to look at larger parts of text as Tannen indicates in the first and final sentence of following quote.

Discourse analysis is sometimes defined as the analysis of language 'beyond the sentence'. This contrasts with types of analysis more typical of modern linguistics, which are chiefly concerned with the study of grammar: the study of smaller bits of language, such as sounds (phonetics and phonology), parts of words (morphology), meaning (semantics), and the order of words in sentences (syntax). Discourse analysts study larger chunks of language as they flow together. (Tannen, 1)

This quote further indicates the differences between the work of a discourse analyst and other researchers in the field of linguistics.
1.4 Critical Discourse Analysis

Fairclough provides the following 'definition' for Critical Discourse Analysis:

The starting point for CDA is social issues and problems. It analyses texts and interactions, and indeed any type of semiotic material (written texts, television programmes, advertisements on billboards, etc.) but it does not begin with texts and interactions; it begins with the issues which preoccupy sociologist, or political scientists, or educationalists.

(Fairclough, 229)

The starting point for this dissertation is the problematic theme of 'evading questions', the main purpose is to explore how this evasion manifests itself in the language. This investigation is not interested in the reason behind this evasiveness, nor does it attempt to detect whether or not the defendant is lying for example when he is responding with 'I don't know' or 'I don't remember'. The goal of this dissertation is to detect the possible ways in which a defendant can be considered as evasive. Furthermore, this investigation wants to discover what impact these evasive ways have on the interrogation. The data is merely used as a tool for investigation the phenomenon of evasiveness, it is not itself a starting point for this research. Therefore, it was opted to use the critical discourse method.

1.5 Evasiveness

First, it is useful to determine what evasiveness is. According to the Oxford dictionary evasive means "tending to avoid commitment or self-revelation, especially by responding only indirectly" (Oxford Dictionary) or "Directed towards avoidance or escape" (Oxford Dictionary) The Cambridge dictionary defines evasive as "answering questions in a way that is not direct or clear, especially because you do not want to give an honest answer" (Cambridge Dictionary). Comparing both dictionaries the ideas 'indirectly' and 'avoidance' emerge from the definitions. Both explanations also imply a certain kind of 'hiding' as can be inferred from the words "avoid self-revelation"(Oxford Dictionary) and "because you do not want to give an honest answer" (Cambridge Dictionary).
However not all questions that stay unanswered are trying to hide something (when you ask someone what time it is and they do not have a watch and therefore say ‘I don’t know’ that cannot really count as evasive or avoidance but still it is not an answer to the question. Because the cross-examination that was analysed exclusively contains questions about what happened the night of the killing and all the questions posed by the prosecutor to Pistorius are about Pistorius' own version Pistorius is considered to be informed enough to answer the questions, and thus considered evasive to the questions he does not answer.

Bhatia states that: "Evasion is control, or what Holly (1989: 122) calls ‘non-communication’ of content; it is not simply confined to what one says (or does not say), but also how one says it." (Bhatia, 2006) Evasion and control is indeed intertwined with one another, in the courtroom setting, for example, the prosecutor is in control of the conversation because he selects the "topical agenda's" (source) of the questions by dodging the questions the defendant in fact rejects that power. Moreover, by avoiding these questions the defendant is able to take over some of the control. When the prosecutor senses he is losing control of the situation he may opt to sanction the defendant by indicating that he does not have the right to avoid the questions.

1.6 Evasive Moves

In Denying Racism: Elite Discourse and Racism Van Dijk enumerates different "semantic moves"(Van Dijk,1993) people apply when they utter opaque discriminating or racist language. However, when searching the literature about question and answer sequences in the courtroom setting and about evasive language as well no similar categories can be found in the field of ‘evasive answers'. Except for Harris' "challenges" (1991) and Clayman's "Reformulating the question" (1993) there are no clear categories in which the different kinds of evasive answers can be divided. From this investigation eight different categories emerged, the categories will be labelled as evasive "moves"(Van Dijk, 1993) following the work of Van Dijk.

Before discussing the different evasive moves the following should be taken into account. By referring to the different kinds of evasive answers as 'moves' it may appear like stating that all evasiveness is done conscious and that there is the presence of an unwillingness to answer.
However, as stated before, this is not always the case, evasiveness may appear unconsciously or may have well-founded reasons to appear.

1.6.1 Refusal Move

Perhaps one of the most clear-cut evasive strategies is the refusal move. When applying this move speaker B indicates literary that he does not want to answer the question. A well-known example of this move is the line 'no comment' that is often used by politicians, another example is the utterance 'I don't want to talk about it' that often appears when people being questioned about sensitive topics.

1.6.2 Challenge Move

According to Harris there are two different kind of challenges. The first kind of challenges are "responses that challenge one or more presuppositions of a question"(Harris, 85). These kind of challenges usually correct part of the question asked without given an answer to it. In 'Evasive Action: How Politicians Respond to Questions in Political Interviews' Harris gives the following example:

I. are you saying Neil that the uh nightmare or the Labour nightmare - if you like- of Britain becoming a sort of land-based aircraft carrier - for want of another word - are you saying this has at last come true

Pol. it isn't a Labour nightmare (Harris, 85-86)

Harris' example illustrates how the politician challenges the question of the interviewer by correcting part of his question, namely 'labour nightmare'. Furthermore, the politician does not answer the question not even his own corrected version of it.

The second kind of challenges are "responses that challenge the illocutionary force of a question"(Harris,86). Harris gives the following two examples:

I. and what proportion of them [the unemployed] supposing they all did [get on their bikes and look for work] - what proportion of them would find work

Pol. I cannot tell you - and you know that in asking the question (Harris, 86)
This example indicates how the politicians challenges the interviewer by saying the interviewer must know that he is asking a question the politician cannot answer. By doing this the politician states that the interviewer himself is to blame that the question stays unanswered. It is remarkable however that the politician does not give reason why he could not answer the question.

The second example is the following:

I. when you say it's the legitimate point of view - is it also your own point of view

    Pol. well whether it is my point of view or not is not material (Harris, 86)

In this example the challenge is not that the question cannot be answered, here the challenge is that the question is irrelevant. This kind of challenge does appear a few times in the data analysed in this thesis. From these two examples it can be inferred that there are different challenges possible. This category is therefore more flexible than the other categories were there is less variety in the answers. The expectation for this move is that it will be of an average use and occur more frequently than the refusal move.

1.6.3 Ignorance Move

The ignorance move implies that you do not know the answer for example because you are not educated enough to answer when the answer demands certain kind of expertise. Also when you are not informed about the situation or context and therefore you are not authorized to answer. Hypothetically speaking this move can be frequently used because it is difficult to determine whether or not a person has enough information and knowledge to answer a question. Therefore if a person says he does not know the answer the opposite often cannot be proved. Consequently, this move can be used without further pressure to answer the question.

1.6.4 Black-out Move

Just like the ignorance move the black-out move is the 'easy way out' for speaker B. By saying one cannot remember one is able to evade a question without any further pressure to talk.
Even if speaker A is not satisfied with this reply he or she cannot press speaker B to remember something. Considering that further pressure to answer is improbable, the hypothesis for this move is that it is used very frequently.

### 1.6.5 Incomprehension Move

This move may at first appear to be similar with the ignorance move, however there is a big difference. Where the Ignorance Move is orientated to the answer, namely not knowing the answer the incomprehension move is orientated to the question itself. When this move is used speaker B indicates that he either did not completely hear the question or either that he does not understand the question that was asked by speaker A. In both cases speaker B cannot reply because the question is not clear and therefore most of times the question will be repeated after speaker B has indicated his incomprehension. Because this move can only postpone either an answer or another move the incomprehension move is hypothetically speaking a smaller move.

### 1.6.6. Recycle Move

With this move speaker B recycles one of his previous answers and reuses it to answer another, most times totally different, question. An untrained or inattentive listener may therefore not even notice that the question is evaded. The hypothesis for this move is that it is used frequently, however the ignorant move or the black-out move may still be used more often.

### 1.6.7 Hesitation Move

The hesitation move implies that you are not sure about what to answer and therefore do not answer. When applying this move the utterance 'I'm not sure' is frequently used. Being not sure about something implies that you have an idea of what a possible answer could be but that you doubt whether or not that idea is correct. Some people may argue that this move is in fact a subcategory of the ignorance move because doubting implies you do not have enough
information to answer. However, doubting something does not always mean a lack of information. A person may know the answer for one hundred percent but still say 'I'm not sure' because he or she wants to know the answer two hundred percent before answering. Because it is difficult to measure whether or not someone has enough information to answer, this will be treated as an independent category.

Using the hesitation move gives the opportunity to answer the question later on because sometimes after thinking about the idea for a while one may become more certain and therefore stop hesitating. This strategy leaves the user therefore with more flexibility than for example the ignorance move because once uttered 'I don't know' that is more difficult to change in the course of the conversation. The hypotheses for this response move is therefore that it will frequently occur in the data.

Furthermore, it should be taken into account that as stated before the defendant is 'scrutinised' and that this may have influence on his 'doubt'. Because if there is anything wrong with the answer, it will be used against him, this may cause a tendency to doubt whether or not it is safe to answer what he is thinking.

1.6.8 Reformulation Move

Clayman investigated reformulations in news interviews and press conferences, for his study he examined the answers given by political figures. He claims that "reformulating a question can be a device to indicate how a complex question can be dealt with, however sometimes reformulation can be used to sidestep the question" (Clayman, 1993 paraphrase). Clayman indicates that question reformulations are more likely to appear in a reply to a complex question as a helping tool for ordering the question as well as the answer that will be given. He states the following:

(...) question reformulations are occupied with the task of forging a relationship between the original and ensuing talk by furnishing a version of the question to which the ensuing talk can be seen as responsive.

(Clayman, 165)
Hence, with the help of the reformulation there is created a link between the complex question and the (sometimes fragmented) answer. Nevertheless, this link is sometimes forced and a closer look may reveal that the 'answer' in insufficient and thus the question has been sidestepped.

The hypothesis for this move is that, if it occurs, it will not appear frequently in this data because the courtroom setting, and even more the cross-examination, leaves the defendant with little opportunity to create his own view in such a clear way. The following move, however, is related to the reformulation move as it is used in a similar way.

1.6.9 Transformative move

As stated before "with a transformative answer the question recipient (dis)confirms a somewhat different question than was originally posed" (Stivers & Hayashi, 2). In doing so the speaker is in fact using the same technique as would he have used a question reformulation. However, there is a difference between reformulating the question and a transformative answer. When someone reformulates the question before answering it as in 'I think your question was...' he or she selects the question him/herself but is clear about which question they answer. The conversational partner is then able to correct the question when needed. A transformative answer, however, is often more opaque. The person answering with a transformative answer also selects another question to answer but without communicating that to their conversational partner. Therefore, a transformative answer may sometimes stay unnoticed, which will not be the case with a question reformulation. In addition it should be taken into account that not all question reformulations, neither all transformative answers are evasive answers.

Because this move is a rather opaque one, the expectation is that it will occur more frequently than the reformulation move. Nevertheless, it should be taken into account that the prosecution is a very critical conversational partner and that the defendant is constantly scrutinized. In this context it is thus more likely that the transformative answer will be noticed than would it be uttered in an informal setting. Therefore, it can be expected as well that this will not be the major category.
CHAPTER II: CONTEXTUAL BACKGROUND

As stated before this chapter will provide general background information about the trial, more specifically it will identify the defendant and the charge that was placed against him. Additionally, some chronological events about the trial are provided. Finally, it will define some characteristics of the courtroom setting and the use of "my lady" will be explained since this is a frequently used expression in the data.

2.1 The Trial: Chronological facts

On 14 February 2013 Oscar Pistorius was arrested on murder charges after he had shot his girlfriend Reeva Steenkamp at his house. Later he explains that he mistook her for an intruder when he shot her through the toilet door. He was then released on bail and on 19 August 2013 he was formally charged of murder, the illegal possession of ammunition and two other charges of firing a gun in a public space. The trial opened on 3 March 2014 at the High Court of South Africa in Pretoria.

From the opening of the trial until 25 March 2014 twenty witnesses were heard by both the prosecution and the defence. On 7 April Pistorius himself started testifying in examination in chief, followed by five days of cross examination between 10 April and 15 April. Next, different experts such as pathologists, a ballistic expert and psychologists were heard, furthermore Pistorius underwent a psychiatric screening. Finally, the court's verdict was declared on 12 September 2014, stating that Pistorius was not guilty of premeditated murder nor of 'dolus eventualis' (common murder), however he was found guilty of culpable homicide. On 21 October 2014 Pistorius was sentenced to prison for a maximum of five years.

2.2 The Data

The analysed data should be localised within the five days of cross-examination, which, as stated before, took place from 10 to 15 April 2014. More specifically day four, 14 April 2014, was analysed since the main goal was to do this investigation using a murder case context and
this particular day focuses on the events of the night Pistorius shot Reeva. Other days of cross-examination focused for example on his relationship with Reeva or on the other less severe charges put against him.

2.3 Courtroom setting: The participants

The presiding judge in the trial was Thokozile Masipa, referred to in the data as M. There was no jury present at the trial because the South African jury system was abolished in 1969 during the Apartheid\(^{vi}\). However, Masipa appointed two assessors to assist her to deliver a verdict, they more or less have the same function as a jury. On the one hand it can be argued that because of the absence of a jury the 'overhearing audience' (source?) is smaller and therefore has less influence, on the other hand the trial is followed closely by the media with live covering and therefore it can be argued that the 'overhearing audience' (source?) is in fact very large and may have an important influence on the behaviour of the participants.

The lead defence advocate is Barry Roux, he is referred to in the data as 'R', he only participates in the interaction a few times to help Pistorius out, for example by correcting the prosecutor's statement or commenting on his way of examining in an attempt to change the topical agenda.

The prosecuting attorney is Gerrie Nel, in the data his turns are indicated with the letter 'N'. And at least, Oscar Pistorius is the defendant he is referred to as 'P'. Since prosecutor Nel is cross-examining Oscar Pistorius, they are the two main participants in the analysed interaction.

2.4 The use of 'My Lady'

The words 'My Lady' appear in almost every turn of the defendant and in some turns of the prosecutor. First of all the South-African law states that "Judges in Provincial Divisions are called “My Lord” and “My Lady”. "(court decorum, 3) Therefore it is not surprisingly that the prosecutor or defendant address the judge with 'my lady' when speaking to her. However, the defendant also uses this expression when he answers the prosecutor's questions because the South-African court states that a defendant should not speak directly to the lawyers\(^{vii}\). Instead
they have to address the Court, since the Court is represented by the judge they address the judge with "My Lord" or in the case of a female judge "My Lady".

2.5 The setting

During cross examination Pistorius is sitting in the courtroom facing the judge and the two assessors, the defence legal team as well as the prosecution is sitting at the same row and therefore almost 'next' to him. This setting further indicates that there is formally no 'direct' communication between defendant and prosecutor. However, in real terms the interaction occurs like a normal question-answer sequence. At the one hand the fact that the defendant is not facing the prosecutor may influence his behaviour and responses and may even lower the pressure on the defendant. On the other hand the pressure is raised again because the defendant is now facing the assessors and the judge, who in the end will decide about the verdict.

2.6 Language

Normally, the two dominant languages in the South-African court are South-African and English. The questioning by the lawyers and the communication with the judge is in English. Furthermore, Oscar Pistorius decided to express himself in English during his trial, therefore, the analysed data is fully in English. Therefore, there can be no interpreting issues that should be taken into account.
CHAPTER III: METHODOLOGY

3.1 Critical Discourse Analysis

As stated before the starting point for this dissertation is the problematic theme of 'evading questions', the main purpose is to explore how this evasion manifests itself in the language. The data is merely used as a tool for investigation the phenomenon of evasiveness, it is not itself a starting point for this research. Therefore, it was useful to opt for a critical discourse analyses.

3.2 Qualitative research

It is appropriate to start with a qualitative research, this does not mean however that a quantitative approach can be useful and may be done in the future. I will also add some quantitative figures at the end to tie up the qualitative findings.

3.3 Data

As stated previously by researchers such as Conley and O' Barr (1998) the "interactional asymmetry of courtroom discourse is most pronounced during cross-examination" (Ehrlich, Sindell, 656). It is therefore useful for this analysis to focus on cross examination, because this asymmetry raises the possibility of detecting as much kinds of evasive answers as possible.

For this research I transcribed a full day of cross examination, this is approximately five hours of data. I have chosen the third day of cross examination because this is the day when Oscar Pistorius relates the events of the night he killed Reeva Steenkamp. There were three other days of cross examination, but they were topically about two other instances / crimes Pistorius was charged with, being a shooting incident in a bar and a shooting incident in a car. In addition, the other days of cross-examination focused more on his relationship with Reeva
Steenkamp. Since the purpose was to analyse a murder case I have chosen for the cross-examination day that focuses on the 'murder' itself.

This analysis is not based on self made recordings but on live streaming data from the internet. To make sure the data was unedited two different sets of live streaming were compared, namely SKY News and South African Broadcasting Company.
CHAPTER IV: ANALYSIS

After transcribing the data, the transcription was closely examined in order to label the different evasive moves that were used by Pistorius to sidestep questions and place them in one of the categories, that were mentioned before. The following chapter will not discuss all the individual evasive utterances one by one but will focus on those utterances that may demand additional attention. Furthermore, the impact of the evasive answer on the interrogation will be investigated. The examples will be discussed per category, the categories will appear in the same order as in the theoretical framework. At the end of the chapter a quantitative overview of the results will be given, and with the help of these results the categories will be compared with each other.

4.1 Refusal Move

As stated before the defendant can evade a question with a refusal move, meaning that he will literary refuse to answer the question. The expectation for this move is that it will rarely occur because the defendant is not supposed to argue with the prosecutor and is not in the position to openly refuse to give answers. The following paragraphs will discuss some of the findings more in detail.

In the first example prosecutor Nel is examining Pistorius about his version of the sequences of events, stating that there are errors in his time frame. According to Pistorius, he and Reeva ate around 7 o'clock in the evening before the particular night of the incident, they then went to bed. According to Nel however, if this version would be true Reeva's stomach content would have been empty at the moment she was shot, which was not the case; this is now a topic of discussion:

01 P: I'm very sorry my lady (2.0) I heard the evidence that's been given my lady
02 but we ate dinner after 7 it doesn't sooth my ve my version if I wanted to tailor
03 the evidence I wouldn't stick with what I said that we ate after 7 o'clock but
04 that's when we ate my lady
N: Mr. Pistorius let’s deal with the question the question is (. ) I put to you (1.0) you know that it is impossible for her to have eaten (. ) after you went to bed that night (. ) on your version (1.0) Am I right?

P: I was sleeping my lady I I don't think that Reeva went down again to eat I think it's highly improbable that she did.

N: It's in fact impossible on you version do you want to deal with that? Not improbable impossible.

P: I don't want to argue the point my lady.

N: I want to Mr. Pistorius because the alarm would have been threatened

P: if the if Reeva switched off the alarm and went down to eat and came upstairs I don't know my lady I was sleeping I don't think she did (. ) we ate after 7 o'clock and that's the last time that I think

(Pistorius Trial Cross-examination, 14 April 2014)

The focus is on line 12 when Pistorius utters "I don't want to argue the point my lady". In lines 10-11 prosecutor Nel wants the defendant to agree with him that Pistorius' version is impossible. The question is constrained in such a way that there are only two options for Pistorius to agree or to disagree. However, Pistorius resist this constraint with a clear refusal move by responding "I don't want to argue the point my lady". By applying this move Pistorius tries to change the topical agenda, urging the prosecutor to move on to another topic. Pistorius is thus taking control over the situation, which means also that he undermines the power of the prosecuting attorney. It is in fact remarkable that the defendant endeavours to change the topic because he knows he is not supposed to volunteer such thoughts. The prosecutor does not really sanction Pistorius for his utterance, however in his reply he underscores the words "I want to Mr. Pistorius" (Nel, 2014) making clear that he is leading the conversation and not the defendant. The move is not really successful either, because Pistorius did not succeed in changing the topical agenda. Note that Pistorius also uses other moves in this extract, these moves will be discussed in more detail below.
Next example occurs a few lines before the previous extract and shows that Pistorius already used a refusal move in this discussion. However, this refusal is more opaque than the previous one:

01  N: I put it to you that (1.0) she must have eaten within 2 hours of her death.
02  P: I cannot comment on that my lady that's we had dinner just after 7 o'clock that evening the night before

(Pistorius Trial Cross-examination, 14 April 2014)

The utterance of interest here is 'I cannot comment', comparatively to the words "no comment' often used by politicians, this utterance is a clear signal for a refusal move. One can always give a comment when asked a question, using 'I cannot comment' implies either that one does not want to give a comment and thus refuses or one thinks he or she is not able to comment for some reason (e.g. not authorized, lack of certainty, lack of knowledge etc.). This example clearly belongs to the first category since Pistorius is authorized to answer and gives no other reason for his non-answer. He completely neglects the question's constraint 'I put it to you' which actually leaves him with only two acceptable answers, agree or disagree.

The refusal move occurs only twice in this data, in comparison with at total of 167 avoiding answers this is not a frequently use. Hence, the hypothesis for this move is proven to be right. Furthermore, it is interesting that the only two refusals occur at the beginning of the data, maybe this shows that Pistorius is still discovering the boundaries of what is acceptable. Clearly, openly refuse to give an answer is not acceptable, therefore this move is not really successful.
4.2 Challenge Move

As stated before there are two different kinds of challenges, in this data responses that challenge one or more of the presuppositions of a question as well as responses that challenge the illocutionary force of a question were discovered (Harris, 1991).

In the following example the discussion about Reeva's stomach content continues. The prosecutor again highlights the fact that her stomach content should have been empty after six hours. He argues that they both were awake at night and possibly ate only a couple of hours before she was shot, and thus not at 7 o'clock as stated by Pistorius.

01 N: I put it differently (. ) all the references to works medical works and both ex very experienced pathologists said that one would expect the stomach content to be (. ) empty after 6 hours you've heard that Mr. Pistorius?
02 P: I have my lady.
03 N: Why would (. ) that in this particular instance that not be so (. ) why would there be still food in the stomach?
04 P: I'm not sure my lady.
05 N: Because you were awake (2.0) there can be no other explanation.
06 P: I don't thing me being awake has anything to do with Reeva's stomach content I if I wasn't (. ) If I don't know I don't know she ate again I don't know (. ) if
07 N: okay
08 P: erhm I what I'm saying is that we ate just after 7 o'clock (. ) this has nothing to do with me being awake (1.0)
09 N: Let's
10 P: = Mrs. Von Nerve said she heard a women talking she doesn't say she heard a man and a women talking so I don't know my lady
In lines 9 and 10 Pistorius clearly uses the challenge move, since he is challenging the relevance of the prosecutor's question when he says "I don't think me being awake has anything to do with Reeva's stomach content". Pistorius is thus challenging the illocutionary force of the question. He does not give an answer to the supposition that he was awake, nor does he try to give another explanation. This is again a move that endeavours to undermine the lawyer's power. This strategy is in fact a very assertive one, almost depicting the attorney's question as ridiculous by focusing only on one part of the question, namely 'being awake'. The other part, namely the assumption that if they were awake they could have eaten together, is completely left out in his reply. Nevertheless, the fact that 'they could have eaten' is indeed relevant for Reeva's stomach content. In lines 13-14 he repeats this challenge move highlighting again that 'this has nothing to do with being awake.'

In lines 16-17 he challenges the presupposition that Mrs. Van Nerve heard both Pistorius and Reeva talk when he argues about what was witnessed. He argues that she witnessed 'to hear a women talk not a man and a women' (Pistorius, 2014). It is interesting that there are various instances in a row in which Pistorius challenges the prosecutor's question. The first two instances are the same challenge, namely 'the question is irrelevant'. When this does not work Pistorius switches to another kind of challenge, namely challenging a presupposition of the question. In the prosecutor's final turn Pistorius is sanctioned for his behaviour, the prosecutor clarifies that Pistorius cannot allow himself to argue. Pistorius reacts with an apology, this is the only instance in the data where Pistorius apologizes after he is sanctioned by the prosecutor.

What is also remarkable is that Pistorius resists the question-answer sequence by self selection for example, in lines 13-14 and 16-17 he initiates talk without being addressed.
Further on in the data Pistorius witnesses that the duvet was on the bed in the bedroom. However there is a picture of the duvet lying on the floor away from the bed. Pistorius persists that the duvet was on the bed. The prosecutor then asks him if he thinks a police officer has replaced the duvet because if Pistorius is speaking the truth the only possible explanation for the duvet being on the floor is that someone replaced it:

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01 N: Mr Pistorius we must now think about the probability a policeman either by
design or lack put a duvet down on the floor within that particular corner in
line with the blood spatter on the carpet is that what you're saying is possible
02 P: No my lady
03 N: You must because that's what I pointed out to you (2.0) that your version
isn't possible don't you want to at least (2.0) conceive this
04 P: my lady that's (.) if the police officer placed it there or it was by lack has
nothing to do with my version (1.0) It was unlucky that many of the things
weren't in the way that they were because they've changed so often in the
various photo's so I can't agree (.) it's not about conceiting
05 N: as I said Mr. Pistorius from the start I'm gonna point out to you how
improbable your version is now you're tailoring your evidence and that it's not
true (.) here's another aspect (1.0) when you armed yourself (.) and you spoke
10 to Reeva (2.0) what what did you say?
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(Pistorius Trial Cross-examination, 14 April 2014)

Starting from line 7 Pistorius challenges the illocutionary force of the question by stating "if the police officer placed it there or it was by lack has nothing to do with my version" (Pistorius, 2014). Pistorius thus implies that the prosecutor's question is irrelevant. He does not answer the question but then he utter the following sentence: "It was unlucky that many of the things weren't in the way that they were because they've changed so often in the various photo's" (Pistorius, 2014), this statement, in fact, implies that many things have been replaced, it almost seems he wants to confirm the statement that a policeman replaced things. As stated before, evasive action is applied "especially because you do not want to give an honest answer" (Cambridge dictionary). In this example, Pistorius respond reveals what the honest
answer might have been, namely 'yes someone replaced the duvet'. However, this is only a speculation, it is impossible to know what the real answer would have been since it is impossible to know what people think.

Another aspect is that by applying the 'challenge move' Pistorius again tries to change the topical agenda, this time with success because in the next turn the prosecuting attorney changes the topic by asking: "and you spoke to Reeva what did you say?" (Nel, 2014). He does not press Pistorius for an answer nor does he sanction him this time for questioning the relevance of what has been asked.

The challenge move appears 25 times in the data, which means that approximately one out of six or seven evasive answers belongs to the category of 'challenges'. These figures will be compared with the other categories below, in order to measure the importance of this category.

4.3 Ignorance move

The hypothesis for the ignorance move is that it is one of the most popular moves to evade a question because one cannot help having 'no knowledge' about a topic. Since the prosecutor cannot compel the defendant to 'know' something it is also very difficult to force him to give an answer.

In the following example Pistorius is using an ignorance move in order to evade the question "do you have an explanation for the stomach content of the diseased?".

01 N: Let Before we go there erhm (3.0) Do you have an explanation for the
02 stomach content of the diseased?
03 P: I don't my lady
04 N: Say again.
05 P: I don't my lady.
06 N: That is (2.0) as far as your case is concern devastating for your version that
07 8 hours after she'd eaten when she was killed there was still that amount of
08 food in her stomach how would you explain it because you'd have to
In line 3 and 4 Pistorius already states that he has no explanation for Reeva's stomach content. Regarding the formulation of the question Pistorius does answer the question 'Do you have?', however what the prosecutor really means is 'explain the stomach content'. Therefore the prosecutor reformulates his question in lines 6-8, making clear that he wants an explanation from the defendant with the utterance "how would you explain it because you'd have to" (Nel, 2014).

What follows is an ignorance move with the statement 'I can't comment'. Pistorius argues that he does not have the knowledge of an expert and therefore he is not authorized to answer. However, he is not expected to give an 'expert explanation' to this question, this question is put to him to test his version. The utterance 'I can't comment' cannot be considered as a refusal move in this example because this time the response implies a lack of knowledge rather than an 'unwillingness' to answer. The prosecutor presses Pistorius to give an answer in line 13, hence the evasive move is not really successful.

In the next example the prosecutor asks Pistorius how he would expect Reeva to react when he got up in the middle of the night. Pistorius previously mentioned that Reeva was awake and that they were talking but when he got up she did not react, nor did she react when Pistorius heard 'the window sliding open'. The prosecutor claims that one should expect her to react:

  N: It's because (.) your version (.) is improbably (.) one would expect her to say
  Os where you going (2.0) wouldn't you expect her saying that?
P: I don't think so my lady

N: why would you expect her not to say a thing when you get up in the middle of the night? (2.0) If she's awake

P: I don't know what to expect my lady I don't know

N: I ask it's it you it cannot be wrong or right I'm just asking you (.) whatever the answer is is your answer what would you expect?

P: I don't know what to expect my lady

N: Why wouldn't you know what to expect if I ask somebody what they expect they would tell me why can't you?

P: I don't know what to I don't know what to expect I don't know if she was awake fully awake I don't know if she just ask me (.) if she couldn't sleep if she thought I was going to the bathroom (.) maybe she didn't think of asking me why

N: what would you I know what are saying and please don't think of implications of the questions because(.) rather think of the question

P: there's no implications in this question my lady it's I would not be able to say I would not be able to say what somebody would say in any situation

(Pistorius Trial Cross-examination, 14 April 2014)

In lines 6 and 9 Pistorius uses the ignorance move twice, both times without success. In lines 10-11 the prosecutor responds to this ignorance move addressing Pistorius with "why wouldn't you know what to expect" (Nel, 2014). Pistorius' move thus clearly has a further impact on the interrogation because the prosecutor is now questioning Pistorius non-answer instead of focussing on the initial question here. In the lines that follow Pistorius initially repeats the ignorance move for the third time but then suddenly provides possible answers to the question "Why did she not react". However, these possible answers still do not answer the question "what do you expect".
In lines 16-17 mister Nel utters "please don't think of implications of the question" alluding to the fact that Pistorius evades question because he is scared his answer will be used against him. Pistorius reaction is defensive stating that there are "no implications in this question". However, this reaction hints that Pistorius was indeed thinking about possible implications and came to the conclusion that there are none. If he was really unconcerned about possible implications he would have said something like "I was not thinking about implications" or "which implications" rather than responding "there's no implications".

In the following example Pistorius is examined about a photograph, showing the main bedroom. The photograph was taken by the investigation team on the night of the incident and is now used as evidence in support of the state's version that Reeva wanted to leave that particular night. Prosecutor Nel indicates that the pair of jeans is "the only thing out of place" alluding to the fact that Reeva was leaving and must have taken it out of the bag to get dressed.

14  N: the only thing out of place Mr. Pistorius is the pair of jeans
15  P: That's correct my lady
16  N: why would that be do you know?
17  P: I don't my lady.
18  N: see Mr. Pistorius the everything else under garments other clothes are all in the overnight bag the only thing outside of that overnight bag is her jeans and you don't have an idea why

(Pistorius Trial Cross-examination, 14 April 2014)

When the prosecutor asks Pistorius "do you know?" this is not really a question, since the prosecutor made it clear in previous talk that he believes that the defendant indeed knows why the jeans are out of place. This 'question' is therefore rather an invitation to explain the reason. However, Pistorius claims insufficient knowledge, explaining that he does not know why the jeans are out of place. Concerning the form of the question Pistorius did answer the question by completely copying the form of the question in his respond: 'Do you know?', answer 'I don't know', this is a clear 'type conforming' answer. However, looking at the meaning of the
question, it is clear that Pistorius is trying to avoid an explanation. The illocutionary act that was meant by the prosecutor was 'inviting to explain', which Pistorius clearly neglects. Pistorius avoids to answer the 'real' question by using an ignorance move. The move is not followed by a sanction, but neither does the prosecutor drops the subject, he simply asks the question again in the next turn.

The next example shows a successful black-out move. When Pistorius is questioned about Reeva's position behind the door at the moment of shooting he uses the black-out move twice. The prosecutor is not satisfied with his answer and wants to press Pistorius for an answer, however the judge interferes:

01  N: why would she stand right up the door looking at you looking at the danger
02  P: I don't know my lady I don't know how she was standing I don't know
03  N: bullet hole hit her in the right hip why would she be there? Except if she was talking to you?
04  P: I don't know my lady.
05  M: you know that question is a bit unfair if he says he doesn't know I don't think you can ask it again and again why he says he doesn't know

(Pistorius Trial Cross-examination, 14 April 2014)

Masipa claims that the prosecutor's question is unfair and that he cannot press the defendant to give an answer since he cannot make someone remember. What follows is the prosecutor who obeys the judge and starts a new topic without further pressing Pistorius.

The ignorance move occurs 38 times in the data and is up to now represented the most with one out of four evasive answers being an ignorance move. The comparison of the results below will make clear if eventually this is the biggest move.
4.4 Black out move

The hypothesis for the blackout move was that will be frequently used. Comparable to the ignorance move one cannot help 'forgetting' something and therefore this move could be an easy escape. The following paragraphs illustrate the black out move more clearly.

As stated before it is Pistorius' defence that he thought an intruder entered the house through the bathroom window. He then mistook Reeva for an intruder and shot her by accident. The prosecutor wants to know how it is possible that Reeva got up in the middle of the night without Pistorius noticing this. Pistorius witnessed that there was a blue light, coming from the on-off switch of the amplifier, that bothered him during the night and that he got up once in order to cover it. He argues that during this instance she must have gone to the bathroom and that he did not notice because he was busy covering the blue light. Prosecutor Nel attempts to affect Pistorius' credibility by arguing that he is inventing this to create time for Reeva to go to the bathroom. Nel is questioning him about the light in order to prove he is inventing this instance:

01 N: But you said the light bothered you before? Am I right?
02 P: That's correct my lady (sigh)
03 N: You don't think of just (1.0) switching it off?
04 P: I'm not sure if the light goes off
05 N: Did you try it? what did you try it try switch it off?
06 P: I don't remember my lady
07 N: Why wouldn't you if the light bothered you before so much so that you have to cover it before you went to sleep why did you not try switch it off?
09 P: I possibly did try switch it off
10 N: but tell us than did you?
11 P: I don't remember my lady
12 N: that's what I'm saying I you would have remembered (2.0) if you did you would have remembered
13 P: My lady if I did I I 'm not even saying that the light may have gone off if I switched the amp or power light (1.0) even if I did switch it off there would have been a reason for me trying to cover it (1.0) so if the button was pushed
Nel argues that if that light bothered him so much he must have tried to switch it off, if he did not try to switch it off this affects his credibility because when a light bothers you the first intention would be to switch it off.

In lines 6 and 11 Pistorius uses two times the black out move answering "I don't remember" when he is asked whether or not he did try to switch the light off. After the first evasive "I don't remember" in line 6 Nel is trying to ask the same question again, however Pistorius responds with the same black out move. The prosecutor cannot make the defendant remember something, however, he finds a way to use Pistorius' answer against him. In lines 12-13 he argues that if "he did he would have remembered" (Nel, 2014) concluding that he thus not switched it off and therefore does not remember. If Pistorius does not provide another answer now, the prosecution 'wins' the discussion, hence in some way Pistorius is obliged to answer something different. Pistorius then reacts by questioning whether or not the light goes off. This reply still does not answer the initial question, but Pistorius was not able to end the topic with his black out move.

In the next example Pistorius is being examined about the arrival of the crime investigation team because Nel wants to confront him with the testimony of Colonel Van Rinsburg, who was one of the policemen.

N: we get more of those instances that you cannot explain (.) Now I want to deal with something (1.0) that happened when we dealt with the fans I won't rehash all the fan evidence but (2.0) it's important to just put to you (1.0) or ask you let me rather ask you (2.0) on your version of the events (1.0) colonel van Rinsburg (3.0) were (.) let put it the best way possible of the first people that went upstairs (1.0) am I right?

P: (.) I don't remember who went upstairs first my lady I remember (.) as I said I think one of the police officers asked if there was anyone in the home (2.0)
remember him going upstairs he was in civilian clothing (1.0) I remember Mr. X went up twice (2.0) erhm (1.0) I don't remember who was upstairs at the same time or which police officers went in the room at the same time or if they were in different parts of the first floor (.). Mr Van Rinsburg was one of the first who went up but I don't have a (.). I'm not sure in which order he went up

N: Then it isn't possible to deny his evidence? So you cannot deny that that 's his evidence?

(Pistorius Trial Cross-examination, 14 April 2014)

The prosecutor states that Colonel Van Rinsburg was one of the first to go upstairs and wants Pistorius to confirm this statement.

Pistorius begins his reply with "I don't remember" he then further elaborates his question with telling what he does remember about the arrival of the police investigation team. Note that Pistorius also responds with a transformative answer, the question was whether or not colonel Van Rinsburg was 'one' of the first who went upstairs not if he was 'the' first. Pistorius answers the question 'who was upstairs first or was he the first to go upstairs' neither of these questions was asked him. Furthermore, he does answer the initial question in the final two lines when he utters "Mr. Van Rinsburg was one of the first who went up" (Pistorius, 2014). However it seems he is still not aware of the question because he adds "I'm not sure in which order he went up" (Pistorius, 2014), again referring to the question 'Did Mr. Van Rinsburg go up first?' . This 'unawareness' of what was really asked him may indicate that he is not concentrating, which can either mean that he is relaxed and has nothing to hide and therefore does not feel the need to concentrate or that he is too much thinking about his credibility and the answers he gives that it even causes him to be distracted. He is not sanctioned for his move, however the prosecutor does not drop the issue and asks the question again.

The blackout move is used 20 times by Pistorius, which is supposed to be an average result.
4.5 Incomprehension move

As stated before hypothesis for this move is that it will not occur frequently since the incomprehension move can delay an answer but cannot evade it at the end. However an incomprehension move can be useful, for example when one tries to buy time or is thinking about the best way to answer.

An incomprehension move not necessarily indicates a question is formulated in an unclear way it can also indicate a moment of confusion or distraction. The following instance indicates that Pistorius is distracted because he asks to repeat a question he already answered.

01 N: Now (1.0) that on the photograph we see(1.0) er slops as you call it those
02 were neatly next to the left hand side of the bed
03 P: r There were between the bed and the sofa my lady
04 N: On the left hand side that's what you said Mr. Pistorius
05 P: that's correct my lady.
06 N: You said that she (1.0) she s slept their the previous night as well
07 P: (2.0) I don't say that my lady
08 N: No Did she not sleep there the night before?
09 P: No my lady.
10 N: No.
11 P: No I said she slept at my house bur not on the left hand side of my bed my
12 lady
13 N: Where did she sleep?
14 P: erhm in my bed on the right hand side my lady.
15 N: Okay (1.0) But she she s stayed the night at your house the night before this
16 incident that that we can accept
In line 21 Pistorius asks to repeat the previous question, he already answered this question in line 19 with "That's correct". It is strange that he asks to repeat a question he already answered. This may indicate that he did no concentrate on the question and answered automatically, however when answering questions during a murder trial it is very unlikely that one does not listen carefully to what is asked. Therefore, it is more likely that Pistorius is uncomfortable and wants to check a second time that his answer was correct and cannot be used against him. The 'incomprehension move' can therefore be used as a pause in the interrogation, a moment in which no new questions are asked and no new topical agenda can be introduced.

The next example shows a comparable interaction, with Pistorius again asking to repeat a previous question that was already answered.
N: now then Mr. Pistorius there's another angle all I did was ask an then and then and I asked you for your version and you never mentioned the door slam shut (.) at least since T

P: I understand my lady

N: and I ask you why?

P: may ask me the question he did before he asked me he

M: Can You repeat that and raise your voice

P: I beg your pardon my lady Mr. Nel asks me now about the door slamming or about me shouting something about before or after I entered the bathroom if he can just repeat the question to me please

N: I'll make an with with respect my lady I'll make an exception and do it this once (.) erhm did you hear the toilet door slam shut before or after you screamed at Reeva and the intruders?

P: It was in the process of shouting after I screamed for Reeva but it was in the process of me shouting (1.0) for the intruders to get out the house my lady

N: okay so now we have your version that whilst you're screaming you're hearing the door shut (2.0) is that what you're saying

P: I heard the door slam my lady whilst I was shouting and screaming that's correct

N: but why did you not give it to us when you give that evidence now after T

P: I'm not sure my lady we discussed it this morning.

N: I'll show you why (2.0) now I' going to show you but I'm going to ask questions first what did you hear about the door?

(Pistorius Trial Cross-examination, 14 April 2014)
In line 9 Pistorius again asks if the prosecutor can repeat his previous question, he already answered this question in line 3. The prosecutor repeats the question in lines 14-16 and this is followed by an answer from Pistorius that is different from his answer in line 3.

By asking the prosecutor to repeat a previous question he is in fact taking control over the interrogation, signalling that the previous 'topical agenda' is not finished yet. By giving another answer he is not only changing his answer to that particular question, he also may cause a change in the sequence or content of the following questions. Every answer causes a new question, by changing the previous answer he may change the following question. What follows in this interactional part is the prosecutor repeating Pistorius 'new' answer and asking him why he did not mention this earlier. Pistorius then answers with 'I'm not sure' and the prosecutor reacts with starting to examine him more in detail about the noise of the door slam. Pistorius thus changed the topical agenda from "why did you not mention the door slam" to "what did you hear about the door"; he did this by using an incomprehension move in combination with a hesitation move.

The incomprehension move arises 18 times, which means that approximately one out of nine non-answers is an incomprehension move.

4.6 Recycle Move

As stated before this move implies that a previous answer is used as an answer to another question that may be totally different or the same answer may be used even when it previously proved insufficient. It should be taken into account that for example a chain of ignorance moves (I don't know) will not be counted as a recycle move but as individual ignorance moves. The following paragraphs will illustrate what exactly is understood to be a recycle move.

In the following example there is a discussion going on between Mr. Nel and Pistorius about whether or not a certain amplifier, present in the bedroom, was on. To convince Pistorius the prosecutor is showing him a picture of the amplifier.

01 N: (3.0) You know what it means if that blue light is on in the on/off switch?
P: I don't my lady

N: Don't you?

P: I I don't my lady.

N: It means the amplifier is on (2.0) isn't that so?

P: I don't know my lady I th

N: I show you.

P: I think the light can be on if it's on or off I' m not sure

N: let me ask you if it's off wouldn't it be red and if when it's on blue?

P: I don't remember that light ever being red my lady.

N: At one thing I will show you is that the amplifier was on.

P: I don't remember if the amplifier was on or off my lady.

N: So there were other lights then on the amplifier?

P: I don't know if the amplifier was on or off my lady I remember the blue light that I wanted to cover .

N: the blue light being on (3.0) is carried out first in your evidence in chief wasn't in your bail application "or in your erhm plea explanation". Am I right?

(Pistorius Trial Cross-examination, 14 April 2014)

In lines 14 and 15 Pistorius applies the recycle move. Instead of answering if there were other lights on the amplifier or not Pistorius simply repeats the previous answer, namely "I don't remember if the amplifier was on or off". Although this answer was a direct answer to the previous question, it is not at all an answer to this question. Furthermore he continues "I remember the blue light that I wanted to cover" (Pistorius,2014), which again is a repetition of a previous answer. When counting the moves this example will be counted as one. The
prosecutor does not ask the question again, however he does not switch to a totally different topic either.

Looking back at one of the previous contexts when prosecutor Nel was examining Pistorius about the arrival of the police investigation team, it appears that Pistorius combines the black-out move with the recycle move:

01 N: we get more of those instances that you cannot explain (.) Now I want to
02 deal with something (1.0) that happened when we dealt with the fans I won't
03 rehash all the fan evidence but (2.0) it's important to just put to youx (1.0) or
04 ask you let me rather ask you (2.0) on your version of the events (1.0) colonel
05 Rinsburg (3.0) were (.) let put it the best way possible of the first people that
06 went upstairs (1.0) am I right?

07 P: (.) I don't remember who went upstairs first my lady I remember (.) as I said
08 I think one of the police officers asked if there was anyone in the home (2.0) I
09 remember him going upstairs he was in civilian clothing (1.0) I remember Mr.
10 X went up twice (2.0) erhm (1.0) I don't remember who was upstairs at the
11 same time or which police officers went in the room at the same time or if they
12 were in different parts of the first floor (.) Mr Van Rinsburg was one of the
13 first who went up but I don't have a (.) I'm not sure in which order he went up

14 N: Then it isn't possible to deny his evidence? So you cannot deny that that 's
15 his evidence?

16 P: I remember a civilian dressed police man going up the house first my lady
17 after you asked me but if Mr. (1.0) I was crying at the time I don't remember
18 it's possible that mister mister colonel Van Rinsburg went up first I was (.)
19 what I saw was that a police men erhm in a civilian clothing went up first my
20 lady

21 N: Then let's just deal with the question can you deny (1.0) colonel Van
22 Rinsburg evidence It's it's an easy question. Can you deny Colonel Van
23 Rinsburg evidence that he went up first?

(Pistorius Trial Cross-examination, 14 April 2014)
After Pistorius' black-out move in lines 7 to 13 the prosecutor repeats his question "Can you deny his evidence?" (Nel, 2014). This question is clearly yes/no constrained, leaving the defendant with few options. However, Pistorius ignores the constraints and responds with a partly repetition of his previous answer, namely describing that he remembers "a civilian dressed police man going up first" (Pistorius, 2014). Pistorius is then sanctioned by the prosecutor when Nel urges him to "just deal with the question" (Nel, 2014).

Pistorius uses the recycle move 14 times, this means approximately one out of twelve non-answers is of this kind.

### 4.7 Hesitation Move

As stated before the hesitation move implies that the speaker has an idea about a possible answer but doubts whether or not that answer is correct. This becomes clear in the following example when Nel is questioning Pistorius about the instance that Reeva must have gone to the bathroom. It is Pistorius' version that he did not notice that Reeva got up and went to the bathroom a couple of minutes before he accidently shot her. The prosecutor thinks it is impossible that he did not notice and is trying to prove this by, inter alia questioning the fact that she went to the bathroom without a source of light.

01 N: erhm (5.0) the (5.0) Reeva going to (1.0) the toilet she would have had to
02 walk down a dark passage.
03 P: That's correct my lady.
04 N: Into a dark bathroom.
05 P: That's correct my lady.
06 N: And she never put on the light?
07 P: That's correct my lady.
08 N: Why wouldn't she not put on the light?
P: I'm not sure my lady she had her cell phone with her so maybe she was using that for light.

(Pistorius Trial Cross-examination, 14 April 2014)

The key question is in line 8, when Pistorius is asked why Reeva did not put on the light. In the following two lines Pistorius' respond begins with "I'm not sure", indicating a clear hesitation. However his reply indicates that he has an idea of what a possible answer could be: "she had her cell phone with her so maybe she was using that for light" (Pistorius, 2014). This extract illustrates that 'I'm not sure' is not an ignorance move since ignorance means 'not knowing' and 'I'm not sure' implies knowing but without certainty. It is open for discussion whether or not this example can be counted as a non-answer. For the sake of this investigation it was counted and placed in the hesitation category, however one could argue that Pistorius is just answering the question here. Nevertheless, not all hesitation moves are open for discussion, the following examples are more clear.

As previously mentioned the scrutiny by the prosecutor and media may cause the defendant to doubt his answer, or more specifically to doubt whether or not his answer is safe to give. When analysing the following two examples this should be taken into account.

In the first example Pistorius is interrogated about the fact that he did not mention a crucial element in his plea explanation. On Pistorius' version the night when he shot Reeva he heard a window sliding open and slamming against the window frame. This caused him to think there were intruders and thus, it is a crucial point for his story, since if he had not heard this he might have had no reason to think there were intruders. Therefore, Nel states that it is very strange this fact is not mentioned in the plea explanation, as the following extract shows:

P: because it never slammed against another window

N: what did it slam against

P: the frame my lady
N: why why is there nothing about slammin I I just want to put it on record you again corrected me on fine detail and I stand corrected if you do it every time I apologize to you what's important is small detail

P: My lady it's not small detail if a window

N: you corrected me on small detail (4.0) Am I right?

P: That's correct my lady it's not small detail though (.) it's detail of what happened

N: Why is the big issue of the window sliding against the the frame not mentioned?

P: I'm not sure my lady

N: no no that cannot work (1.0) not sure is not an answer (.) you said (1.0) you weren't traumatised you signed it you knew what was going on I'm asking you why it was never mentioned

P: I'm not sure my lady

N: Because you never said it

P: that's incorrect my lady

(Pistorius Trial Cross-examination, 14 April 2014)

In lines 14 and 18 Pistorius uses two times in a row the hesitation move by uttering 'I'm not sure'. It is possible in this example that Pistorius doubts whether or not it is safe to answer the question because his answer can be used against him. The reason might be for example that for some reason he did not read his plea explanation thoroughly and therefore did not notice there was nothing mentioned about the window slamming against the frame. An answer like this for example could be easily used against him.

Another interesting fact here is that the second time he utters 'I'm not sure' it sounds a bit provoking because the prosecuting attorney just said 'not sure is not an answer'. Prosecutor Nel is in fact pressing him to give an answer and the only respond that was indicated by him
as insufficient is used as a reply a second time. The prosecutor then states that the reason was because he "never said it", now Pistorius is obliged to answer the question. Responding to this blame with "I'm not sure" would affect his credibility.

The next example shows a comparable discussion, again Pistorius is making use of hesitation moves.

01 N: (.) but why would it than not be in either your bail or your plea explanation
02 if that is such a crucial part of your version
03 P: I'm not sure my lady
04 N: but but you must be the one that's sure (.) because it's your version sir it's
05 not mine (1.0) I'm not going to be satisfied with not sure sir (1.0) why?
06 P: I'm not sure my lady
07 N: I put it to you it's because you never said it to counsel
08 P: That's incorrect my lady
09 N: so you sure about that?
10 P: yes
11 N: why didn't they then put it in
12 P: I'm not sure my lady
13 N: Now you see (.) why did you think there were people in the toilet

(Pistorius Trial, Cross-examination, 14 April 2014)

In this example Pistorius uses a chain of hesitation moves in lines 3, 6 and 12. Again the prosecutor endeavours to press Pistorius for an answer saying that he's 'not going to be satisfied with not sure'. However, this does not have any effect on the defendant who uses the answer a second time. Next, Nel begins his turn with 'I put it to you' leaving Pistorius with
only two options, agree or disagree (source). This strategy enables the prosecutor to interrupt Pistorius' sequential use of 'I'm not sure' as he disagrees with the statement. He then provokes Pistorius by asking him 'if he is sure about that' in an attempt to make clear that he controls the situation. However, Pistorius does not acknowledge that power and the following turn he starts using the response 'I'm not sure' again. Nel then switches to another topic, Pistorius thus succeeded in not answering the question.

The previous example showed how prosecutor Nel criticises on Pistorius' frequently use of 'I'm not sure' in line 9, however he does this in a rather opaque way presenting his comment as a question. There is another instance in the data where Nel comments on the use of 'I'm not sure' as is illustrated in the following extract:

01  N: Then then forgive me for that but they deal with that why why was that point never indicated to Van Rinsburg?
02  P: I'm not sure
03  N: that is the issue not anything else why?
04  P: I'm not sure my lady
05  N: you know that the only reason and that will be the argument I give you an opportunity (.) the only reason is because it was never your version before cross examination started
06  P: That's not true my lady
07  N: Roux would not have done that because of the position of the duvet that was there is that not so?
08  P: I'm not sure my lady.
09  N: You see today I pick up that you're not sure about things Is there anything wrong?
10  P: No my lady
First Pistorius uses the sentence 'I'm not sure' successively in lines 3, 5 and 12, in the next turn this is followed by Nel's comment: "today I pick up you're not sure about things, is there anything wrong?". Again Nel conceals his comment in a question however the question implies that Pistorius is using a lot of 'I'm not sure'. Pistorius supposedly get the hint because after Nel's statement he does not use any evasive moves for a while.

The hesitation move appears 24 times, which is comparable to the challenge move.

4.8 Reformulating Move

As previously stated the reformulation move reformulates the question that is asked in order to change one or more presuppositions. The hypothesis for this move is that it will not occur many times since the courtroom does not leave much space for changing presuppositions.

In the following example the prosecutor is reading a piece from Pistorius’ evidence in order to confront him with it. The topic of discussion is why Pistorius did not mention the slamming of the window. The argument of the prosecution is that Pistorius has a feeling for detail, this is illustrated with the piece of evidence in which Pistorius mentioned that the window was not fetched with burglar bars, and thus it is strange that he forgot to mention the slamming of the window, which was much more important to mention.

N: and it's paragraph 4.3 of the plea explanation (2.0) I heard the bathroom window sliding open I believe that intruder or intruders had entered the bathroom through the bathroom window which was not fetched with burglar bars (. ) you deal with burglar bars but you don't deal with slamming why?

P: my understanding from the questions that had been posed to me is was that I never mentioned anything about the window in my plea explanation my lady
N: no don't say that
P: = but now that I heard the plea explanation I did say the window slid open
N: Mr. Pistorius I don't know how you can give that answer I really don't know how you can give that answer (.) except if you're not focusing at the moment (.) are you focusing?
P: I am focusing
N: How can you then give that answer I never said you didn't deal with this (.) how can you give that answer what's wrong
P: Nothing is wrong my lady my interpretation about what's been posed been put to me (.) is that I didn't mention the window if the window slides and it stops that's the stopping of the sliding that's when it hit the frame (.) so if it was put to my plea that the window slid open that's the truth there's no tailoring of any evidence in there

(Pistorius Trial Cross-examination, 14 April 2014)

In lines 5-6 Pistorius starts with "my understanding from the questions" and then gives his own interpretation of what is asked; he is thus clearly reformulating the question. While doing so he changes the question from "why did you not mention the slamming of the window" into "Why did you not mention anything about the window". He reformulates the question as second time in lines 15-16 with "my interpretation about what's been posed".

The reformulation move only occurs twice in the data, hence as expected this move is not used very frequently.

However what is an opaque way of reformulation the question is replying with a transformative answer, which will be covered in the following section.
4.9 Transformative answers

As stated before a transformative answer answers a somewhat different question than actually asked. The next few paragraphs will discuss some transformative answers that appeared in the data. Some transformative answers are more evasive than others, a lot depends on the importance of the question. Consider the first example:

01 N: and (.) her clothes she would pack away and fold up
02 P: I never went into her cupboard my lady

(Pistorius Trial Cross-examination, 14 April 2014)

The defendant's answer implies 'I don't know because I never went into her cupboard', so he claims to have no authority to answer. This answer clearly evade the question by partly answering another question, however there is no much harm done since this question is not going to reveal something crucial about the events. In the next example, in comparison, the question is more crucial because it contains the presupposition that there was an argument between Reeva and Pistorius the night he shot her:

01 N: Mr Pistorius (2.0) isn't the reason that she wanted to leave and wanted to get dressed that's why the denim s the jeans is out of place? She wanted to
02 leave and get dressed
04 P: My lady the denims are inside out so it would made sense that s when she took them off she that she just left them on the floor

(Pistorius Trial Cross-examination, 14 April 2014)

Here Pistorius answers only part of the question he does not react to the statement "she wanted to leave" and only gives a possible reason for the fact that the denims our out of place. Pistorius is in fact ignoring an important element in the question, because if there was an argument he would have a motive to kill her.
The next example is drawn from a previously discussed context. Pistorius is questioned about the arrival of the investigation team and ask whether or not colonel Van Rinsburg was one of the first who went upstairs:

01 N: we get more of those instances that you cannot explain (.). Now I want to deal with something (1.0) that happened when we dealt with the fans I won't rehash all the fan evidence but (2.0) it's important to just put to you (1.0) or ask you let me rather ask you (2.0) on your version of the events (1.0) colonel van Rinsburg (3.0) were (.). let put it the best way possible of the first people that went upstairs (1.0) am I right?

07 P: (.). I don't remember who went upstairs first my lady I remember (.). as I said I think one of the police officers asked if there was anyone in the home (2.0) I remember him going upstairs he was in civilian clothing (1.0) I remember Mr. X went up twice (2.0) erhm (1.0) I don't remember who was upstairs at the same time or which police officers went in the room at the same time or if they were in different parts of the first floor (.). Mr Van Rinsburg was one of the first who went up but I don't have a (.). I'm not sure in which order he went up

14 N: Then it isn't possible to deny his evidence? So you cannot deny that that's his evidence?

P: I remember a civilian dressed police men going up the house first my lady after you asked me but if Mr. (1.0) I was crying at the time I don't remember it's possible that mister mister colonel Van Rinsburg went up first I was (.). what I saw was that a police men erhm in a civilian clothing went up first my lady

(Pistorius Trial Cross-examination, 14 April 2014)

In line 7 Pistorius indicates that he does not know who went upstairs first, which was not the question, his answer is therefore transformative.

In lines 14-15 the prosecutor asks whether or not Pistorius can deny Van Rinsburg's evidence, he does this by placing a yes/no constrained on the question. Pistorius again does not give a
clear answer by neglecting the constraint and starts answering the question 'was Van Rinsburg' the first up?, which is again a transformative answer.

A little further in the same discussion another transformative answer occurs:

01 N: Why must I repeat this question? Don't you want him to be first?
02 P: I well if I confirm cannot confirm his evidence that means that I confirm the fact that he's going up first but I cannot do that If I don't remember it so I cannot confirm his evidence I can take it into considerance but I can't confirm it I don't know

(Pistorius Trial Cross-examination, 14 April 2014)

In line 1 the prosecutor places a yes/no constraint on the question; besides this question is a provocation of the prosecutor after Pistorius failed to answer his question a few times in a row. In line 2 Pistorius answers the question "Can you confirm", which was never asked by the prosecutor.

The transformation move appears 20 times in the data, which is comparable to the black-out move. One out of eight evasive answers consists of a transformative answer. The hypothesis was that this move would be more frequently used as the reformulation move because it is more opaque, which is confirmed now. Moreover, this move is of an average use, as was expected.

4.10 Answering with a question

This category was not mentioned in the theoretical framework but was discovered during the analysis. It is remarkable that the defendant is able to answer with a question because that is not what the cross-examination frame dictates. Nevertheless, there are four instances in the data in which this is the case, for example in the following extract:

01 N: between the first shot and the second shot there was screaming (1.0) was that you?
Pistorius answers the question with an information seeking question. This example indicates that the defendant in exceptional situations may ask a question for example, when asking to clarify something or when asking to repeat something. However, the final turn shows that the prosecution does not like being questioned by the defendant.

As stated above, the 'answer with a question' appears four times, which makes it even more frequent than the refusal or reformulation move.

### 4.11 Uncooperative answers

Before comparing the results of each category it is interesting to note that sometimes the defendant gives an answer to the question that was asked him and still this answer can be considered uncooperative. The following example clarifies:

In line 3 Pistorius is answering the question 'have you?'. However, this response is an answer to the question, the question implies more than merely 'informing' whether or not Pistorius has an explanation. The question can be interpreted as 'give an explanation for', in the case of this interpretation the question stays unanswered. Pistorius is thus not reacting to the illocutionary
function of the question. The data indeed shows that the prosecutor not merely poses the question to inform but as a request for explanation, this becomes clear in line 8 when he says 'how would you explain it because you'd have to?'.

The next example is about the instance Pistorius heard the toilet door slam in the bathroom, he is asked what his thought at that moment was:

01 N: I'll show you why (2.0) now I' going to show you but I'm going to ask questions first what did you hear about the door?
02 P: I heard the door slam my lady
03 N: (2.0) You (2.0) were convinced it was a door slamming
04 P: That's correct my lady
05 N: (2.0) you were convinced it was the toilet door
06 P: there's only one door inside the bathroom so that's correct my lady
07 N: and what did you think?
08 P: I thought that it was slamming my lady
09 N: and what did you think why?
10 P: I thought that somebody either gone inside the toilet and slammed the door or that somebody on upon exiting the bathroom they had possibly kicked the door and that it closed (. and that was the slam that I heard my lady

(Pistorius Trial Cross-examination, 14 April 2014)

The focus here is on the respond "I thought that it was slamming my lady" (Pistorius, 2014), this was a respond to the question "what did you think?"(Nel,2014) in the previous line. This is in fact a strange thought at such a moment, since he was approaching the bathroom without the certainty that someone was inside and if there was someone the question was where exactly. If at such a moment one hears a door slam it is very unlikely that one should think "the door is slamming", more likely would be "someone is in there" or if one already knows someone is inside a thought like "he's hiding in the toilet" would cross one's mind not "the
door is slamming". It is only in Pistorius' next turn, after Nel asked him why it could be slamming that the real thought of that moment is communicate by Pistorius.
4.12 General results

This section will compare the quantitative results of the various categories, including the 'answer with a question', which was discovered during the analysis. The following diagram shows the results of each category:

The figure clarifies that the ignorance move is used the most, the hypothesis for this move was indeed that it would be one of the most popular moves. The reformulation move, the refusal move and the 'answer with a question' are small moves. The hypothesis for the reformulation and refusal move was indeed that they would be used less because the courtroom does not leave much opportunity to do so. There was no hypothesis for the 'answer with a question' it is remarkable however that it appeared, since the courtroom setting does not allow a loose alignment in footing. Between the remaining moves there is no much difference in frequency. The challenge move for example is of an average use and more frequent as the refusal move as was expected but it is remarkable that it also occurs more than
the black-out move, which was expected to be one of the larger moves. The hesitation, recycle and transformative move appeared as was expected.

The follow diagram shows the relation between the total amount of Pistorius' turns and the amount of evasive answers.

![Turns of Pistorius](image)

The figure indicates that approximately one out of five turns is an evasive answer.

### 4.13 Remarks

It should be noticed that not all evasive answers belong in a clear category, sometimes this categorization may be open for discussion, argumentation is always needed.

Furthermore, some evasive answers combine two strategies in one answer, these examples are counted twice, once in each category.

Looking at the turns that cover the topic of Reeva's stomach content, we see different moves are applied after each other such as the challenge move, the hesitation move, the ignorance move etc. It is clear though that if a move does not have the desired effect, the defendant switches to another move.
Conclusion

Defendants can use a variety of ways to evade questions. The aim of this dissertation has been to detect these different ways and categorize them, furthermore the attempt was to explore the impact of these strategies on the further development of the interrogation. Next, the strategies were compared to one another, exploring which strategies occurred more than others and which strategies were more successful.

As was expected the refusal move occurred least of all moves, followed by the incomprehension move. The former is less popular because it is impossible to apply it opaquely and often causes being sanctioned, the latter is not very frequent because it only delays an answer. However, an incomprehension move can have more influence than initially thought, as it may create a pause in the interrogation or it even may affect the sequence or content of the questions, as was illustrated in the analysis. One who is aware of these advantages may have used the incomprehension move more frequently.

The research indicates that the reformulation move was not used very often, probably this is because this move is rather clear, as opposed to the transformative move that is rather opaque.

In addition, the results indicate that the black-out move, the challenge move and the hesitation move were all of average use and that the ignorance move, as was expected was the most popular one. However, it was expected that the black-out move would be used as frequently as the ignorance move, which was not the case.

The analysis also shows that the recycle move does not necessarily mean a repetition of a complete respond, sometimes only parts are recycled, sometimes the content of an answer is repeated but formulated in other words.

Some of these moves are very opaque and will not always be detected by the conversational partner, the transformative move is a good example here. It is only by means of close examination that these moves can be discovered and even more investigation is needed to find what the function of these moves is.

The analysis also brought forward a new category, namely the 'answer with a question'. There was no hypothesis for this move but it does not surprise however, that it is a rather small move, since questioning should be done by the prosecutor and not by the defendant.
Further Research

It is not clear at this point, whether these findings are typical for this specific trial or whether the findings can be universally accepted. Therefore, further research may be useful to test, for example, the findings from this investigation in other court cases, on a larger scale or in an informal setting.
DATA TRANSCRIPTION

Cross examination 14-04-2014

CONTEXT

The prosecution as well as the defendant (Oscar Pistorius) and his legal team are already present. There is an audience consisting of Reeva Steenkamp's family, Pistorius' family, journalists etc. The data starts after the court represented by judge Thokozile Masipa entered the room and she opens the cross-examination. There is no presence of a jury, however judge Masipa is assisted by two assessors, namely Janet Henzen-du Toit and Themba Mazibuko. The data is divided into three parts between each part there is an adjournment.

PART I

M: You're still under ought Mr. Pistorius

P: Thank you my lady.

M: Thank you very much. Yes Mr. Nel

N: Is a good? erhm Mr. Pistorius (..) (sigh) my argument will be and that what the* what the cross examination will focus on today is that your version is so improbable that it cannot be reasonable possibly true. (0.5?) I'm going further Mr. Pistorius I'm saying that Your version of events is in fact untrue (.) then for we start Mr. Pistorius I say You've got a concoctive version which you tailored state's case and you're tailoring your version as you're sitting there. You understand what I'm saying Mr. Pistorius ?

P: I do my lady

N: Good. Then Mr. Pistorius (..) I've heard and I wo wondered if you could confirm that Reeva was a very neat person (0.4) Do you Can you?

P: er My lady she was neat in some senses her car was a mess but her room was always very well kept

N: and (.) Her clothes she would pack away and fold up

P: I never went into her cupboard my lady
N: if one thing of the scene. Her clothes and her garments and other clothes were all in the overnight bag there's nothing that you can see on the photograph Am I right?

P: I've any I've any seen the photographs my lady

M: Your voice is very soft

\[
\begin{align*}
\text{Can you just speak up} \\
\text{P: I beg}
\end{align*}
\]

I beg your pardon my lady from the photo's I've seen her clothes were very nicely packed in her bag my lady everything was very neat

N: the only thing out of place Mr. Pistorius is the pair of jeans

P: That's correct my lady

N: why would that be do you know?

P: I don't my lady.

N: see Mr. Pistorius the everything else under garments other clothes are all in the overnight bag the only thing outside of that overnight bag is her jeans and you don't have an idea why

P: I don't my lady is my refer** anything I could think of is that she wore the jeans that they and maybe the things in her overnight bag were clean clothes I'm not sure

N: we're speculating w I mean there's nothing else but the but the jeans no r no top only the jeans one can see Am I right?

P: And her slops my lady you can see her slops on the floor

N: but those are also neatly next to each other next to the bed on the left hand side

P: there's two photo's of the slops my lady and they in different positions in both the photos so in both photo's there neat and later on there was another photo were they've been moved a third time but that's because a bag had been placed there I think

N: Sir I've missed it I couldn't hear you. you think of what had been placed there?
P: there was a photo later in the morning my lady where they placed Reeva's overnight bag on the floor and then the slops had been moved

N: Now (1.0) that on the photograph we see (1.0) er slops as you call it those were neatly next to the left hand side of the bed

P: r There were between the bed and the sofa my lady 

N: On the left hand side that's what you said Mr. Pistorius

P: that's correct my lady.

N: You said that she (1.0) she s slept their the previous night as well

P: (2.0) I don't say that my lady

N: No Did she not sleep there the night before?

P: No my lady.

N: No.

P: No I said she slept at my house but not on the left hand side of my bed my lady

N: Where did she sleep?

P: erhm in my bed on the right hand side my lady.

N: Okay (1.0) But she she s stayed the night at your house the night before this incident that that we can accept

P: That's correct my lady.

N: Know Knowing that you sleep on the left and she would sleep on the right.

P: That's correct my lady

N: Why would her slops then be on the left hand side?

P: I be I beg your pardon my lady can Mr Nel just repeat his previous question?

N: She knew that she would be sleeping on the right hand side and you at the left hand side because that's what happened on the previous night. Am I right?
P: That's that's correct my lady.

N: OK. Now why would her slops then be on the left hand side?

P: Because on the bed is not in the middle of the room my lady the bed is if you look at the bed it's far towards the right of the room and on the right hand side (.) there's not much space there's an attens against the curtains near the curtains between the bed on the other side there's a sofa, there's an ottoman and Reeva always put her overnight things on that sofa there (1.0) so she always put her things down (.) if she stayed over at my house on that sofa

N: always would mean she sleeps on the left this was an exception (.) always cannot work here this was an exception (.) so always cannot work

P: Are we

P: are we not talking about on which side of the bed we are talking about where she placed her things my lady that's (.) my understanding

N: Always

N: always she would sleep on the left hand side of the bed This one night two nights were exceptions

M: I don't think this is what the witness was saying?

P: That's not what I'm saying my lady

M: Just just hold on. there was a flashlight flashlight what happened here? (5.0) Did I imagine that there was a flashlight? (6.0) Let's proceed.

N: As the court pleases, let's take you through it usually when she would sleep there she would sleep on the left hand side of the bed

P: that's correct my lady

N: on on the night before those were two exceptions because she slept on the right hand side of the bed.

P: Those were exceptions there may have been other instances I've been struggling with my shoulder (.) erhm with my shoulder for a couple of weeks when I slept over at Reeva's house I slept on the left hand side of the bed as well my lady
N: Now Mr P. (..) she would use the slops for when she would get out of bed. Am I right?

P: I'm not sure my lady.

N: Have you not seen her use her slops before?

P: I have seen her use her slops before my lady.

N: And when?

P: erhm when she would walk around downstairs and (1.0) erhm (1.0) I don't have any independent recollection of her using her slops but I know she would use them around if she was walking downstairs and the tiles the tiles were probably cold so I can from that it's possible that she be wearing her slops around. I don't remember her wearing (.) her slops that day but I'm sure she would have

N: Mr Pistorius (2.0) isn't the reason that she wanted to leave and wanted to get dressed that's why the denim the jeans is out of place? She wanted to leave and get dressed

P: My lady the denims are inside out so it would made sense that when she took them off she that she just left them on the floor

N: But why would she leave them on the floor if anything else that she had on everything else is in the overnight bag? Why would she leave that particular jeans outside?

P: I don't know my lady

N: Where were they when you went to bed?

P: I don't remember my lady

N: Now (3.0) I'm saying and that's the state's case Mr Pistorius that she wanted to leave and you weren't sleeping you were both awake

P: that's not correct my lady That's untrue

N: Aand that there was an argument.

P: that's not true my lady

N: Let Before we go there erhm (3.0) Do you have an explanation for the stomach content of the diseased?
P: I don't my lady

N: Say again.

P: I don't my lady.

N: That is (2.0) as far as your case is concern devastating for your version that 8 hours after she’d eaten when she was killed there was still that amount of food in her stomach How would you explain it because you’d have to

P: I don't know how to explain it my lady Mr erhm professor X came and testified and his evidence is not taken into account with what is being put to me now my lady so I don't (.). I don't have any explanation for it so I can't comment

N: I really I'm going to press you for an explanation because both professor X conceited that 6 hours people would expect the stomach content to be clear (.). 6 hours after somebody has eaten now we're talking about 8 (1.0) and I want to know from you why?

P: I don't know My lady

N: I put it to you that (1.0) she must have eaten within 2 hours of her death.

P: I cannot comment on that my lady that's we had dinner just after 7 o'clock that evening the night before

N: Now (.). have you (3.0) have you consulted with other experts in this regard?

P: No I haven't my lady.

N: Not at all?

P: No my lady.

N: Now what is a further aspect Mr. Pistorius is that (.). Ms. Nerve heard (.). a women (.). talk from about 2 o'clock that morning (.).You 've heard her evidence?

P: I have my lady she did say that.

N: now that's it is possible that you were eating with Reeva did you eat?

P: No we didn't eat my lady.
N: But then it's impossible Mr. Pistorius that the digestive content couldn't be what we see in the post morning it it

R: impossible is the wrong word you cannot expect it you cannot dogmatic about it you won't expect it (1.0) not impossible.

M: Yes.

N: I put it differently (. ) all the references to works medical works and both ex very experienced pathologists said that one would expect the stomach content to be (. ) empty after 6 hours you've heard that Mr. Pistorius?

P: I have my lady.

N: Why would (. ) that in this particular instance that not be so (. ) why would there be still food in the stomach?

P: I'm not sure my lady.

N: Because you were awake (2.0) there can be no other explanation.

P: I don't thing me being awake has anything to do with Reeva's stomach content I if I wasn't (. ) If I don't know I don't know she ate again I don't know (. ) if

N: okay

P: erhm I what I'm saying is that we ate just after 7 o'clock (. ) this has nothing to do with me being awake (1.0)

N: Let's*

P: = Mrs. Von Nerve said she head a women talking she doesn't say she heard a man and a women talking so I don't know my lady

N: you see I gonna mention it every time today you're arguing the case you're arguing what Mrs. Von NERVE said and being argumentative Mr. Pistorius is not good for your credibility. Will you accept that?

P: yes my lady

N: so please answers the questions you're not doing yourself any favours you understand that?
P: I was finishing my previous answer my lady I wasn't arguing the point but I'm sorry if that's the way it came across.

N: Now (3.0) Let us test what you just said you said I was sleeping (1.0) I did you say I was sleeping Reeva could have eaten

P: It's a possibility my lady I was sleeping my lady I didn't if that's the (1.0) evidence that's been given (1.0) when we ate we ate after 7 I don't know of any other time that Reeva ate

N: but you know that the answer you just gave is impossible it's a tailoring of evidence that she could have eaten because that's impossible you know that isn't it?

P: I I ca can't comment anything I know is that we ate dinner after 7 o'clock it would have soothed me to

M: You're voice is very soft again

P: I'm very sorry my lady (2.0) I heard the evidence that's been given my lady but we ate dinner after 7 it doesn't sooth my ve my version if I wanted to tailor the evidence I wouldn't stick with what I said that we ate after 7 o'clock but that's when we ate my lady

N: Mr. Pistorius let's deal with the question the question is (.) I put to you (1.0) you know that it is impossible for her to have eaten (.) after you went to bed that night (.) on your version (1.0) Am I right?

P: I was sleeping my lady I I don't think that Reeva went down again to eat I think it's highly improbable that she did.

N: It's in fact impossible on you version do you want to deal with that? Not improbable impossible.

P: I don't want to argue the point my lady.

N: I want to Mr. Pistorius because the alarm would have been threatened

P: if the if Reeva switched off the alarm and went down to eat and came upstairs I don't know my lady I was sleeping I don't think she did (.) we ate after 7 o'clock and that's the last time that I think
N: Mr. Pistorius this particular point I put to you is devastating for your version because it cannot it's an objective (1.0) set of facts and it cannot fit into your version (. ) what you wanne say to that?

P: I agree with Mr. Nel my lady I didn't think I don't see how Reeva possible could have eaten after 7 o'clock we're just talking about the possibilities (2.0) when I ate we ate together and we ate just after 7 and we ate for about 20 minutes half an hour (. ) so I'm sure we would finish long before 8 o'clock in the evening (. ) I don't have any explanations for the questions he's putting to me.

N: we get more of those instances that you cannot explain (. ) Now I want to deal with something (1.0) that happened when we dealt with the fans I won't rehash all the fan evidence but (2.0) it's important to just put to you (1.0) or ask you let me rather ask you (2.0) on your version of the events (1.0) colonel van Rinsburg (3.0) were (. ) let put it the best way possible of the first people that went upstairs (1.0) am I right?

P: (. ) I don't remember who went upstairs first my lady I remember (. ) as I said I think one of the police officers asked if there was anyone in the home (2.0) I remember him going upstairs he was in civilian clothing (1.0) I remember Mr. X went up twice (2.0) erhm (1.0) I don't remember who was upstairs at the same time or which police officers went in the room at the same time or if they were in different parts of the first floor (. ) Mr Van Rinsburg was one of the first who went up but I don't have a (. ) I'm not sure in which order he went up

N: Then it isn't possible to deny his evidence? So you cannot deny that that 's his evidence?

P: I remember a civilian dressed police men going up the house first my lady after you asked me but if Mr. (1.0) I was crying at the time I don't remember it's possible that mister mister colonel Van Rinsburg went up first I was (. ) what I saw was that a police men erhm in a civilian clothing went up first my lady

N: Then let's just deal with the question can you deny (1.0) colonel Van Rinsburg evidence It's it's an easy question. Can you deny Colonel Van Rinsburg evidence that he went up first?

P: if I don't know I can neither deny or confirm my lady

N: I'm not asking for you to confirm. Can you deny it? Is he lying?

P: No I cannot deny it my lady
N: Why must I repeat this question? Don't you want him to be first?

P: I well if I confirm his evidence that means that I confirm the fact that he's going up first but I cannot do that If I don't remember it so I cannot confirm his evidence I can take it into considerance but I can't confirm it I don't know

N: Now can you deny his evidence that his focus was inter alia he mentioned aspects that he focused on but inter alia his focus was on the fan and the position of triangular fan tri-foot fan

P: No I cannot deny that my lady I wasn't there

N: even during cross examination he was asked where his focus was and he said that (2.0) inter alia his focus was on the fan in front of the door (1.0) You cannot deny that

P: I cannot deny that my lady I don't know what mister Van Rinsburg's colonel Van Rinsburg's focus was

N: It went further My lady may I just request photograph 8. (3.0) The photograph was shown by Mr. Roux (1.0) My lady it's p 870 of the record (3.0) You don't have to page trough that if you don't mind you're welcome to but (.) but I don't think it's in the album Mr. Pistorius (6.0) My lady it may take just a (.) a minute

M: Yes

N: (14.0)er My lady I I carry on with something until w we find it. Mr. Pistorius (2.0) I have to put to you (1.0) that at page 829 of the record (14.0) and I sent a record across to you (11.0) er (2.0) at the e from about line 22 (2.0) the main bedroom the main focus as we s stopped there because we did not know what were going to find next and then so we first stopped in the main bedroom and when I entered there I observed what's happening in the main bedroom and then (.) what we saw in the main bedroom (.) and then it carries on at the bottom 830 (.) the fan the metallic one the stainless steel one if I can say it like that the stainless steel one it was standing in front of de door and then the curtains was open You see that sir?

P: yes I do my lady

N: well whilst we have that record triple 888

P: My lady Mr. Van Rinsburg if I my say he doesn't say that he went up he said that plural we went up not he and he says the curtains were open not the curtain
N: Good you picked that up that's in the record will you now mind to page through p888 (6.0) now he's under cross examination from about line 4 (3.0) what did you focus on there (1.0) I wait for you (4.0) what did you focus on there as I I previously indicated my lady when I entered there that's the one thing that I noticed were the watches (.). the next thing that I noticed was this trouser lying in front of the fan that was standing there and the curtains that was open as well was the door (1.0) that was my focus (1.0) Now my question to you no let me just deal what we have with photograph 856 (.). now photograph 856 were shown to colonel Van Rinsburg (1.0) at p870 my lady (4.0) and from about line 18 (.). it's put to him that would accord with what you saw that day? (.). no it did not accord with what I saw (.). what is different (.). it was standing in front of the door it was standing in front of the door (.). in front of the door It was standing more right (.). You do not know moved it there? no I do not know (1.0) But you see Mr Pistorius (1.0)

M: Just one minute (.). just one is this the photograph we are supposed to be looking at is this the one?

N: Yes my lady that is

M: You haven't dealt with it yet

N: I haven't dealt with it It happened in cross examination of colonel Van Rinsburg my lady it was show to colonel Van Rinsburg during cross examination by Mr. Roux

M: okay (.). all right

N: Now Mr Pistorius (.). my question is why would (.). colonel Van Rinsburg not have been asked about by (.). the fact that the fan was in fact standing right in front of the bed and not at the door?

P: I'm sorry my lady I 'don't follow the question

N: erhm { (.)

P: Who would have asked him

N: erhm Mr. Roux why would he not put it to him that it's not only to the right it's right in front of the bed
P: I think if you look at this photo what Mr Nel means to say it's to the left my lady and I think if you look at the context in which it was asked Mr Roux asked this question to Mr Von Rinsburg. Mr. Roux asked this to make sure that he knew what he saw in the morning. I think that was the context in which this was asked.

N: Yes you're right but why didn't Mr. Roux put it where you said it should be why would he not put it to Van Rensburg?

P: because that's not what this photo dictates my lady

N: I’ve indicated 3 issues I read 3 don't be fixated on what's on the screen. I went through 3 things mr Pistorius where he focused and where he said the fan was. Why during all that time did mr Roux did not put that fan in front of the bed to where you say it was why?

P: I'm not sure my lady

N: Now y i Because its' not your version it was never your version it's a tailored version during cross examination

P: That's not true my lady

N: It wasn't you version when you put the fans exactly during your examination in chief that we know

P: I don't remember my lady

N: you said during examination in chief exactly where you took hold of it exactly where you put your hand and how you did brought it in you never said you took it right in front of the bed. you never said it in chief put during cross examination why

P: because I never put the fan right in front of the bed

N: No but we know where you put it you put it where the duvet is

P: That's not right in front of the bed my lady

N: Then then forgive me for that but they deal with that why why was that point never indicated to Van Rensburg?

P: I'm not sure
N: that is the issue not anything else why?

P: I'm not sure my lady

N: you know that the only reason and that will be the argument I give you an opportunity (.) the only reason is because it was never your version before cross examination started

P: That's not true my lady

N: Roux would not have done that because of the position of the duvet that was there is that not so?

P: I'm not sure my lady.

N: You see today I pick up that you're not sure about things Is there anything wrong

P: No my lady

N: okay I just wanne to know so you you're fine?

P: That's correct my lady.

N: Okay. Now (5.0) let us (3.0) deal with (4.0) the blue light (1.0) the only bit of light (1.0) in the pitched dark room was a blue LED

P: That's correct my lady.

N: In the on-off switch (1.0) of the amplifier.

P: That's correct my lady.

N: Nothing else?

P: e there's a tiny tiny blue LED light on the light switch but it doesn't it doesn't it barely illuminates any light my lady

N: Now (2.0) you wanted to pick the jeans up to cover only that particular blue light?

P: That's correct my lady.

N: (3.0) You know what it means if that blue light is on in the on/off switch?

P: I don't my lady
N: Don't you?

P: I I don't my lady.

N: It means the amplifier is on (2.0) isn't that so?

P: I don't know my lady I th

N: I show you.

P: I think the light can be on if it's on or off I'm not sure

N: let me ask you if it's off wouldn't it be red and if when it's on blue?

P: I don't remember that light ever being red my lady.

N: At one thing I will show you is that the amplifier was on.

P: I don't remember if the amplifier was on or off my lady.

N: So there were other lights then on the amplifier.

P: I don't know if the amplifier was on or off my lady I remember the blue light on the bottom that I wanted to cover .

N: the blue light being on (3.0) is carried out first in your evidence in chief wasn't in your bail application or in your erhm plea explanation. Am I right?

P: Erhm that's sounds correct my lady.

N: And (. ) the fact of the blue light was never put to either Van Rinsburg and or Van Staden the photographer (. ) am I right?

P: That's sounds correct my lady.

N: Now if we could just have photograph 61 please (24.0) You recognize that's your amplifier?

P: That's correct my lady

N: before that cord in the amplifier what is it

P: It's a cell phone charger
N: A cell phone charger? and It's for an Iphone? or for what's it

P: it's an Apple charger my lady so it can be used for an Iphone or an Ipad or

N: Did you use it that night?

P: I can't remember my lady

N: If you did Would you've remembered?

P: If I remember I would have said I remembered my lady

N: Now let us (1.0) just zoom into the face of the amplifier (6.0) you you see all the lights there

P: I do my lady

N: That didn't bother you

P: No my lady

N: You can't even remember

P: I can't my lady

N: Why would the little blue light on the left bother you but not the rest?

P: because it's a lot brighter than the other lights my lady

N: but the other lights is so much more look at them

P: My lady this photograph was taken in the day I don't know how you could possibly

N: There's another blue light can you see the other blue light?

P: I can my lady

N: erhm My lady may I asked that it just be identified so there's another blue light that didn't bother you

P: No my lady the LED light (1.0) that whole panel is a a display panel but the light the switch on the far left was the light that bothered me my lady

N: But you said the light bothered you before? Am I right?
P: That's correct my lady (sigh)

N: You don't think of just (1.0) switching it off?

P: I'm not sure if the light goes off

N: Did you try it? what did you try it try switch it off?

P: I don't remember my lady

N: Why wouldn't you if the light bothered you before so much so that you have to cover it before you went to sleep why did you not try switch it off?

P: I possibly did try switch it off

N: but tell us than did you?

P: I don't remember my lady

N: that's what I'm saying I you would have remembered (2.0) if you did you would have remembered

P: My lady if I did I I 'm not even saying that the light may have gone off if I switched the amp or power light (1.0) even if I did switch it off there would have been a reason for me trying to cover it (1.0) so if the button was pushed off if the amp was pushed if the button was pushed and the amp switched off I don't think the light would have gone off either way (. ) I think the light is there to indicate that that's the power source of the amp

N: that's what you think you never tested it it bothered you you Mr. Pistorius gave the evidence (1.0) It bothered me but I never tested it (1.0) am I right?

P: I didn't say that my lady I said I don't remember

N: But what would be wrong with your memory if you did why would there be a memory lapse about this

P: I didn't test the amplifier's light

N: You can't remember you can't remember if you did (. ) you why what would be wrong with your memory if you did why would there be a memory lapse as far as this concerned

P: I remember picking up the jeans my lady and covering up the light that's what I remember
N: You have to explain You have to Mr. Pistorius create time (2.0) you have to on your version building a time gap for Reeva to get to the bathroom (.) that's why you invented (2.0) what you're doing now (1.0) isn't that so?

P: That's incorrect my lady

N: It must be because otherwise the whole amplifier would have bothered you not only one blue light (.) you didn't know it was on (.) therefore you focused on the blue light

P: my lady if I wanted to create time (.) the state's created time in their evidence Samantha tailor's statement it says she writes there it took 4 minutes for me to put my legs on (.) I put my legs on here in court it took half a minute I'm not trying to buy (2.0) I can simply say it as it was whether I'm trying to put the button on or off or picked up a pair of jeans (.) it takes more or less the same time (.) it has nothing to do with time

N: It's all these small things (.) because if we go up you see that not only is the amplifier on (.) the display is also on can you see that

P: I cannot see the display on my lady

N: is there any writing on it on the face of it would that be there if it's on or not

P: My lady there's an LED panel to the right of the amplifier there's no words on it so I can't say that it's on it looks off to me

N: but if it if it . Let's zoom in (10.0) what's the LE what's the LED you referring to? (30) is is that light on (2.0) is it on or off?

P: It's off my lady

N: what a and if you go back to the left where it is green what is that

P: I don't see any green my lady.

N: what do you see there where the circle where the circle is is do you see nothing

P: where the circle is I see the piece that's opens that says DVD on it that's printed on a piece of plastic my lady

N: are you saying that it's printed it's not it's not part of the LED
P: That's what I'm saying my lady

N: and to the left

P: to the left is a control panel my lady with an USB port and buttons

N: there there's no lights in there?

P: there's no lights on anywhere my lady

N: your TV also had a red light

P: I don't remember it possible did my lady

N: I'll show you (2.0) I just have to get the photograph (7.0) My lady it will just take a minute

M: Yes

N: I'm sure I've made a note my lady but I can't find one (28.0) (background whispering) apologize my lady we will get there it will take half a minute (36.0) * erhm my lady it's slowly ticking in starts at one of the screens and then it will go through the system we've switched it off I apologized (1.0)usually I want something that is slow (.) I apologize (.) Mr Pistorius whilst we're doing that can you not don't have any independent of red light on your TV

P: but it's not a very bright light

N: so that was also on (..) that didn't bother you

P: I don't remember that light my lady

N: and there were the circle is now?

P: that was what I was thinking about my lady in the middle of the TV

N: That didn't bother you

P: no my lady

N: and (1.0) that it wasn't illuminating anything

P: It was illuminating but it didn't bother I didn't even notice it my lady
N: I see (1.0) now (.) from (1.0) where you picked up before we go from where you picked up (.) there's one other aspect that I want to deal with (1.0) and it deals with photograph 68

M: which photograph?

N: 68 my lady (3.0) (background whispering) I’ve let me pass it to you (15.0) My lady I’ve just been informed that perhaps I didn't identify the previous photograph the previous photograph where the TV was shown that was photograph 60

M: Thank you

N: erhm I want to ask to zoom into the duvet on the right hand side of the duvet just in front of where the jeans are (3.0) ya more more go down go down (2.0) go down more and zoom in er let's see if we can find blood spatter there (9.0) does that look like blood spatter to you?

P: Yes my lady

N: now if we follow the blood spatter (1.0) down towards the denim (.) a bit more to the left (2.0) and next to the denim we find blood spatter on the carpet as well (3.0) can you see it there?

P: I can my lady.

N: If we even go further down and follow the angle of the (.) denim we find more blood spatter. Can you see it?

P: That's correct my lady.

N: Now (.) and (.) if we (.) then go to the particular photograph where one can see the (hairsmear???) er 67 (3.0) if you take that into account my argument would be that blood spatter (2.0) on the duvet and on the carpet was caused (.) when you carried the diseased (2.0) passed that area (1.0) what are you saying about that?

P: I understand that my lady.

N: But on your version it cannot be?

P: On my version my lady I went to go get my phones next to my bed (.) there is also blood spatter on the wall next to the bed where I went to get my phones that were on the left hand side of the bed (.) so it's possible that the duvet could have blood on it at that point as well
N: you went to the left hand side you never passed the duvet (1.0) one can follow the line of the spatter Mr. Pistorius

P: if the duvet if the duvet was on the bed I would have passed the bed and I was next to the bed my lady

N: I thought you say that (.) there's no blood spatter on the on the bed

P: There's blood spatter on the wall next to the bed my lady that's what I said

N: there is no blood spatter on the bed just listen to me don't argue with me listen to me (.) there is no blood spatter on the bed you counsel would have pointed it out there's nothing

P: I agree with that my lady.

N: then it is impossible Mr. Pistorius and don't you now want to tell the court that the duvet was there

P: My lady (.) if the duvet was on the bed there wouldn't be blood spatter on the bed it would be on the duvet

N: No Mr. Pistorius there would be some blood spatter leading to it It wasn't covered are you now wanting to say that it was covered that the duvet was nicely folded open?

P: No it's not what I say my lady.

N: then then deal with the question don't you Mr. Pistorius (.) we've now indicated to you that in all pos* in all probability the jeans on top of the duvet (.) we've pointed out very convincing (.) blood spatter on the carpet and on the duvet that one can link (.) we've pointed out that colonel Van Rensburg was never cross examined about the position of the fans (3.0) don't you want to admit Mr. Pistorius that at least you made a mistake that the duvet was on the floor

P: I don't remember the duvet being on the floor my lady.

N: you you remember it in fact not being on the floor

P: that's correct my lady.

N: so why are you saying I don't remember it being on the floor (1.0) that's that's a nonsensical answer (1.0) because that's that's not your version (.) why did you say that?
P: It is my version my lady that I don't remember the duvet being on the floor.

N: that's not your version your version is I remember the duvet being on the bed (.) that's your version

P: which means it couldn't be on the floor my lady

N: you see that

P: and if the blood is on the one corner of the duvet which is being indicated and shown my lady then it could have easily been that corner that was on the bed (,) where the rest of the blood spatter is there's a lot of blood spatter in the room

N: okay let us let us you see Mr. Pistorius as you argued I just get more questions because what in fact you're now saying is (,) a policemen must have been so clever to put the duvet down where the corner was where the blood - Is there something wrong with you Mr Pistorius?

P: My eyes are sore my lady

N: does it have an effect on you on you giving evidence that your eyes get sore?

P: No my lady

N: Why are you touching your eyes now did it get sore now or was it sore when you got here?

M: Mr Nel I happen to be watching the witness a few minutes well maybe about 10 minutes ago he was touching his eyes

N: As the court pleases. I didn't see that my lady but

M: I'm aware of that

N: = if the court saw it I won't take it further

M: = I'm aware of it yes I'm aware of that yes

N: Mr Pistorius we must now think about the probability a policeman either by design or lack put a duvet down on the floor within that particular corner in line with the blood spatter on the carpet is that what you're saying is possible

P: No my lady
N: You must because that's what I pointed out to you (2.0) that your version isn't possible don't you want to at least (2.0) conceit this

P: my lady that's (..) if the police officer placed it there or it was by lack has nothing to do with my version (1.0) It was unlucky that many of the things weren't in the way that they were because they've changed so often in the various photo's so I can't agree (..) it's not about conceiting

N: as I said Mr. Pistorius from the start I'm gonna point out to you how improbable your version is now you're tailoring your evidence and that it's not true (..) here's another aspect (1.0) when you armed yourself (..) and you spoke to Reeva (2.0) what what did you say?

P: I told her to get down and to phone the police my lady

N: In what way did you say it?

P: in a low tone my lady

N: in a low tone (1.0) definitely did not whisper

P: No I remember saying it in a low tone my lady

N: Erhm Mr. Pistorius I listen to the question I know what you want to say every time you do that affects your credibility (2.0) please did you whisper

P: I didn't whisper my lady

N: if somebody would say that you whispered that person would be lying? (3.0) Am I right

P: That's right my lady.

N: You know who that person is because somebody said it?

P: no my lady

N: it's you (1.0) You said it (..) you said I whisper to Reeva

P: I remember saying I said it in a low tone my lady

N: you see and it's not not during cross examination it's evidence in chief p1471

P: then I made a mistake my lady I remember talking in a low tone to Reeva
N: I point it out for you first before you go to mistakes

M: What page again?

N: 1471 my lady

M: thank you

N: at line (whispering) (2.0) I will pass it over to you now Mr. Pistorius (16.0) at line 20 Mr. Pistorius do you have it now if I may in this intervention just as I just as I left my bed I whispered for Reeva to get down and phone the police now that's you evidence in chief why would you try to steer away from a whisper

P: I'm not trying to steer away from a whisper my lady I've said before that I remember talking in a low ton and this morning when asked this question I said I think I spoke to in a low tone so if I said a whisper it wasn't a whisper it was a low tone in which I spoke to

N: No you it erhm we dealt with this (background whispering) (4.0) we dealt with this on (3.0) let me just see at the record on the 11th that was Friday (. ) we dealt with this on Friday at page 1741 (2.0) where you said at line 3 you never whispered oh sorry what (6.0) my lady I apologize I've I don't think the court has a hard copy of the record yet

M: well we we leave it behind there's no space

N: yes as the court pleases but I will read it and I'm sure that everybody would follow it and if it like to becomes an issue we can deal with that if that's fine erhm do you have it Mr. Pistorius

P: I do my lady

N: line 3 you never whispered (1.0) what's the difference between soft manner and a whisper soft manner is talking softly and a whisper would be a whisper my lady (1.0) so you did not whisper (1.0) no my lady I did not whisper (1.0) you were as convincing Friday that you did not whisper but yet in your evidence in chief you whispered

P: I understand that my lady

N: I just wonder why you would want to steer away from a whisper

P: I don't want to steer away from a whisper a whisper would sooth me better my lady
N: that would not suite you better you cannot keep on with that answer (1.0) a whisper (4.0) you wouldn't know if she heard cause it's very soft am I right (1.0) one wouldn't expect a response to a whisper (1.0) low tone is hard enough for her to hear whisper I don't know if she heard (1.0) isn't that a possibility

P: my lady what was just asked to me is that I wouldn't had expect an answer from a whisper but then it was put to me that a whisper wouldn't be heard but yet a low tone would (. ) which is the complete opposite (1.0) a low tone would be heard that's right (. ) but therefore whisper would have been would have been the one that wouldn't have received an answer

N: that's that's correct you right

P: it would have soothed me better that I whispered I'm not choosing something to sooth me here

N: no you are because you see you're trying to steer away from a possibility that you would think she couldn't hear if you said a low tone she heard if you decided not to whisper (1.0) there's an obligation on you to make sure she heard isn't that your issue?

P: No that's the opposite my lady

N: No that's not the opposite mister but we argue it I'm just more concerned with the fact Mr. Pistorius that you would convincingly deny that you whispered on more than one occasion (2.0) erhm yet that was your evidence in chief why would that be?

P: I understand that my lady I must have made a mistake by saying whispered I meant in a low tone

N: you see Mr. Pistorius erhm your word choice your choice of words as far as mistake is concerned (2.0) you would have picked up to the mistake on Friday if it was a mistake in evidence in chief because in on Friday I never referred you to the record am I right? to the evidence in chief

P: I'm sorry my lady I don't follow what was asked to me know

N: You see I'm a bit concerned (2.0) why don't you follow?

P: erhm it's put to me now something about my evidence being led and my repeating of (. ) if Mr. Nel put my evidence in chief to me (. )
N: Yeah did I did I tell you on Friday that your evidence in chief (.) when you gave evidence Mr. Roux was leading your evidence (2.0) when that happened that you whispered (1.0) that you used the word whisper (1.0) I didn't put that to you on Friday am I right?

P: that's correct my lady

N: that's why on Friday you were very strong saying you definitely did not whisper

P: that's correct my lady

N: Today again

P: That's correct my lady

N: now only when I pointed out to you that your evidence in chief was whisper you think it was a mistake why would that be a mistake?

P: because it's only pointed to me now my lady

N: Why would you make that mistake

P: I'm not sure my lady (.) as I said I probably meant in a low tone and I said whispered (.) it's the first time it's been pointed out to me

N: okay you see we we remember the theme for today is (.) tailoring your evidence I'm putting it to you that's what you're doing (.) you're tailoring your evidence

P: My lady if I was tailoring my evidence it would sooth me to whisper not in a low tone (.) I don't know how this can be seen as tailoring my evidence

N: We have a different view now Mr Pistorius (3.0) just quickly as far as (.) you're arming yourself (4.0) there's one aspect before I get there (.) erhm Mr. Pistorius (1.0) Reeva when when when you woke up Reeva was awake and she spoke to you

P: erhm I'm not sure if me waking up woke her up my lady but she spoke to me so she was awake

N: and while she was lying in (2.0) in bed you got up?

P: that's correct my lady

N: she never said Os where you going what are you doing (.) not at all?
P: no my lady she said baba can't you sleep and I said that I couldn't and got out of bed

N: you never said to her I gonna close the curtains (2.0) you never did that

P: No my lady

N: she never asked Os where you going why you getting up?

P: No my lady

N: and (1.0) neither did she say to you that she was going to the toilet?

P: No my lady

N: would you've expect that kind of conversation between the two of you (.) why would she not why would she not ask you where you're going

P: I don't know my lady

N: It's because (.1) your version (.) is improbably (.1) one would expect her to say Os where you going (2.0) wouldn't you expect her saying that?

P: I don't know my lady

N: why would you expect her not to say a thing when you get up in the middle of the night? (2.0) If she's awake

P: I don't know what to expect my lady I don't know

N: I ask it's it you it cannot be wrong or right I'm just asking you (.) whatever the answer is is your answer what would you expect?

P: I don't know what to expect my lady

N: Why wouldn't you know what to expect if I ask somebody what they expect they would tell me why can't you?

P: I don't know what to I don't know what to expect I don't know if she was awake fully awake I don't know if she just ask me (.) if she couldn't sleep if she thought I was going to the bathroom (.) maybe she didn't think of asking me why
N: what would you I know what are saying and please don't think of implications of the
questions because (.) rather think of the question

P: there's no implications in this question my lady it's I would not be able to say I would not
be able to say what somebody would say in any situation

N: If I argue that every reasonable person would (.) would have asked you why you're getting
up where you're going (.) what would you say

P: (3.0) I don't understand that question my lady

N: I let's not use the (1.0) normal people would say when you get up (.) she would say where
are you going Os (.) so you say you don't expect her to do that?

P: my lady I I'm not even sure (.) it would be a probability that if someone gets up in the night
that there partner would even ask them what they do or if they can't sleep (.) she she'd asked
me simply could I not sleep and I said no and at that point I got out of bed I don't even know
if if (1.0) I've been awake at night when somebody's got up next to me that I haven't asked
them where they're going or what they doing

N: you talk to her because she spoke to you (.) It's not as as if there was no conversation it's
not as you get up and she is trying to sleep (.) she's awake she's talking to you and you get up

P: That's correct my lady

N: an and the concern is that you cannot sleep (2.0) that's your concern because that's what
you're telling her (.) I cannot sleep

P: That's correct my lady

N: and and yet she didn't ask you anything further

P: No she didn't my lady

N: Now (7.0) when (1.0) en I just want (1.0) wanna take you to (2.0) the first time you hear a
noise in the bathroom (.) and (2.0) not to repeat everything you said (.) you picked up the
jeans you were (.) about to cover the light when you heard a noise in the bathroom am I right?

P: my lady there were 2 questions that were put to me the first was the first time I heard a
noise in the bathroom which would have been the noise from the toilet (.) and later was asked
what's the first noise I heard from within the bedroom and that was when I was picking up the jeans

N: let's follow this from within the bedroom what was the first noise in the bedroom

P: the first noise I heard in the bedroom was the window my lady

N: there's there's (5.0) now let us just deal with two things here It was clear (.) you heard that it was a window sliding open

P: That's what I interpreted to be my lady

N: you had no doubt

P: No I didn't have any doubt my lady

N: let us just as far as this is concerned (.) It was clear?

P: the noise was loud my lady it was the window opening and sliding and then hitting the door hitting the window frame (1.0) it was clear

N: and (2.0) let us just speculate if Reeva was in bed she would have heard that as well

P: that's correct my lady

N: at least would you then have expected a conversation? (2.0) her saying did you hear that Os?

P: No my lady.

N: Why not why would she not have if she was there not have asked

P: because if she heard she would have been as scared as I was and when I said to get down on the floor and phone the police that what she would have done she wouldn't have engaged in a conversation (.) if she heard what I heard (.) there wouldn't be a response

N: no I don't agree with you Mr. Pistorius (.) wouldn't you expect a response from her (.) a door a window opening in the middle of the night whilst you in bed Mr. Pistorius you just don't wont to conceit anything not even when we speculate about facts don't you (.) just think back (.) I she would hear a window open in the middle of the night would she not have asked you about it?
P: no my lady because I heard a window open and I didn't ask her about it I was certain I hear the noise

N: you see that doesn't make sense (1.0) that is not true it's improbable that you would having heard a window open you would have asked her if she heard it

P: I didn't ask her if she heard it my lady

N: you see but that's not the only issue (.) you you did not identify the noise during the bail application (3.0) am I right?

P: (2.0) I said I heard a noise I don't think I identified the noise my lady

N: You see that's a big issue for me (.) you're right you said you heard a noise in the bathroom (2.0) now if you were so convinced (.) that you hear these two voice* two noises in fact (2.0) a window sliding open (.) and slamming into the other window why would you not have put it in your bail statement because that is important

P: my lady we we keep on going back to this bail statement (.) and what I said was that I heard a noise I understand that (2.0) if the window opened there isn't many things that could have been moved in my room but I interpreted as the window (.) moving open so I said I heard a noise

N: No but that's not the question the question is Mr. Pistorius (1.0) at the bail application we all know that she was Reeva was shot in the bathroom

P: that's that's incorrect my lady we knew that she had been shot in the toilet

N: and the toilet is in the bathroom

P: that's correct my lady

N: but I I stand corrected I do I stand corrected thank you (2.0) you see (.) I'm going to argue this you're such as stickler for what is 100% correct (.) for detail (.) that you just corrected me (.) and I apologize I was wrong (.) why would you not have been (.) equally (2.0) keen on indicating in your bail application that it was the window because that's seem to be your personality (1.0) why did you not say that
P: My lady when my bail was done it was done by my legal team it was read to me in a holding cell I was on medication I was traumatized (2.0) I read it and it was the truth and I signed it my lady I didn't there was no understanding that it had to be an exhaustive statement

N: Nobody expected an exhausted statement sir I will argue that everybody expects you to say what you heard I heard a window opening

\[
\begin{align*}
P: & \text{ I heard a noise} \\
N: & = \text{there's a big difference between that and a noise Mr. Pistorius please}
\end{align*}
\]

P: I heard a noise my lady

N: No you heard a window sliding open why did you not put it in your bail statement?

P: my lady even in my evidence I remember saying when I saw the window open when I got to the bathroom (.) it confirmed that what the noise that I heard was a window sliding open

N: you see Mr. Pistorius tailoring (1.0) during you're bail application you didn't know the window was open

P: That's not true my lady

N: oh you knew you knew because you saw the window open (.) I'm still concerned about you're not saying you heard it open because that's tailoring that's just a version that you adapted

P: That's not true my lady

N: because there's another aspect to that (5.0) when you made your plea explanation (.) you had all the facts

P: That's correct my lady

N: You weren't traumatized. Am I right?

P: That's correct my lady

N: You weren't on medication

P: That's incorrect my my lady
N: you might be under medication but you understood everything what your legal team was doing?

P: that's correct my lady

N: and you understood the plea explanation? am I right

P: that's correct my lady

N: you even signed it

P: That's correct my lady I read and I signed the plea explanation

N: there's nothing (3.0) let me just check quickly (1.0) my lady let me just have a moment before I put a statement (3.0) there's nothing about (.) the window slamming against the other window in your plea explanation why?

P: because it never slammed against another window

N: what did it slam against

P: the frame my lady

N: why why is there nothing about slamming I I just want to put it on record you again corrected me on fine detail and I stand corrected if you do it every time I apologize to you what's important is small detail

P: My lady it's not small detail if a window

N: you corrected me on small detail (4.0) Am I right?

P: That's correct my lady it's not small detail though (.) it's detail of what happened

N: Why is the big issue of the window sliding against the the frame not mentioned?

P: I'm not sure my lady

N: no no that cannot work (1.0) not sure is not an answer (.) you said (1.0) you weren't traumatised you signed it you knew what was going on I'm asking you why it was never mentioned

P: I'm not sure my lady
N: Because you never said it

P: that's incorrect my lady

N: there is no ways that it won't be in your plea explanation if you said it

P: That's incorrect my lady

N: that they deliberately keep it out

P: I don't think so my lady I have full trust in my legal team I don't think that they would have deliberately kept anything out

N: but then I don't understand

P: well I don't understand my lady

N: except if it's never been your version but you're tailoring when you gave evidence

P: that's not true my lady

N: that's the only other e for me that's the only thing that make sense because it's dealt with in your plea explanation why is it not dealt with (2.0) that it slammed

P: My lady I accept how Mr. Nel interpret it but I don't know why my lady

N: you see that's not that easy we deal with it My lady it's the record p 7

M: Page?

N: 7 of the record my lady

M: Thank you

N: and it's paragraph 4.3 of the plea explanation (2.0) I heard the bathroom window sliding open I believe that intruder or intruders had entered the bathroom through the bathroom window which was not fetched with burglar bars (.) you deal with burglar bars but you don't deal with slamming why?

P: my understanding from the questions that had been posed to me is was that I never mentioned anything about the window in my plea explanation my lady

N: no don't say that
P: but now that I heard the plea explanation I did say the window slid open

N: Mr. Pistorius I don't know how you can give that answer I really don't know how you can give that answer except if you're not focusing at the moment are you focusing?

P: I am focusing

N: How can you then give that answer I never said you didn't deal with this how can you give that answer what's wrong

P: Nothing is wrong my lady my interpretation about what's been posed been put to me is that I didn't mention the window if the window slides and it stops that's the stopping of the sliding that's when it hit the frame so if it was put to my plea that the window slid open that's the truth there's no tailoring of any evidence in there

N: are you really telling the court as you sit there that you think we're dealing with sliding at the moment

P: we're dealing with the noise of the window my lady

N: what noise?

P: the noise of the window opening

N: how can you say that are you are you really saying is that how you understand my questions up to now that we're dealing with the window sliding open?

P: the last question my lady I thought that pertained to my plea explanation and why that the sound of the window wasn't in my plea why I said noise in my bail and why I said in the plea explanation the sliding open of the window that was my understanding

N: you see Mr. Pistorius because you're not listening to the questions you're thinking of implications you're tailoring your version because inference that you've now drawn from my questions is impossible to make for a person listening to the questions

P: my lady I don't understand how tailoring of evidence would make any difference if I heard a noise of a window sliding or if I heard a window window sliding and hitting the frame I don't understand how that changes anything
N: it will be pointed out to you Mr. Pistorius (.) why don't you just deal with the with the questions *-(.) why why wasn't the fact that the window slammed against the frame (.) included in your plea explanation

P: I don't know my lady

N: okay we have that you're the only person that can tell us but y you don't know (.) we deal with that (1.0) now that's a noise you heard whilst you were in the bedroom

P: that's correct my lady

N: that particular noise caused you to take immediate action

P: that's incorrect my lady

N: What what caused you to take immediate action?

P: as I said before I stood there for a brief moment and I froze (.) I wasn't sure what to do I don't want to cross the passage immediately because I wasn't sure if the people persons would come down the passage (.) and then I ran to get my fire arm my lady

N: okay (4.0) stand corrected again (.) you waited (.) for a moment you were frozen (.) got that and then you ran?

P: that's correct my lady

N: and what did you do then?

P: I then collected my firearm from under my bed (.) I took the holster of (.) I turned my body back towards the passage and as I started walking I told I said to Reeva to get down told Reeva to get down and phone the police and I made my was quickly as I could to where the wall enters the passage my lady

N: and tour gun in what position

P: in an off safe in a in a ready mode my lady

N: aimed at

P: aimed in front of me my lady

N: like in a shooting mode (.)ready to shoot (.) am I right?
P: no not ready to shoot my lady in front of me erhm

N: you see Mr. Pistorius please (. ) let us deal with it I'm gonna put on record what I saw (. ) bent arm gun in your hand

P: That's correct my lady

N: so you now you were scared you thought there were intruders in the house

P: that's correct my lady

N: that's how you approached them with a bent arm your elbow next to your side and your gun facing forward

P: That's correct my lady

N: Not extended hand ready to fire?

P: That's correct my lady

N: okay (6.0) and your intention then was what did you want to achieve?

P: I wanted to chase the people out of my house my lady

N: (3.0) because? (3.0) why ? (. ) you wanted to protect Reeva?

P: Yes I I if somebody is in your house in the middle of the night I'm sure anyone would want to chase them out my lady

N: good so you your firearm was then at you're side

P: that's not what I said my lady

N: What did you said

P: I said my firearm was in front of me (. ) facing in front of me

N: yes your elbow at your side

P: my elbow close to my side I was walking so it wasn't in a fixed position at any stage

N: but not in not extended (. ) as if as we saw you fire at the watermelon not like that?

P: Not like that my lady
N: (3.0) yes and then when you when you got to the corner where the passage was

P: then I peered around the corner my lady (. ) I stop shouting I already heard the (. ) door slam

N: no no no no let's go back you're from the bed (. ) you go to where the passage starts

P: that's correct my lady

N: when you got there (2.0) where the passage starts

P: where the passage starts I moved over to the left of the passage that as much as I could into the entrance of the bathroom

N: so you (. ) I just gonna ask you (. ) could you see something

P: I could see a little bit of light my lady (. ) I could (. ) If somebody would have come out there (. ) I would have been able to see their silhouettes

N: so there's some illumination in the passage

P: more in the bathroom my lady

N: and if Reeva walked in and your eyes were on the passage at that time you would have seen her

P: no my eyes were on the bathroom when I was in the passage my lady on the entrance of the bathroom

N: if if you would see in the room and Reeva would walked in the passage would you have seen her (. ) If you looked

P: I would have seen her silhouettes my lady

N: so that we have if you looked in that direction you would have seen her now you moved to the left hand side of the passage what then?

P: I carried on shouting for the intruder to get out of my house and and I moved out the passage my lady

N: please can we just go back I I carried on shouting (. ) did you start shouting there or where did you start shouting
P: yes I started shouting in the passage my lady

N: yeah yeah and and you shouted what what's the fact or what did you shout

P: for the intruders to get out of my house and for Reeva to phone the police my lady

N: but what can you remember what you shout?

P: yes I can

N: what? what did you shouted

P: sigh (12.0) I screamed I said get the fuck out of my house (2.0) get the fuck out of my house (very emotional)

M: we adjourn for a few minutes (.) the court will adjourn

PART II

M: Mr. Pi Pistorius (1.0) are you well enough to proceed?

P: yes thank you my lady

M: You're still under ought.

P: Thank you my lady

M: thank you. Yes Mr. Nel

N: Mr. Pistorius you just told us what you sh what you shouted and then you got emotional (3.0) why would that cause you to be emotional?

P: it's a traumatic evening for me my lady

N: Why would it be traumatic what you shouted at the at the intruders?

P: Because I was terrified my lady

N: Isn't it exactly because that's what you shouted at Reeva get (1.0) to with respect to the court I just repeat what you said get the fuck out of my house that's what you shouted at Reeva isn't that why you get emotional now?

P: No my lady.
N: Because I don't understand why you get emotional if (.) now today (.) about things that you shouted at the intruders?

P: My lady I'm (1.0) I am (.) traumatized by the events and by repeating those exact words it reminds me about that night (.) and what I felt on the evening (.) morning

N: you've now s indicated to us what you shouted (.) at the intruders and what else?

P: I I was s screaming and shouting at the intruders (1.0) and erhm I shouted for Reeva to (2.0) call the police my lady

N: Now e when we (1.0) before the T break you said I remember what I shouted. Is that correct?

P: That's correct my lady.

N: And you've indicated what you shouted?

P: That's correct my lady

N: Now indi* Tell us what you shouted at Reeva

P: I shouted for her to phone the police

N: But how tell us what you said you remember what you said please tell us

P: I said phone I said call the police.

N: No erhm you said (3.0) get the f out of my house get the f out of my house and what then?

P: Then I said Reeva call call the police.

N: oh k so you used her name you said Reeva (1.0) call the police (3.0) Am I right?

P: I think that's I think that's how I remember it my lady

N: No no you can't say I think you can't say that's how I remember it I'm taking you back to your evidence your evidence is I remember what I shouted. so so please tell the court what you shouted at Reeva how did you tell her to call the police?

P: Reeva phone the police Reeva call the police
N: Okay let's have that (.) so you you shouted (2.0) get the f out of my house get the f out of my house Reeva call the police?

P: No I shouted Reeva call the police and then I shouted (3.0) for the intruders to get out of my house my lady

N: Okay I don't think it's a important so you first shouted at Reeva before you shouted at the intruders is that what you're saying?

P: That's how that's how I remember my lady

N: okay he first when you when you started screaming shouting it was for Reeva

P: That's correct my lady

N: you see erhm for me that it e you've just spoken to her (1.0) why would you why would you now (1.0) you whispered at her just now

P: That's correct my lady

N: Why would you now scream at her because nothing happened in the in the intro.

P: The persons in the bathroom would now know that I was I felt that I was in a safe place (.) to protect Reeva and if I shouted that now (.) I was hoping that the burglars or the intruders would be scared (1.0) for the fact that they knew that I was a wake that I was in close proximity (.) and that Reeva would phone the police.

N: So that you can that was what you thought was that the reconstruction (1.0) of the events

P: That's that's what I that's what I believed at the time my lady in the time that's why I shouted out for Reeve to phone the police

N: that's not a reconstruction thinking you making up thinking back at the scene you remember that's why you screamed

P: that's why I screamed my lady I screamed for Reeva to phone the police

N: Because you could have screamed anywhere you could have screamed when you peeped around the corner (.)you're in control of that situation

P: I was too scared at that time to scream my lady
N: you see that doesn't your version doesn't make sense because (.) when you're protected by a wall (.) peeping into the passage you're too scared to scream (.) when you walking down the passage you're not too scared to scream how does that work?

P: My lady we spoke about this in great depth about if I stayed at the wall that today Reeva still would be in dangerous harm only when (.) I got into the passage did I feel that I was safe in a position that was safe to if there was somebody coming out the bathroom that I would be confronted without any harm to Reeva

N: Okay I understand it wrongly you never screamed before because you thought of (.) if you do that Reeva's live would be in danger

P: I'm sorry my lady can Mr. Nel

P:please*

N: You said

N: = you didn't scream before because you thought that would cause Reeva's life to be in danger

P: Both our lives my lady.

N: b but you see I hear you but it doesn't make sense Mr. Pistorius how can you be less scared walking down a passage towards the danger than hiding behind a wall

P: My Lady

N: How can you be less scared?

P: = I wasn't less scared I was terrified I was too scared at the point before I entered the passage when I was (.) in the passage I didn't have a choice but I felt that time that the danger would have first had to come to me and I shouted out for Reeva to phone the police for a hope that this person would know that I'm awake (.) that Reeva that somebody was phonning the police and that they would leave before I had to come into confrontation with them

N: Obviously Reeva never responded.

P: That's correct my lady

N: (3.0) where you waiting for her response?
P: No my lady.

N: Now whilst you (.) you're walking down the passage screaming (1.0) and your gun was pointed where?

P: In front of me my lady.

N: In the same position or you now extended arms?

P: No any I was never in extended arm my lady I wanted to keep my firearm close to me so that if I came around the corner (.) that somebody couldn't grab the firearm or grab my hand so I kept the firearm close to me.

N: It's amazing so you even thought about that keep it close to me because nobody should grab it that's what you thought back then on the night

P: correct my lady

N: Okay (4.0) good (. ) so (. ) you now indicated and please help me I had to put this on record (2.0) You've got your gun in your right hand

P: That's

N: = your right hand is in front of your chest close(.) to you your arm is bent am I right that's what you point out

P: No I never said

\[
\begin{align*}
N: \text{No *(incomprehensible utterance)} \\
P: = \text{I never at one point said it was in front of my chest my lady}
\end{align*}
\]

N: I just described what you've indicated to the court so please show the court so I could put it on record

P: I held my firearm in front of me when I was walking down the passage my lady at the point I put out my hand to help myself balancing my chest was facing the cupboards the firearm couldn't have been pointing in front of me because it would have been pointing at the cupboards on the other side of (.) the passage way (1.0) and as I said before the firearm was never pointed in the same direction all the time as I moved I was struggling to move up the passage.
N: again I get the impression (. ) you're again arguing thinking my version is my hand touched (. ) can you remember where you held our gun?

P: yes my lady

N: so you're still had your gun in your right hand arm bent at the elbow 90° not exactly not exactly 90° but at 90° angle pointing for (. ) in front of me

P: I had the firearm pointed in front of me that's correct my lady.

N: yeah arm bent at about 90°

P: I don't know at what degrees my arm was bent I said (1.0) it changed it changed all the time if my arm was bent at 90° (1.0) my arm could been down here with my wrist up it could have been higher if I went around the corner closer to me (1.0) I don't remember what degrees but my firearm was pointed in front of me

N: I won't argue what degrees I'm just trying to put something on record but it's fine now let's carry on you've now you've screamed to people for Reeva to call the police and to the intruders to get out (3.0) what else what happened then?

P: and then I got to where the wall was where the entrance to the bathroom started (2.0) I kept my distance away from that a picks of the corner and I walked further down the cupboard so I could see all the way into the bathroom or as much as I could (. ) before having to move forward again I then moved a little bit further to the point where the carpet meets the tiles

N: and at that point you could see (. ) cause there were light coming in?

P: there was not light coming in my lady but I could see the outlines of things in the bathroom there was enough light there was no light coming in (.) there were lights outside and there was enough light in the bathroom to make out the shape of the bath tub and window frame and things like that

N: Mh Okay so you could see the shape of the bath tub from where you were?

P: that's correct my lady.

N: Yes What happened then?
P: I then moved forward (1.0) again I had my pistol faced in front of me and again I did as I repeated when I went into (.) as I came around the corner from the closet I stayed as far away as I could from the (. ) from the wall just to where the basins are around the corner (. ) and I peered in to the bathroom (. ) my eyes were looking down to see erhm (2.0) if there was anybody in the toilet that was maybe erhm in the bathroom that were maybe waiting to ambush me at the same time as my eyes were checking the (. ) window frame and the door at the same time and then when I saw that there was no one in the bathroom in the shower area I moved backwards slightly backwards at the wall which was on my right (. ) to where the bathro to where the toilet and the shower in line with that and then I stayed there and then I started screaming again

N: but the er something very important that you forgot (. ) that happened

P: I don't remember what I've forgotten my lady

N: (3.0) the door slam

P: That happened in the passage way before I entered the bathroom as I said my lady before

N: But you never told us all I said to you was what happened next what happened next (1.0) don't blame anybody but yourself. Why did you not mention it?

P: It's on the record this morning it's on record that I did hear the door slam (. ) it's on record this morning when I was in the passage

N: Would you like to take up the challenge that you never said anything about the door slam this morning or would you accept what I'm putting to you?

P: My lady I cannot accept it that I mentioned this morning that when I was in the passage that I heard the door slam in the bathroom

N: erhm Mr Pistorius I put to you (. ) that it's not so and I'm willing for you to listen to the record (. ) but you cannot get away with it again. It's not so (. ) you never spoke about the door

P: I don't agree my lady

N: Well would you like to listen to the record and show me that I'm wrong?

P: No I would not my lady
N: erhm (.). Well there's one other aspect can you see that your legal team on my left is now getting up

P: No I cannot my lady

N: If I was wrong they would have been up and they would have objected

P: I understand that my lady

N: Why are you saying it?

P: because I remember saying this morning when we discussed the passage my lady that (1.0) I heard the door slam

N: No you never did and It's important and I wanna know why you think you did

P: I understand that it's extremely important because it's the second noise that I heard my lady

N: There's two things it's not

R: My lady I'm I'm sorry maybe we must ask I'm reminded (1.0) I I was unsure about it but according to (.). the feedback from the back that he indeed said that (.). maybe we could cut the short and just listen to it outside court just to that part of the record

M: yes

R: that I make sure I don't have an independent recollection it will only take five minutes my lady

M: yes

N: I've no problem with that

M: yes we can do it during lunch time

R: Thank you my lady

N: now but that's one aspect the other aspect is remember when we started now after T you shouted at Reeva and the intruders you remember that

P: I do my lady
N: then you moved to a specific spot (3.0) and then you moved into the bathroom (. ) just in
summary that's what you said am I right?

P: that's not what I said my lady I never moved to a specific spot before I shouted (1.0) erhm
after I shouted my lady

N: okay let me try something different did you hear the dam the door (1.0) shut before you
screamed at Reeva ( .) or after that?

P: afterwards my lady

N: now then Mr. Pistorius there's another angle all I did was ask an then and then and I asked
you for your version and you never mentioned the door slam shut ( .) at least since T

P: I understand my lady

N: and I ask you why?

P: may ask me the question he did before he asked me he

M: Can You repeat that and raise your voice

P: I beg your pardon my lady Mr. Nel asks me now about the door slamming or about me
shouting something about before or after I entered the bathroom if he can just repeat the
question to me please

N: I'll make an with with respect my lady I'll make an exception and do it this once ( .) erhm
did you hear the toilet door slam shut before or after you screamed at Reeva and the
intruders?

P: It was in the process of shouting after I screamed for Reeva but it was in the process of me
shouting (1.0) for the intruders to get out the house my lady

N: okay so now we have your version that whilst you're screaming you're hearing the door
shut (2.0) is that what you're saying

P: I heard the door slam my lady whilst I was shouting and screaming that's correct

N: but why did you not give it to us when you give that evidence now after T

P: I'm not sure my lady we discussed it this morning.
N: I'll show you why (2.0) now I'm going to show you but I'm going to ask questions first what did you hear about the door?

P: I heard the door slam my lady

N: (2.0) You (2.0) were convinced it was a door slamming

P: That's correct my lady

N: (2.0) you were convinced it was the toilet door

P: there's only one door inside the bathroom so that's correct my lady

N: and what did you think?

P: I thought that it was slamming my lady

N: and what did you think why?

P: I thought that somebody either gone inside the toilet and slammed the door or that somebody on upon exiting the bathroom they had possibly kicked the door and that it closed (.) and that was the slam that I heard my lady

N: and (2.0) in the bathroom when you got into the bathroom (.) you saw that the window was open

P: that's correct my lady

N: and you saw that the toilet's door was (.) closed

P: That's correct my lady

N: now (.) this particular noise you heard about the door (1.0) slamming (.) that's a significant noise you heard on that night (.) it's important isn't it?

P: it was a significant noise that I hear that night yes my lady

N: because there is not a single word (.) of that door s closing shutting in your bail aple

P: I if that's I understand that's the case my lady

N: but why?
P: I'm not sure my lady

N: no it can't be such it's such an important significant (.) noise and it's not in your bail

P: I mentioned it to to my legal team my lady and I don't know why it's not in my bail bail estatement my lady

N: that's not all it's even more devastating for you (.) and that is it's not in your plea explanation

P: I understand that my lady

N: But why why would it not be there?

P: I'm not sure my lady

N: that's because you never said it sir it's because you invented it

P: That's not true my lady

N: (.) but why would it than not be in either our bail or your plea explanation if that is such a crucial part of your version

P: I'm not sure my lady

N: but but you must be the one that's sure (.) because it's your version sir it's not mine (1.0) I'm not going to be satisfied with not sure sir (1.0) why?

P: I'm not sure my lady

N: I put it to you it's because you never said it to counsel

P: That's incorrect my lady

N: so you sure about that?

P: yes

N: why didn't they then put it in

P: I'm not sure my lady

N: Now you see (.) why did you think there were people in the toilet
P: I thought that's a possibility because I heard the door slam my lady

N: yeah (2.0) that brings me to your (.) bail (background whispering) (10.0) erhm My lady it's in the bail record exhibit exhibit D it's at page 65 I just read it out it's one or two lines (background whispering) (14.0)

P: Thank you (whispered)

N: (6.0) now at page 65 sir do you have you have it in front of you it's about line if we start with line 6 it was pitched dark in the bed room and I thought Reeva was in bed (.) I noticed that the bathroom window was open (.) I realised that the intruder or intruders was or where in the toilet because because the toilet door was closed (.) and I did not see anyone in the bathroom so you're giving a reason in your bail application

P: That's correct my lady

N: but why did you not said and because I heard the door slam shut (1.0) because that is what you said now

P: I understand my lady I don't know why

N: no no you see I asked you now why did you think they were there you said because I heard the door slam shut (.) is that correct?

P: that's correct my lady

N: now I indicate to you how you argued in your bail application and you have to explain to me why there's a difference

P: I don't have an explanation my lady there many things that I told my counsel that aren't in there that we're gone through before

N: I put it to you sir it's because you're changing your version as we go

P: that's not true my lady

N: now Mr. Pistorius you're now (.) let us just take it on from where you entered the bathroom (1.0) and you said that the e window is open (1.0) is that correct?

P: That's correct my lady
N: what else did you notice?

P: I noticed that there was nobody in the bathroom. I noticed that the door the toilet door was closed

N: and your thought was, what did you think what was going on?

P: many many thoughts going through my mind my lady I was scared that there might be someone that come in through the window and or stick a firearm up and shoot at me I was scared that somebody was in the toilet that was preparing to come out and attack me I was thinking about all the possibilities at worst things that could have possibly happened

N: but did you think there was somebody in the toilet

P: Yes I did my lady

N: okay and what happened then?

P: I heard a noise coming from the toilet

N: what did you hear?

P: it sounded like the door opening it sounded like a wood movement my lady

N: wait wait wait we got two answers there one you've corrected but I've heard it it sounded like opening it sounded like opening I heard a wood movement what is a wood movement?

P: a sound of wood moving my lady of erhm

N: what is that? how

P: my lady the frame of the door was the door frame was not it it was a handmade frame so the frame with the door when you pulled the door close the door would catch on the frame and make clicking noise like a like a loud noise erhm and when you open it it would do the same and that's what I thought interpreted that noise to be

N: but that e so you thought that they were opening the door

P: That's correct my lady

N: but you could see the door
P: I could I could see the door

N: It didn't move

P: I it I fired before I could see the door move my lady

\[
\begin{align*}
P: & \text{ I heard the noise} \\
N: & \text{ that's a good that's a good let me I wanne get it you fired before you see the door move}
\end{align*}
\]

P: as I heard the noise I fired my lady

N: you had you could see the door

P: yes I could see the door

N: you could see the handle

P: Yes I could see the handle my lady

N: you never saw the door or the handle move before you fired?

P: No my lady I fired as I heard the noise I fired

N: listen to the question you're not listening you're not listening (.) you never saw the door or the handle move before you fired that's a question

P: No I didn't my lady

N: (2.0) now in what position did you hold your gun then?

P: it was up in front of me (1.0) erhm I was still holding on the wall in the bathroom my balance is worse on tiles (1.0) I was still leaning a bit against the wall

N: I have to put this on record erhm you're holding the gun in your one hand in your right hand

P: That's correct my lady

N: your right hand is bend it's not straight extended am I right?

P: That's correct my lady
N: it is bent it is pointing towards the door but your gun was in your left hand in your right hand

P: it was in my right hand that's correct my lady

N: you did not extend your arm and aimed?

P: No I didn't aim at the door my lady

N: Okay

P: = I didn't extend my arm I wasn't aiming at the door I was trying to stay put so I could make sense of the situation (1.0) and eyes between the window and the door the firearm was up (1.0) but I was not extending my arm and pointing the firearm in front of me

N: If I just listen to your answer now I was staying put to try and what to try and make sense of it

P: That's correct my lady

N: And you weren't aiming

P: I said I didn't have my arm stretched out in front of me

N: where you aiming please Mr. Pistorius

P: Yes I was aiming at the door the firearm was pointed at the door my lady

N: there's a difference between pointing at my arm is pointed at but I aim at there's a big difference did you aim at the door or point your gun at the door it's important

P: I I pointed my gun at the door my lady

N: okay then the answer that I struggle from you did you aim at the door no?

P: (2.0) that's the way Mr. Nel put it to me is how I understood it so that's right my lady I didn't aim at the door (. ) I pointed my firearm my firearm was pointed at the door

N: you heard the sound (. ) what happened then?

P: I fired the I discharged the firearm my lady

N: Why?
P: because I thought somebody was coming out to attack me.

N: so you wanted to shoot the person coming out?

P: I didn't want to shoot

N: what did you want to do?

P: I didn't have time to think I was terrified my lady

N: you see Mr. Pistorius this is now the first instance of this whole scene (.) that you're not thinking you're thinking every step of the way (.) you're thinking about holding your gun covering yourself now you want to tell the court on this critical instance I didn't think (2.0) is that what you're saying?

P: That's correct my lady.

N: that's e Isn't your defence that you're thought that you were in danger (.) and want and wanted to shoot the person that put you in danger is that your defence?

P: no my lady

N: you say no

M: There two questions

N: I'll I'll do it again Is is it your defence (2.0) that you fired (3.0) at the attacker?

P: No my lady

N: Or wait I put it differently did you fire (1.0) at the perceived attacker?

P: I fired at the door my lady

N: No no but listen to my question Mr. Pistorius (.) I'm not go going to let this one go (.) is it your defence that you fired at the perceived attacker?

P: No that's not my erhm

N: Good (1.0) then (1.0) what is your defence?

P: my defence is as I said my lady I heard the noise and (.) I didn't have time to interpret and I fired my firearm out of fear my lady.
N: Now then out of fear (3.0) by accident (2.0) because I don't understand your defence you can't have two you know* you understand that you can't have two defences (2.0) you understand that

P: I understand my lady

N: the way I understand the case is that you acted imputative self defence an I know it's a big word but I try and assist you with that that you perceived an attack and you fired at the attacker to kill him or to ward of an attack

P: I didn't fire to kill anyone my lady

N: or to ward off an attack

P: My lady I didn't have time to think I heard this noise and I thought it was someone coming out to attack me so I fired my firearm

N: Your defence have now changed sir. from imputative self defence (2.0) to involuntary action is that what you're telling me?

P: I don't understand the law my lady but I can reply and tell the court to what is asked and I can reply as to what I thought

N: But I wouldn't understand the law I wouldn't say that but that is what I hear (1.0) that your your defence is not one of imputative self defence anymore we can forget that (. ) it's now (. ) I don't know why I fired

P: no I'm not saying I don't know why I've given a reason to why I fired my lady I thought that somebody was coming out to attack me

N: but didn't fire at that person?

P: I fired in the direction where I thought the attack was coming from my lady

N: you see Mr. Pistorius you know you know have to give a lot of answers and you know why Mr. Pistorius (. ) it's because you know exactly that (. ) you fired at Reeva these other versions of you cannot work

P: it's not true my lady

N: you fired at her you did (. ) why are you getting emotional now?
P: I did not fire at Reeva

N: my lady the witness is emotional maybe take an adjournment t

M: The court will adjourn.

PART III

M: Are you fine Mr. Pistorius?

P: yes thank you my lady

M: yes Mr. Roux

R: two things the first one is when I objected about the slamming of the door and whether that was said or not and I took to come back to you

M: yes yes

R: we in fact listened to the recording and before T time he did in fact refer to the slamming of the door Mr. Johnson was present with me the second one my lady I understand cross-examination but I think it's quite patent now if you come to certain aspects of the evening that the witness becomes emotional and then it is repeated and repeated and I've it difficult to understand whether that's really a necessary part of cross examination it's ended up every time in the same emotional situation I've it difficult that the repetition on the same parts of that evening causing that emotional reaction

M: yes let's hear

N: w with respect my lady I don't agree I haven't repeated we've we've today we've stated at a point and we mover trough I haven't repeated anything today I object to what was just said about my cross examination- al- my lady I have a different view about why he's emotional I may think differently about why he became emotional but without disrespect my lady his emotions cannot be blamed on me today

M: yes Mr Roux

R: my lady that's not the first time that he is questioning the exactly same aspect it was Friday it was Thursday it's become a repetition and and the emotional response is the same and it's causing a delay events of the evening it's not that I don't allow Mr. Nel to test and
to test and to test again but I'm just saying that I don't believe we're getting anywhere by going back to that emotional aspect of the evening. It is a repetition.

M: well I I I don't think it is a repetition. I would have stopped Mr. Nel if I thought it was a repetition.

R: as the court pleases my lady.

M: yes Mr. Nel.

N: as the court please. Mr. Pistorius. I'm going to argue that you got emotional because you got your defences mixed up and that's the reason why you got emotional. Nothing else. What you want to say to that?

P: it's not true my lady.

N: well Roux is correct on Friday one occasion I said to you you wanted to shoot Reeva. You didn't burst into tears you just said no. Why today?

P: I don't know my lady.

N: I do and that's because Mr Pi. Pistorius you got you were. I indicate to you how you got your defences mixed up that caused the emotion in you. Nothing else.

P: my lady I don't even understand the differences in the defences I don't understand the law so it's not for that reason my lady.

N: that's why you cried because you don't understand the implications that's why you got emotional but we'll carry on and now we have to start and for me to take it further I have to start again. Now Mr. Pistorius before we got to the noise in the bathroom you screamed again am I right? Before you got the noise of the perceived opening of the door you screamed am I right?

P: I did. I did shout my lady.

N: Good what?

P: For the persons to get out.

N: What can you remember what you screamed shouted?
P: I think I just shouted get out.

N: Are you sure?

P: I'm not sure my lady that's what I remember

N: (2.0) If I put it on record all you can all you can remember is that you shouted 'get out' (3.0) am I right?

P: Let me just think about it my erhm (11.0) that's correct my lady

N: If you shouted (. ) get out (4.0) would (. ) that have caused Reeva to respond?

P: I don't think so my lady.

N: But on Friday remember (. ) we (. ) we were indeed (2.0) are challenged to (. ) on the fact that (. ) why did Reeva not respond did you not address her as well (. ) in in the bathroom?

P: erhm I addressed her in the bathroom after I fired the (1.0) after I discharged the firearm my lady I said Reeva phone the police

N: no no I'm asking you before Mr. Pistorius just answer the questions you've given a version (. ) did you not shout at them to get out and for Reeva to phone the police before you discharged the firearm?

P: when I was in the passage I did my lady but when I was in the bathroom I can't remember

N: you see (3.0) why can't you remember if you shouted at Reeva in the bathroom ? (1.0) because that we dealt with that on Friday that's indeed so (2.0) why can't you remember today?

P: I'm not sure my lady.

N: no but you see there must be a reason sir (. ) not sure is not a reason (1.0) give the give the court a reason why not

P: (1.0) I remember saying get out screaming get out and shouting get out erhm (4.0) it's possible that I could have shouted for Reeva to phone the police (. ) it was kind of like whatever I was saying in the passage I didn't know what else words to use I was just repeating those same words
N: but one thing we know and the court could be certain of is (. .) that you never said I'm armed I'm going to shoot

P: That's correct my lady

N: why not?

P: because I never intended to shoot my lady (. .) and I didn't want the person to know I'm armed or what my position was (. .) I didn't wanna scare them and maybe have them react (. .) in more hostile way towards me

N: but erhm but erhm let's deal with that you were armed?

P: that's correct my lady

N: and (9.0) but you never said to them that you're armed (. .) why not?

P: (1.0) as I just said my lady I didn't want to (2.0) evoke or (1.0) I think if I said that I was armed I told somebody I was armed it might leave them (. .) with less options if was armed that they may react more violently of more defensively or attacking (1.0) erhm in a different manner (1.0) I didn't think about it at the time I didn't think now I must tell this person I'm armed or

N: you see you were in control of this whole situation your evidence in itself indicates the person in control (3.0) what's the word you used with the erhm combat mode (2.0) what is combat mode?

P: erhm (. .) I don't know if I used the word combat my lady but erhm

N: * mode?

P: I definitely didn't used the word * mode

N: have you ever used the word combat word in in erhm twitter or facebook?

P: I'm sure I have my lady.

N: What is that?

P: it's a erhm (1.0) mindset that you're trained in that if a situation occurs that you (1.0) go and seek the perceived treat
N: And that's what you did?

P: (. that's what I tried to do I didn't have my prosthetic legs on like I had when I've been trained but my

N: been trained? that's the word you used I just didn't get the word

P: That's correct my lady

N: Okay so you've been trained

P: yes as Mr. Ren said (. he testified that when somebody hears a danger you go and you make sure that your body is concealed as much as you can (. you don't make your profile wide erhm

N: you you you I know you think that's a good answer but (1.0) being a trained person (. the court would accept you would expect you not to fire without reason (. being a trained person

P: my lady I don't think that's a good answer I'm just saying what I've been asked

N: but then I put to you (. if you tell the court that you're trained (. to deal with this kind of situations (. the court will not accept easily (. that you've made a mistake

P: I never said I was I was trained that to deal with this type of situation

N: what did you say you were trained for?

P: I said we I was referring to in a combat mode what one would be trained as (. not in this situation

N: were you trained for combat mood mode?

P: No we've spoken on the of about what one would do if you have a burglary if one is in a perceived danger how would you go in the manner of clearing a room

N: we have that (. when you should shoot or not and things like that (2.0) that's part of but remember (1.0) it's part of it it when you should shoot or not

P: That's correct my lady

N: that you put in your tests
P: that's correct my lady

N: (1.0) you said when I was trained what did you mean by when I was trained

P: well it was asked (.) it was as a response to a question that was posed to me about (..) a combat mode and as Mr. Rens was here and he testified (1.0) erhm one of a on a occasion at his ranch I can't remember if it was one or more we had a conversation about to on what one would do if one was in a situation in there was a danger not necessarily at home or how one would go about (..) they did a lot of police training there they did a lot of erhm (2.0) conflict type situation training there (..) and so we had a basic conversation about what one would do so that's my understanding of the the question that was asked to me

N: okay now Mr. Pistorius (..) are you you saying that your door made a particular sound (..) if it opened?

P: Yes that's correct my lady.

N: And that's the sound that you heard?

P: no that's not what I'm saying my lady

N: what did what did you hear?

P: I said I heard a noise inside the bathroom (1.0) and I perceived the noise at the time (..) the noise of the door opening

N: you see that is tailoring (..) you know that it makes a noise and now you want to say that's the kind of noise you heard or was it not the kind of noise you heard

P: It was a similar kind of noise (..) I didn't have time to think I heard the noise and then I

N: but it never opened (..) that we know (..) the door it never opened

P: that's correct my lady

N: so it couldn't have been that noise at all

P: That's correct my lady

N: you saying that you think it was that noise is tailoring is building a version

P: that's not true my lady
N: Did you hear movement in the toilet?

P: erhm (1.0) I heard (1.0) It sounded like wood moving my lady

N: Not people move sounded like wood moving (. not a clip sound it made when it opened (. wood moving what is wood moving?

P: I don't remember ever using the word clip sound my lady

N: what did you say what sound did your door made when you when it opened?

P: I said it made a noise because the wood it was the frame and the door opening against each other

N: Is that what you heard? is that a wood moving sound?

P: *noise (.) it sounded I didn't my lady I heard a noise coming from the toilet which I perceived as being the door opening so

N: Sir I'm not I'm not interested in your perceptions now in what you perceived (. I'm interested in what you heard please what did you hear?

P: I guess with respect my lady I probably heard the magazine rack moving

N: you know what (. erhm I don't want us to later (. disagree (. you heard the magazine rack moving (1.0) is that what you heard?

P: I guess that's what I've heard my lady.

N: Then I gonna show you something (5.0) my lady may I converse with the people behind me?

M: Yes go ahead.

N: (35.0) Apologize my lady it may take awhile to get it but I think it's important that we have it and the court grants needs a moment

M: Yes. That's fine.

N: (6.0) My lady the photograph will be in exhibit VV but there it is (1.0) that is part of exhibit VV my lady photograph 27 (3.0) Now (. you see Mr. Pistorius (2.0) if you look at that photograph (2.0) from the bottom up on the photograph as one can see it (. that bullet
hole A is aimed at the toilet (.). you see that (.). if you look just at the (1.0) here do you see that?

P: Yes my lady

N: now the evidence (.). is that (.). struck her in the right hip and captain Mangena's reconstruction is (.). she didn't fell on the magazine rack (.). did you hear that?

P: did I hear his evidence my lady

N: yes did you hear that?

P: that's correct my lady

N: you know what sir (.). you heard the magazine rack that's why you changed (1.0) c and b was aimed to where the magazine rack was (.). you in fact heard the magazine rack but you changed your aim (1.0) to go in fact for that particular noise after A

P: my lady the magazine rack wasn't found where C and D was (.). it was found in the corner of the toilet

N: Mr. Pistorius listen to me (.). I'm saying you heard the magazine rack (1.0) and you changed your aim

P: that's incorrect my lady

N: I was waiting for you to say you heard the magazine rack (.). that you did (.). when she fell on the magazine rack and you changed your aim

P: my lady I couldn't have possibly hear her fall on the magazine rack (.). because according to the state's evidence the four shots missed (.). or one of the shots missed (.). I wouldn't have heard anyone fallen inside the toilet whilst I was shooting

N: let us just I say I don't know what you're answering Mr. Pistorius (.). but (.). the magazine rack (.). we know you heard and that's why you changed your aim

P: that's not true my lady

N: that is that's one 100% into captain Mangena 's test testimony that (.). A hit here in the hip she fell on the magazine rack (.). and you fired C and D (.). now (.). before before we carry on (.). erhm (.).when you fired those shots (4.0) we've covered it and I just want to and I have to
every time as a break I have to just also erhm catch up (1.0) you never aimed you never aimed at the door am I right?

P: we've been through aimed and pointed at my lady I've said I never aimed at the door

N: okay you never aimed at the door (. ) you just pointed your gun in your right hand (. ) towards the door?

P: that's correct my lady

N: and you dis you discharged the fire arm?

P: that's correct my lady

N: remember that your pathologist said that it was quite a good grouping (. ) are you saying that that grouping especially B C and D just happened (1.0) by coincidence?

P: No I'm not my lady

N: what then?

P: my lady that's my pathologist's understanding of (. ) a close grouping over f

N: No please carry on

P: over four metres or five metres a distance it's not a very good grouping at all actually

N: you know it's it's over a maximum 3 metres

P: even more so my lady

N: what would your r what would your ballistics expert say?

P: I have no idea what my ballistics expert would say

N: are you sure? have you no idea what they would say

P: regarding what my lady? I don't understand the question

N: regarding (. ) the first shot?
P: no I don't my lady they don't discuss things like this with me (. they've taken all the photo's of Reeva out of my file so I don't have to look at them so I don't discuss this sort of things with them

N: yeah but this was a door and this is a reconstruction of the scene was that discussed with you?

P: I don't understand

N: was it discussed with you that you fired and in which sequence the bullets hit her?

P: No my lady the first time I heard that evidence was from miss professor Simons I believed professor Simons' evidence was the first time that I've heard in which order the bullets had struck Reeva

N: erhm (1.0) before we (. move on I have to just (. cover one aspect as far as the (1.0) what you shouted at the intruders you said that they should the get out of your house (. you never said to them that you're armed (5.0) now (. they were in the toilet (. as far (. you knew they were in the toilet or thought that they were in the toilet (. am I right?

P: I thought there was a possibility that one or more persons was in the toilet or on the ladder my lady

N: How would they get out the toilet?

P: through the window my lady

N: (2.0) through the window and then go where? fall down 2 st two fly 2 stories?

P: my lady this question was posed to me on Thursday or Friday already where (. we discussed the two possibilities (1.0) Mr Nel put to me that either they could have come out of the bathroom (. or they could have gone out the window with the ladder we've really covered this my lady

N: I'm doing it again (. how would you do you did you (1.0) at the time you said get out of my house what did you think how would they get down?

P: I didn't I wasn't thinking my lady I was screaming for that person to get out get out
N: You see I wasn't thinking (.). isn't good for you Mr. Pistorius (.). I wasn't thinking is so reckless (1.0) at least (2.0) I wasn't thinking I just fired (.). is that what you're saying?

P: No that's not what I'm saying my lady

N: what are you saying then?

P: I'm saying as I said about ten minutes ago my lady at the time I couldn't think of any other words to say except of saying to get out (1.0) and for Reeva to phone the police those are the two lines that I remember distinctively repeating

     N: now

     P: = if my inference is that they came in the window surely they get out the window of the toilet

N: Mr. Pistorius (4.0) one of the ways of getting out was to come through the door

P: that's correct my lady

N: you never gave them a chance (.). on your version (2.0) cause that door never moved

P: That's correct my lady

N: so you said to people get out (2.0) and you never gave them a chance to do

P: I shouted and screamed for the people to get out and

N: you didn't know who was in the toilet (.). am I right?

P: I didn't my lady

N: you didn't how many people that were in there?

P: that's correct my lady

N: you didn't know if they were armed?

P: that's correct my lady

N: you didn't know if it it could have been a child?

P: that's correct my lady
N: it could have been anyone

P: that's correct my lady

N: it could have been a burglar unarmed

P: that's correct my lady

N: but you gave them no chance (.) you just fired

P: that's correct my lady

N: now (1.0) there's one other aspect that I want to test you on (.) my lady may I ask for a demonstration? (.) may I ask for the investigating officer to go towards the door

M: yes

N: may I ask the investigating officer to go inside and close the door (.) he's in possession of the keys (.) Captain put the keys in the lock and and lock the door please (4.0) you're struggling to get the keys in there you go (2.0) erhm (2.0) captain just close the door can you? no (1.0) okay (1.0) just put the key back take the open it up (.) take the key out (.) put the key back in (2.0) and close it lock it (sound of door closing) you never head that ? (1.0) Mr. Pistorius?

P: no my lady

N: captain whilst you're there (.) my lady with respect with leave of the court (.) can I just do another demonstration? (1.0) that door opens to the outside am I right?

P: erhm it opens to the bathroom my lady

N: yeah (.) erhm captain (1.0) would you (.) would you sit on the toilet door please? (background laughter) my lady I I just wanna make a demonstration it's it's not a joke

M: I'm not really sure what you're demonstrating

N: if if Reeva was on the toilet (.) to to close that door (.) she must get up and get out (.) or can you close it from from inside captain (3.0) if it's open totally (2.0) if it's open like that (1.0) if you wanne get if you wanne close it (1.0) you can stand inside but you've got to reached to get (.) it and you taller than she is (2.0) thank you my lady that's the two thing that
I wanted to show (.) but it opens to the outside (1.0) you never heard the (.) the locking of the door?

P: no my lady

N: (2.0) why would you not have heard that?

P: I don't know maybe the door was slammed and locked at the same time (.) I don't know why my lady

N: you see we have to think in all those thing to make your version probable we have to think that (.) it slammed and lock at the same time otherwise you would have heard it (.) because you were quiet

P: I was busy shouting my lady I wasn't quiet

N: okay (.) let us just deal with the shouting (3.0) you (.) shouted and screamed in the passage and you shouted and screamed (1.0) in the in the bathroom

P: that's correct my lady

N: you did fire the shots after that?

P: that's correct my lady.

N: (3.0) I've heard your evidence about Stipp (.) your evidence about Stipp (.) is that (2.0) the first shots they heard that's when you discharged your gun

P: that's correct my lady

N: and your version now would be that's the screamed that they heard (.) before the shots?

P: I don't understand

N: they said they heard a women screaming before the shots (.) that must be yours?

P: my voice the only one voice that was screaming my lady

N: so what they heard must have been your voice?

P: that's correct my lady
N: so (.) even on your version (2.0) they they're correct except (1.0) they said the lights was on

P: (1.0) which which part of their evidence and which Stipp? my lady cause they're two individuals they gave different evidence and if we can maybe talk about which Stipp

N: no

P: = said which evidence

N: no both said immediately after the shots (.) and they looked (.) the lights were on (.) both take it from me (.) why? they said the the lights were on (.) even on your version accepting what they said the lights were on

P: that's correct my lady I think they did both I think they both did say that my lady

N: yeah (.) so they must be lying

P: they must be my lady (.) I don't remember the lights being on I can't remember when I switched the lights on as I said before

N: that's a good answer (.) I can't remember (.) the lights being on that's what you said

P: That's correct my lady

N: Is it possible that the lights were on?

P: no after the shooting I don't know when I put the lights on so they said immediately after the shooting but we worked through their time frame and if I remember correctly what Mr. Stipp try to it put in his moments it became ten minutes (.) that's why I'm asking

N: no you see this is now the best part of your argument there is no way that Mr. Stipp's moments for the lights became 10 minutes why do you say that?

P: I I don't follow the question I'm sorry

N: y you said (.) moments (.) for Mr. Stipp became ten minutes

P: it was Mr. Stipp or Mrs. Stipps evidence my lady their time wasn't wasn't of any relevance there wasn't (.) there wasn't a (.) set point (.) if I remember their evidence they said they heard (.) what was put to me on Friday that they heard shouting between the shots which was on the
state's version but the cricket bat and gunshot are different on their versions. When I was hitting the door with a cricket bat I was crying out I was screaming. So I don't say that Mr. and Mrs. Stepp are lying when they say that.

N: We're dealing with the lights sir. I want you want to argue and that's been how you've been given your evidence. They must be lying about the light.

P: They said they heard they said they saw the lights on immediately after the shooting my lady if that's the first shooting that's incorrect.

N: Then screaming as fast as they concerned. Between the two shots they've heard was that also you?

P: On the state's evidence of the gunfire or on the first shots?

N: About what they said they said they heard screaming was that you?

P: Which which which sounds my lady because they said they heard screaming between the shots the second shots that's what they said.

N: Between the first shot and the second shot there was screaming was that you?

P: On which series of noises my lady on the first series or the second series?

N: You see I don't know why you don't understand I think you don't want to the Stipps gave evidence that they heard sounds they heard a woman scream again than they hear a women scream again is that can you remember that? Mr. Pistorius you've problem? You're quiet looking at the court.

M: Just give him time. He's thinking.

P: No I'm not understanding the question my lady erhm if Mr. Nel could just

P: Tell me which cause remember the Stipps said the shots the gunshots were the second grouping the second noises they heard?

N: Yes they heard screaming before them the second sounds who who was that?

P: That was myself my lady
N: why? what did you scream about?

P: I was screaming out for Reeva I was screaming out for her to (. ) phone the police

N: but she by that time (. ) on your version (. ) she was already shot

P: that's correct my lady

N: so did you after that did you still scream for her to phone the police?

P: yes my lady.

N: up until the time that (. ) you you screamed for Reeva to phone the police up until the time that you broke down the door?

P: No I screamed for her to phone the police up until the time that I got to the bed my lady when I walked back to the bed

N: now where there screams up until the time on your version (. ) that you hit the bat hit the door with the bat?

P: yes

N: what did you scream

P: I screamed Reeva's name out I screamed

N: Why?

P: cause I wanted to know where she was my lady

N: So (. ) you screamed Reeva's name out during the time that you hit the bat (2.0) e the door?

P: I never hit

P: yes when I hit the bat on the door my lady I was screaming out her name

N: so (4.0) they heard a women but it was you?

P: that's correct my lady

N: Now (1.0) have you had your voice tested?

P: I have my lady
N: and could you listen to (. ) your voice?

P: yes I could I haven't listened to my voice but I but I watched erhm (3.0) erhm I've watched interviews where I've been on fields playing football with people and I shouted out and screamed out (. ) and I've told I haven't watched or listened to recording but from the recording that was done my voice can be of a high pitch

N: so you have a recording where your voice is of high pitch?

P: I don't have a recording like that my lady I know that there were tests

N: Do do your team have?

P: I'm not sure my lady I don't know

N: you don't have to be sure (. ) are are you telling me that you don't know (. ) if your legal team is in position of recording (. ) where you're screaming high pitch with a high pitched voice?

P: yes they do have a recording like that my lady I don't have it though

N: now do you have any idea why that was never played to the witnesses to identify your voice?

P: I'm not sure my lady there might have been a specialist to came and testified

N: no no that's not the question (. ) that's not the question do you know why that recording was never played (. ) to the witnesses (. ) so they could say if that's what they heard or not?

P: (1.0) I don't I don't that was never done my lady

N: but but * sitting (. ) wouldn't that have been the (. ) best thing to do (. ) they heard a women if you can scream like a women to play it to them so they can say if that's what they heard?

P: my lady my counsel (. ) what they decide to ask and what they don't decide to ask is up to them (. ) I think they've got far better (1. ) things to look at erhm they've got people a lot closer that weren't a hundred and seventy metres away that headr completely different things my lady there are many statements that said they didn't hear that

N: I'm not going to take you on on that even if you say that those people were coming and gave evidence we know what everybody heard (. ) for you would you (2.0) don't you think it
would be prudent to play the recording so the witnesses can say if that's what they heard or not? you just you not anybody else

P: I don't know my lady

N: Why don't you know? you must have a view

P: I'm not an attorney my lady

N: yeah but I I know but you must have a view that

M: Mr. Nel if he doesn't have a view about it he doesn't have a view is it not up to the legal representative to do that?

N: yes my lady I will not pursue it further but I've asked him what his view was and he's giving instructions to his legal team and that's my angle

M: well he says he doesn't have a view

N: thank you my lady Mr. Pistorius shall I carry on?

M: yes you may

N: Mr. Pistorius have you listened to the recording of you screaming with a high pitched voice?

P: no my lady

N: were you taken somewhere to scream at a high pitched voice?

P: yes my lady

N: so you went into a studio or something to scream at a high pitched voice?

P: that's not true my lady

N: where did you go to scream at a high pitched voice?

P: at my place where I reside at the moment my lady

P: my lady if I can just say that I never screamed like that before I had erhm I don't know if I can't remember what I sounded like that night it was after the gunshot had gone off but I was screaming out for Reeva I was screaming out for
for the lord to help me (1.0) I ran onto the balcony I I scream shouted and screamed for help
and I don't think one scream was the same (.) when you're in desperation you just scream as
loud as you can

N: but one thing we know is that (.) if we (..) the state witnesses were correct in hearing (.).
somebody scream? because that happened

P: That's correct my lady

N: it wasn't only crying it was screaming ?

P: and shouting

N: screaming and shouting (1.0) it wasn't only crying (..) am I right?

P: that's correct my lady

N: so if the Birgers said that they're heard (..) screaming they're correct that was you

P: that's correct my lady

N: now the (1.0) firing of the shots (..) and I'm not rehashing it (..) we haven't been back to it
now the

P: sorry my lady I don't erhm Mr. Nel put to me the Birgers (..) Mrs. Michelle Burger was the
only one that gave evidence I believe out of the two in that couple (..) it was the Stepps the
Stepps they were both in the couple and johnson and Burger and the Burgers (..) I don't
remember the Birgers

N: I I you again (..) you (..) you have a sense for detail (..) Johnson and Burger were married (.).
and you're right Johnson and Burger I refer to them at the Burgers but your sense for detail is
correct (..) although they married they've different surnames you're right (1.0) does that satisfy
you?

P: Thank you my lady

N: good (..) now (1.0) the (..) we'll deal in the next five minutes with double tap of rapid
succession what was it that you shot?

P: I fired in very quick succession my lady
N: how do you know that?

P: Because I remembered my lady

N: What did you remember?

P: I remember discharging my firearm as quick as I could

N: and stopping why did you stop?

P: I don't remember my lady

N: why did you only fire four times? (3.0) on your version when you (. ) got when you hear a voice you started firing why only four?

P: I didn't hear a voice my lady

N: no no voice noise

P: I'm struggling to keep up what is being put to me cause I haven't said many of these things that are being put to me

N: you've heard a noise am I right?

P: yes my lady I've heard a noice

N: and that caused you to fire am I right?

P: that's correct my lady

N: And you then started firing?

P: that's correct my lady

N: Why did you stop?

P: I'm not sure my lady

N: same here (. ) if you version is that you just fired because you where scared (. ) why only four? (2.0) why not empty the magazine?

P: I'm not sure my lady

N: Why not fire at the window?
P: I don't understand why I would fire at the window my lady

N: I will tell you because there might be somebody on the ladder with a gun

P: I thought that there was somebody at the door my lady in the toilet (.) my firearm was pointed towards the toilet

N: at the window did you Did you not think there was danger there?

P: my firearm was pointed at the door at the time that I fired my lady (.) I didn't change the position of my gun I just starting firing

N: did you ever think of firing a into the (1.0) shower a warning shot

P: my lady if I fired a shot into the shower it would have ricochet and possibly hit me

N: that is the next question firing into that door in that small toilet a ricochet of that (.) ammunition would be possible and it would hit somebody am I right?

P: that's correct my lady

N: so you foresaw the possibility that if there's somebody i there I will hit them?

P: that's not what I said my lady

N: No but I ask you Did you?

P: No my lady

N: What then when you fired in there what did you think?

P: as said I didn't think my firearm was pointed at that door at that time my lady

N: but you thought of not firing in the shower because there would be a ricochet is that what you thought?

P: I never said that I never said that I didn't think of firing into the shower it's put to me now

N: I ask you again why did you not fire into the shower a warning shot

P: my gun was pointed at the door and when I heard the noise I fired
N: okay but then then you did not intent to fire your gun just went off can we is that what we can accept for going forward in this matter

P: no my gun didn't just go off my lady I didn't intent to fire but I did fire it didn't just go off

N: did it just go off or did you pulled the trigger?

P: I pulled the trigger my lady

N: into the in Why?

P: because I perceived danger to be coming out to attack me my lady

N: but you didn't (2.0) then when you said you didn't fire at the danger ?

P: I fired where the firearm was pointed where I perceived the danger to be that's correct

N: you see Mr. P when you want to you fire at the danger and when you not want to the shot just go off (.). can you remember what your evidence in chief was?

P: my lady there's a difference in firing at the point where I thought the danger was and where my firearm was already pointed at the point of danger and when I heard the noise

N: It's a mere coincidence then?

P: no that's not at all what I'm saying

N: Did you aim to shoot there

P: no I didn't aim at any

N: was it just lucky that your gun was in that position

P: how would that be lucky? she lost her life my lady (emotional)

N: No Mr. Pistorius you now try and get emotional again it's not worth your while My lady may we take an adjournment

M: (3.0) May I see counsel outside?

N: yes

M: The court will adjourn
M: You're still under ought Mr. Pistorius

P: Thank you my lady.

M: Thank you. Yes Mr. Nel

N: What please the court my lady Mr. Pistorius what do you think will happen if you fire through the door?

P: I didn't have time to think about it my lady.

N: So that it never crossed your mind that you would kill the people in that toilet?

P: No my lady.

N: So that wasn't your intention?

P: No my lady.

N: But today if you have time to think if you fire through the door what would happen?

P: erhm if the if I think back today my lady if there's someone that was inside the toilet and I knew about them and I fired at the door then that would be a possibility my lady.

N: What would be a possibility?

P: That they could get shot my lady.

N: It's probability.

P: Yes my lady.

N: You fire four times it becomes a very good probability that you will hit somebody in that toilet.

P: That's correct my lady.
N: Now (5.0) you did not fire a warning shot into the (1.0) shower area (1.0) that is that correct?

P: I didn't shoot a warning shot at all my lady.

N: Now (2.0) I just want to go back and just test one other aspect and that is (2.0) before you ventured into the passage (3.0) if you fired a warning shot down that passage that would have scared anybody am I right?

P: erhm I'm sure it would have scared someone yes my lady.

N: And Why did you not do that just fire a shot down the passage into the wall?

P: I don't know my lady.

N: erhm (5.0) the (5.0) Reeva going to (1.0) the toilet she would have had to walk down a dark passage.

P: That's correct my lady.

N: Into a dark bathroom.

P: That's correct my lady.

N: And she never put on the light?

P: That's correct my lady.

N: Why wouldn't she not put on the light?

P: I'm not sure my lady she had her cell phone with her so maybe she was using that for light.

N: That's the answer I waited for you see did you see that if she used her cell phone for light Mr. Pistorius you're in (2.0) as far as your version is concerned it's even in worse trouble you would have seen a light (.) walking down the passage.

P: It doesn't change anything my lady my back was towards her it doesn't matter if she had a light or not.

N: No Mr. Pistorius it's devastating for you (.) in pitch dark a light of a cell phone used as as a flashlight (1.0) would have drawn your attention (.) much easier than a little blue light.
P: It would have drawn my attention if I was facing the (1.0) the passage my lady but I was not facing the passage.

N: No even in peripheral vision Mr. Pistorius.

P: That's correct my lady.

N: You would have seen it in peripheral vision it was pitch dark (2.0) you would have seen that that flashlight of of the cell phone.

P: I did not say she used the flashlight on her cell phone my lady

N: What did you say?

P: I said she would have used her light of at night when I go to the bathroom I just take the screen of my phone that gives me enough light to see where I'm walking

{ 
  N: I
  P: and even in peripheral vision doesn't mean vision behind you
}

N: But now

P: if my back was towards Reeva I wouldn't have been able to see her whether she used her phone for light or not

N: Now let (.) you see unfortunately I have to test you on that because if you if you were still bringing in the fans (1.0) and you put the tri-foot fan where you said you put (1.0) it the passage (.) would have been (1.0) if you faced the the bed to your left am I right?

P: Correct if you face if you're facing the bed the passage is to the left my lady.

N: But you never faced the bed?

P: No my lady.

N: But on to your right (. ) the passage would be (. ) in clear view if you just turn your head to the right.

P: You're going from left to right so now you're in the middle which is in the opposite direction of the passage the doors are in the opposite direction of the passage
N: Mr. Pistorius this is not good for you (2.0) you said you never faced the bed if you face away from the bad an you just turn your head to the right you would see the passage am I right?

P: Sorry my lady may Mr. Nel please ask the question again?

N: Mr. Pistorius if you faced if you're faced away from the bed (.) you put the the erhm fan down and you're facing away from the bed (1.0) do you have that?

P: Yes I do my lady.

N: If you then turn your head to the right you would look down the passage.

P: If you turned your head to the right you would look down to the passage my lady.

N: Let's say that there was clear light to the right your peripheral vision would have picked that up?

P: That's correct my lady.

N: Being pitch dark a cell phone a cell phone screen light even would have been in your peripheral vision if your version is correct why did you not pick it up?

P: Because (.) I never said my back was facing the bed and on that direction on the foot of the bed my back was facing the passage (1.0) Mr Nel is implying that I turned 90 degrees to put down the fan which I never did I simply brought the fan in and I placed it (2.0) and we don't know when Reeva got up out of bed

N: Well not on your version you're right because it never happened in the way you said it isn't that so?

P: That's not true my lady.

N: Now (5.0) remember I said I just wanted to test something and then we go back to the to the bathroom (3.0) you you in fact when I said if she switched the light on Why did she not switch the light on and you said that perhaps she took a phone alarm (1.0) as a source of light

P: Perhaps my lady I made my way to the bathroom without a source of light maybe she did I don't know I wouldn't be able to say

N: But it would be easy for her to switch the light on when she enters the bathroom.
P: But she didn't do that my lady.

N: Except if we if we accept the Stipps' version Stipp's version said it was on.

P: (2.0) That wasn't the truth my lady.

N: (3.0) Now (.) The

P: And it wasn't the evidence of the Stipps my lady they didn't say before Reeva went to the bathroom she switched the light on they said that after the shooting (.) they immediately saw the light on and it was never their evidence that they saw the lights on (.) at that point

N: Did you switch it on

P: no my lady I didn't switch them on at that point

N: Reeva was the only other person who could have switched them on

P: they weren't on so there was nobody else who could have switched them on at that point

N: you're arguing with the Stipps now let's take the Stipps’ evidence and you're right on the Stipps evidence (1.0) if you didn't switch it on who could perceivable have switched it on who?

P: my lady there two points here the one point was that (.) the Stipps said the lights were on it was (.) referring that the Stipps said that the lights where on when Reeva went to the bathroom that she switched the light on that was never the evidence of the Stipps

N: Mr. Pistorius there's one aspect I have to (.) just can't miss again we won't come back to this tomorrow so we'll find the answer today when you fired the shots could you just indicate to the court where your gun was where did you hold your gun?

P: I hold my arm up like this my lady

N: Now you got your arm in a normal shooting position

P: I don't think that's a normal shooting position at all my lady

N: so that's not a normal shooting position but it is at least erhm shoulder height

P: It's probably about shoulder height I remember that
N: it wasn't next to you (. ) erhm you didn't shoot from the hip

P: No my lady (. ) a normal shooting position doesn't have anything to do with the height of the firearm you can hold your gun with your elbow completely bended or you can have your arm extremely extended at shoulder height so it has nothing to do with the height

N: how did you have it

P: as I indicated my lady like this

N: at shoulder height but your arm is not extended

P: that's correct my lady

N: and your gun is pointed at the at the door

P: that's correct my lady

N: Now (3.0) if you thought (2.0) you thought the intruder was coming out?

P: That's correct my lady.

N: (2.0) That's why you shot?

P: That's correct my lady.

N: There's lots of other versions but I just wanne to use this one so (. ) and you that in coming out they would have to open the door at the door handle

P: I didn't have time to think about that my lady I perceived them as coming out

N: let us just think about it there's no other way of them coming out

P: we've agreed that there is my lady

N: except the door we we never agreed but you said the the window and I give you that but let us just use the door now for them to get out the door they have to use the handle

P: Yes of course my lady.

N: and you could see the handle in the dark in in the bathroom
P: yes it wasn't clear it was dark but I could see the outline I guessed I didn't focuse on the handle I was focused on the door as a whole

N: but on on the position of the shit did did you not fire at the handle

P: I think you can see that that isn't the case my lady.

N: Let us just ask you if you wanted to shoot the intruder coming out where would you fire? if you wanted to

P: probably higher my lady probably more in the direction of where the opening of the door would be on the far right of the door at chest height

N: exclude the fact that you shot at the intruders for once and for all today based on the fact that you did not shoot at chest height

P: if Mr. Nel says so my lady

N: no you said so

P: I never said that my lady

N: But but I'll not go there again but I will test you on it Did you fire to shoot the intruder?

P: No I did not my lady I fired because I got affright

N: and it was all an accident (2.0) Am I right?

P: that's correct my lady.

N: Now if if there was an intruder in the toilet would that have been an accident?

P: I don't I don't follow the question my lady

N: If there was in fact an intruder in the toilet and you shot and you killed an intruder would that have been an accident?

P: I never intended to shoot anybody my lady

N: so if you shot an intruder that would have been an accident?

P: Yes my lady.
N: now Mr. Pistorius before we deal with what happened after the shots (2.0) who (1.0) for this act who do you blame for the accident

P: I blame myself.

N: So you at least blame yourself for an accident (3.0) which was what?

P: I blame myself for taking Reeva's life my lady.

N: in the following circumstances Mr. Pistorius (.) Reeva would only have been with her right hip at bullet hole A if she was standing in front of the door talking to you

P: No my lady

M: Can you repeat that?

N: standing behind the door for bullet hole to hit her in the right hip if she was standing behind the door facing the door (.) why would Reeva it’s been accepted by your pathologist (.) and captain Mangena that bullethole A was the first shot why would she be standing there Mr. Pistorius if she was scared?

P: I don't know my lady

N: Because she was talking to you sir

P: That's not true my lady

N: all the screams and shouting you you screamed at her and she fled for her life why would she (1.0) is that not true?

P: No my lady

N: why would she stand right up the door looking at you looking at the danger

P: I don't know my lady I don't know how she was standing I don't know

N: bullet hole hit her in the right hip why would she be there? Except if she was talking to you?

P: I don't know my lady.
M: you know that question is a bit unfair if he says he doesn't know I don't think you can ask it again and again why he says he doesn't know

N: without disrespect my lady I say it's not true he knows he's hiding it

M: we may infer (.) from all the other evidence from all the fact that he knows but you can't really say well he knows

N: my case is different my lady my case is (1.0) he knows that he shot her whilst she was talking to him now I'm just putting him in a position and he must tell us cause there is no other version for it (.) but my lady as I said I I accept what the court indicated to me and I move on (2.0) Mr. Pistorius (7.0) can you still remember what the evidence in chief was about the firing of the shots

P: no my lady

N: and I don't wanna test your memory because that's not the intention of this question (. ) I put it to you what it was (1.0) before I know it I had fired four shots at the door it's page 1475 my lady (18.0) (background whispering) (35.0) You have that Mr. Pistorius?

P: I do my lady.

N: Let us read from well what I just read to you is line 9-10 before I knew it I fired four or five shots at the door I couldn't hear anything my ears were ringing so I started shouting I kept on shouting for Reeva to phone the police is that is that still your version.

P: yes my lady before I could make sense of the situation I fired four shots my ears were ringing at that point it was a confined area

N: erhm but ( .) we now know that the four shots is in fact a reconstruction

P: That's correct my lady we ef I said that before

N: now what happened (1.0) immediately after the shots were fired?

P: immediately after the shots I stayed where I was and I shouted for Reeva

N: why did you stay where you were?

P: because I wasn't sure if the person was still coming out of the toilet still coming up the ladder
N: So you kept your eye on the ladder and on the door

P: That's correct my lady

N: and then?

P: I kept the firearm pointed in front of me then I slowly made my way back checked erhm my bed (1.0) shouting out for Reeva

N: now if you say shouting (.) would that be screaming or shouting I don't understand but what do you mean

P: screaming my lady

N: screaming why would you scream out

P: I was scared that Reeva I was scared that there was someone coming out of the bathroom still

N: And then?

P: then I got to the bed and then I realised Reeva wasn't there (2.0) and then erhm I got off if you look at the bed at the right hand side I got of the bed (1.0) and I stuck my left hand out and I try to feel the curtains hoping maybe she was hiding behind them (2.0) and then I started panicking when I realised that Reeva wasn't just replying to me she wasn't I couldn't see her I couldn't hear her so I went back to the bathroom as quick as I could and I got back to the entrance of the of the bathroom (crying) I was screaming scream out for her (.) I was scared entering the bathroom again (.) and then I got to the door and I put my shoulder against the the erhm try to open the door and I couldn't and I put my shoulder against the the small wall between the shower and the door and I was trying to rip open the door (1.0) and then I couldn't and I run back on my stumps to the sliding door and then I screamed I screamed for help (1.0) and then I put my legs on as quick as I could I ran back to the

N: Okay I'm sorry I asked you but can we just stop here and just deal with what you just testified (1.0) now Mr. Pistorius so you checked if she was behind the curtains

P: I didn't check if she was my lady but I ran my hand along the half of the curtain before

N: but the purpose was to see if she was there
P: yes that's correct

N: she wasn't on the bed

P: no my lady

N: and the duvet?

P: I don't know about the duvet my lady

N: bbb I mean you checked on the bed first I'm sure

P: I checked on the bed yes

N: was the duvet there

P: I don't remember the duvet on the bed my lady

N: but but I mean it it was dark in the ba in the bedroom

P: that's correct my lady

N: if there was a duvet did you not think it was her?

P: I went across the bed as I said my lady I went across the bed

N: if you went across the bed would you've seen it how did you know she's not on the bed

P: I would have I would have moved over her my lady

N: did you move over the duvet?

P: I don't remember

N: why can't you remember the duvet you were on the bed.

P: I don't remember that part of the night my lady

N: there was no duvet on the bed

P: that's not the truth my lady if it was I would say it was that has nothing to do with anything if I remember it being there I would have said (. ) I don't have a recollection at that point my me my mind was so fixated on finding Reeva

N: last you saw Reeva she was under the duvet
P: (. ) I remember saying s I could make out from the duvet that it went over her legs when I got out of bed

N: so last you saw her she was under the duvet

P: that's correct my lady

N: you came back and there's nothing on the bed or she's not on the bed

P: that's correct my lady

N: and the duvet

P: My lady I know she wasn't on the bed because I crossed the bed and I got on on the foot if you look at the bed on the left foot side I helped myself up because I wasn't tall enough I didn't want to keep my eyes off the passage and I moved across the bed when I got to the the other side of the bed I was hoping that she was on the floor like I told her to be

N: so you checked on the floor

P: yes my lady

N: so you had visibility you could see if she was on the floor now

P: no I couldn't see my lady

N: How did you check?

P: feel my lady

N: how did you feel (. ) what did you do?

P: with my hand my lady

N: now if you felt with your hand you felt everywhere because you would now panicking she must be there that's what you told her to be isn't it?

P: That's where I told her to be my lady

N: So you would have checked everywhere then

P: I didn't check everywhere the place is so small my lady if you can get out there I don't even know if it's a metre (1.0) and I ran my hand behind the curtain
N: let's take it much slower you told her to get down you thought she was on the floor on the right hand side of the bed

P: I was hoping she was there

N: now you're getting you went onto the bed and across the bed to the right hand side am I right

P: that's correct my lady

N: and it's pitched dark on your version

P: that's correct my lady

N: and your first intention was to feel if she was on the floor

P: No my first intention was if the feel if she was in the bed my lady

N: ok but then she wasn't

P: That's correct my lady

N: and second intention

P: was to check behind the curtains

N: Why behind the curtains and not on the floor

P: Because I would have tripped over her

N: but why did you not check you didn't check on the floor

P: the passage (. ) I would have tripped over her if she

N: Mr. Pistorius you said go down you thought she would stay on the floor why did you not check

P: I did check my lady by walking through that part back to the bathroom that's how I checked

N: that's the only way you checked?

P: yes my lady
N: Now you don't you find it strange that the (3.0) clipper hair clipper hasn't fallen over it's standing up right

P: I I don't remember the the room my lady I didn't see the things there I don't know if it's strange or not strange

N: no but just have a look at a photograph (3.0) my lady may I just have a moment to look for a photograph (4.0) yes let's look at photograph 56 (4.0) the hair clipper is standing up right

P: yes I can my lady

N: not on the photo has it fallen over

P: that's correct my lady

N: * not been dislodged from the multiplex

P: that's correct my lady

N: on your version (.) you couldn't do what you just described if the fan was in that specific spot that you can see on photograph 56

P: that's correct my lady

N: so if the fan was in that specific spot you couldn't have walked along the curtains feeling if she was behind them

P: you wouldn't be able to anymore my lady

N: and that fan wasn't in your way

P: no my lady it wasn't and I don't remember tripping over any of the items on the floor my lady

N: and then you rushed back to the bathroom

P: that's correct my lady

N: you know there is one very important aspect you forgot to mention (.) why did you not check the bedroom door

P: I didn't mention it because I didn't do it my lady
N: why did you not check if she left through the bedroom door

P: what happened was in the bathroom the whole incident was in the bathroom (.). my fear then was that I have shot Reeva so I didn't even begin to think of the bedroom door

N: if bed if Reeva is not in the room behind the curtains (2.0) the next place one would look was if she left through the door why did you not do it (1.0) she heard shots in the meantime why would she not left trough the door?

P: My lady I knew that I fired shots in the door I knew that I heard a noise in the bathroom when I couldn't find Reeva my first thought was that maybe that was her in the bathroom you it didn't even crossed my mind to check the bedroom door I think that would have been a very strange thing to do

N: you see Mr. Pistorius it's the most unreasonable first thought if you haven't checked everywhere why would you think it's Reeva in the bathroom if you haven't checked everywhere why?

P: you wouldn't check everywhere if you knew there was somebody in the bathroom you wouldn't waste time looking behind the curtains looking under the bed looking behind the door

N: but it's an intruder it's an intruder behind the door that was your perception

P: that was my perception my lady

N: you see Mr. Pistorius that is one of the crucial issues that makes you version totally improbable because (.). if you looked for Reeva why did you go back to look for Reeva

P: as I said in my evidence my lady as I got to the bed and I realised that Reeva wasn't on the bed (.). that was before I checked the curtains and got off the other side of the bed (.). so your first thought would be to run back to the bathroom not to waste time looking and doing all these things that Mr. Nel said would be normal in this case nothing was normal about that night

N: Mr. Pistorius that's not the question but I'm gone test you on that answer but (.). when you left the bathroom why were you looking for Reeva

P: I was calling out for Reeva to phone the police
N: the main thing is Reeva must phone the police

P: that's correct

N: good now you got to the bedroom and and Reeva is not on the bed am I right

P: that's wrong my lady I got on to the bed and realized Reeva wasn't on the bed

N: you see I stand corrected every time but whatever you did she's not on the bed. am I right

P: that's correct my lady

N: whatever you did she's not behind the curtains

P: I didn't say that my lady

N: what then

P: I said the curtains that I checked

N: you see Mr. Pistorius it will be my argument that if there was shots fired in a house the first thing that you would think is that she left the bedroom through the bedroom door and you never checked

P: I don't believe in either of those comments I didn't I don't believe in the first comment my lady and I didn't check when I found out that Reeva wasn't on the floor I continued putting my hands out and feel the curtains I had to check my balance so I could feel the curtains

N: you see Mr P that's your version and you have to built it as you go why would you check curtains but not the door that is the question why would you not thin k she left the bedroom

P: the curtains were on the way to the bathroom my lady

N: then that was a mere coincidence you didn't go to the curtains to check them or did you

P: the fact that I was there I might as well have checked the curtains my mind the whole time was on the toilet on the bathroom

N: so you see Mr P what I have difficulty with is the huge leap from shooting at the intruders and it could have been Reeva with nothing really happening except she's not on the bed why is that that huge leap i your evidence
P: I don't understand the question

N: It's a huge leap from I just shoot at the intruders and it could have been Reeva

P: I don't think so my lady when I got back to the room Reeva wasn't on the bed (. ) I couldn't hear anyone else crying out for her she wasn't responding at that point (. ) when that thought came over me nothing else mattered I don't see how there is a big leap between the two

N: you see what I also have a difficulty with I go through your evidence of the court today when you went back if I understand your evidence you weren't convinced you're still were worried that it could have been intruders am I right

P: that's correct my lady

N: so and you still had your you firearm with you

P: that's correct my lady (1.0) It wasn't a conscious decision but I was still I was fearful there was a (. ) a lot of things that I was trying think and make sense of

N: now so you never kept your firearm with you for protection then or did you?

P: I don't remember why I kept my firearm with me my lady I don't sort of (. ) think I knew exactly what was happening erhm I think a part of me was still hoping that it was not Reeva

N: and what happened then (. ) you 're rushing back to the bathroom what happened

P: as I said my lady I went to the bathroom and try open the door (1.0) and I still had my firearm with me and I realised the door was locked up I put my shoulder against the wall between the toilet and the shower and I tried rip open the door

N: with your evidence upto here (. ) you know what is the biggest issue here you never checked the bathroom window for a ladder

P: I never did my lady

N: why you said to to this court you where fixated between the door and the ladder door ladder door ladder but you approached the door without checking the ladder why not?

P: because when I thought it was Reeva I wouldn't have thought that she climbed out off the window and even if she had I didn't fire at the window so my first thought was to check the door
N: you never checked the ladder

P: I never did because once I checked the door and realized that it was locked I realized that there was somebody inside

N: but that somebody you cannot make the leap that it's Reeva it could at that stage it could still have been an intruder

P: that's correct my lady

N: why did you not check the ladder first

P: because my mind was with Reeva I was worried it was Reeva yes it could have been an intruder but my mind was with Reeva

N: our mind couldn't have been with Reeva than because I will go through your evidence your evidence is at that stage I didn't know I was still fearful of the intruders

P: that's correct my lady

N: but if you if that is even remotely true that you were still fearful for the intruders I did not understand why you did not check for a ladder

P: I can't explain it either

N: you would have checked for a ladder before you reached the door

P: I don't believe so my lady

N: the intruders can on your view your version entering by using a ladder

P: that's correct my lady

N: now you went back and what happened then? What happened you tried to open the door it couldn't

P: I ran back to the balcony

N: just before you go on (1.0) it must have been unbelievable strange that the door couldn't open

P: I don't remember it being strange I remember it being locked my lady
N: but did you know it was locked you tried it and it didn't wanna open what did you think

P: I thought that Reeva locked it

N: but why would you think that at that stage

P: It's a natural thing to think when I can't find Reeva I heard the door slam when I was shouting she heared me shouting and got scared and locked locked the door that was what I was thinking

N: so even at that is that what you thought at at that stage

P: at that point when I checked the door it was locked I started panicking and I realized maybe it was her inside the toile

N: and what happened then

P: I ran out and checked the balcony and started screaming for help

N: wait wait you said I checked the balcony

P: I ran out to call for help my lady

N: no no it's not that easy you said I checked the balcony Why would you check the balcony now?

P: I understand that my lady I meant I went out onto the balcony to scream

N: no that cannot be you said I checked the balcony I wanne know why you said I checked the balcony

P: I don't know my lady

N: no you have to you said it (1.0) you cannot be that confused I want an answer Mr. Pistorius why did you say I checked the balcony

P: I made a mistake my lady

N: it can't be a mistake why this mistake what caused you to make a mistake

P: I don't know my lady I went out onto the balcony to scream for help
N: Mr. Pistorius you've given your version I'm asking you a different question I'm asking you this question why did you spontaneously testified (.) I checked the balcony that's what I want to know

P: I don't know my lady if I ran out I ran out and I opened the door and screamed out for help I don't know why I said I checked the balcony I guess in the process I checked the balcony

N: you can't get away by being evasive saying I can't remember I make mistakes (.) on too many occasions Mr. Pistorius please (.) you spontaneously said I checked the balcony I just wanna know why

P: I don't know my lady

N: Because you're tailoring your evidence

P: My lady it doesn't it's not that if I said I checked the balcony (.) Where's the harm in that not tailoring there's no weight in it it would suit what Mr. Nel is putting to me all this time why did you checked here why did you checked there?

N: that's why you changed it

P: that's not why I changed it

N: it suits my version that's why you changed it immediately (.) if you checked the balcony (1.0) there was at least doubt in your mind that Reeva was in the toilet

P: that's incorrect my lady I ran out on the balcony to call for help

N: that's not the question the question is this if you checked the balcony (.) at least there was at least doubt in your mind

P: but I didn't went to the balcony to check my lady

N: you're not listening to the question if you understand if if you were correct now that you went onto the balcony to check the balcony than there was doubt in your mind

P: there was hope in my mind that it wasn't her that's correct my lady that's why I did all the things I did that's why I ran back why I try kick the door that's why I broke it down (.) the whole time I was praying to god

N: hope in your mind that it wasn't Reeva
P: yes of course

N: you're just adapting as you go you made up your mind that it was her isn't that so how can you still have hope

M: are you saying it's a contradiction

N: yes

M: I don't think (1.0) so I don't think so (.) you may think one thing but hope another thing

N: as the court pleases (.) I will deal with that (.) so did you check the balcony in the hope

P: that's not what I said my lady

N: no I'm asking you it just (.) the court's correct that you can know something and hope another did you check in the hope

P: no my lady

N: so you never checked the balcony

P: no my lady I ran onto the balcony to call for help

N: But (.) it wasn't easy you still had to open the door

P: That's correct my lady

N: so what did you do?

P: I ran out onto the balcony and scream for help

N: before the doors were closed you're in the bathroom you're now leaving the bathroom take the court through these steps you're leaving the bathroom what do you do

P: I ran down the passage (1.0) between the closets I ran passed my bed I don't even remember opening the curtains I don't even remember opening the doors I ran outside and screamed as loud as I can feeling helpless

N: and you still held your gun in your hand

P: yes my lady it's true
N: So you were running with a cocked gun in your hand? because that gun was cocked

P: That's correct my lady

N: the trigger it would be easy to pull isn't it?

P: yes my lady it's true

N: so you're still running you're running into the bedroom (.) you're opening the curtains you're opening the door and your gun in your right hand

P: I never said I opened the curtains my lady

N: but you had to because they were closed Mr. Pistorius what answer is that

P: you could easily not open the curtains and just open the door my lady

N: did you open the curtains at all

P: I don't remember opening the curtains

N: your gun in your right hand Am I right?

P: That's correct my lady

N: you're going down the passage you're opening the door you at least got to open it to get to the door (.) the the curtains am I right

P: you have to part the curtains

N: you part the curtains that's what I'm looking for you have to part the curtains to get to the door

P: that's correct my lady

N: you have to unlock the door

P: that's correct my lady

N: with your left hand you unlocked the door you opened the door

P: I don't know I can't remember doing that my lady

N: Did you open one of two doors remember your evidence
P: I don't remember my lady I'm sure I would have opened both

N: you see but how would that be possible with a gun in your hand (2.0) how would it be possible to open both sliding doors with a gun in your hand?

P: I'm not sure my lady I probably just hold the handle of the door and open it

N: so you got a gun a cocked gun in your right hand and unlock the door open both doors (1.0) and you never discharged that gun again

P: that's correct my lady

N: you see Mr. Pistorius it's getting more and more improbable

P: my lady I understand I understand how it sounds but if you look at the photo's when I placed the gun on the floor in the bathroom the gun was still loaded and cocked (.) it was unsafe if I look back now and I realised how much I was busy on the floor it could have shot me or Reeva again my mind wasn't thinking about this gun in my hand

N: why are you getting emotional now? is it about what happened or is it about the questions and your frustration in answering them because now we dealt with nothing but your version why are you getting emotional now?

P: It's emotional memories for me

N: no it's not your getting emotional because your version is improbable and you're getting emotional (.) we haven't spoken about Reeva we haven't spoken about anything now but you're getting emotional now

P: I was speaking about Reeva

N: Mr. Pistorius you're not using your emotional state as an escape? Do you?

P: no my lady I opened the doors I cannot remember open the doors

N: you see I cannot see how would that cause you to be emotional if you cannot remember how you opened the door I just don't know

P: (2.0) My lady Mr. Nel's asking me about the position of the gun I was talking about how the gun was left than ran to the bathroom to break down the toilet door (.) if I was so calculated on my manner surely I would have put the gun on safe or I would have put it up
somewhere but I didn't I left it on the bathroom floor where I was trying to save Reeva's life
where there was a lot of movement I wasn't thinking about the firearm

N: you see it's only difficult on your version not on the state's version where you fired at
Reeva you put down your gun and then tried to get out that's not that difficult

P: I don't understand what Mr. Nel’s asking me my lady

N: you wouldn't have run up and down with a gun in your hand and nothing happened no discharge

P: That's what happened my lady

N: but let us just deal with that so you run from the bathroom parted the curtains (2.0) went outside onto the balcony

P: that's correct my lady

N: What happened on the balcony?

P: I screamed for help

N: and then?

P: and then I came back inside and put my prosthetic legs on my lady

N: you can still remember how many times you shouted

P: I remember shouting 3 times

N: you came back and you put your legs on

P: that's correct my lady

N: which was next to the bed

P: that's correct my lady

N: on the right hand side (.) as you stand in front of the bed

P: that's correct my lady

N: and that you said you could put your prosthetic legs on in half a minute
P: I remember the other day here been more or less half a minute I don't know what time it took me that night

N: that was time just over 20 seconds is that normally how quickly you put on your prosthetic legs

P: no my lady I put my legs on as quick as I could

N: you see there's just one other aspect erhm coming back I don't understand I don't understand why you would not have switched on the light to check if Reeva was really there if you hoped that she could be

P: my lady my mind was on getting into the toilet as quick as I could it wasn't on switching on the light

N: you see but you went on to the balcony so you went back what happened then

P: My firearm was next to my side in the bed I put on my prosthetic legs I ran back to the (. ) toilet I ran straight into the door nothing happened

N: before you go there you took your gun along why would you at that stage take your gun along? I doesn't make sense

P: it doesn't make sense my lady

N: you see that's because you're building a version that is so improbable that nobody would ever believe

P: I didn't think (. ) I understand that it doesn't sound rational but I didn't have rational set of rational frame of mind I wanted to get into the toilet I don't know why

N: you see Mr. Pistorius it's because that gun was left there after you shot and killed Reeva you fired the shots and left the gun there that's what happened

P: that's incorrect my lady

N: my lady I will now start and built all range of questions about the toilet I think it would be better to start fresh tomorrow and run with it to start now and rehash it all tomorrow wouldn't be fair to the witness and to me so I ask that we take the adjournment now and I carry on from here tomorrow
M: We take our adjournment.
References


Clayman, E. Steven (1993) 'Reformulating the Question: A device for answering/not answering questions in news interviews and press conferences', Text 13 (2): 159-188.


SABC (South African Broadcastin Company), accessed on-line


Sky News, accessed on-line


www.oxforddictionaries.com/definition/english/evasive
Notes

1 Not all transformative answers can be considered as an attempt to evade questions and thus as uncooperative. The following example from 'Transformative answers: One way to resist a question's constraints' illustrates this:

1. LAN: This’s smelling good I might start eating raw meat,
2. (0.2)
3. JUD: S::ee:?
4. (1.0)
5. LAN: Yeah but I’m not [that weird.]
6. GIO: [I th(h)ink ] it’s just all the spices.
7. (0.2)
8. LAN: It is.
9. JUD: =Have you <ever eaten> steak tartare?
10. (0.8)
11. GIO: → I tried it once.
12. (0.5)
13. JUD: I have.
14. (.)
15. LAN: It bit me b^ack.
16. GIO: hh [hh
17. JUD: [I l^o ve it.
18. (Stivers & Hayashi, 2010)

Stivers and Hayashi state that Gio answers in line 12 with "I tried it once" while the question was "have you ever eaten". (11) They explain that to 'eat' a particular kind of food implies that one tried it first, however 'try' something does not mean one ate a full serving. (Stivers an Hayashi, 11) They label this is a 'replacement' transformation because the word 'eaten' is replaced by 'tried'. (Stivers and Hayashi, 11). However, Gio is not unwilling to evade the question nor is he uncooperative.

^ Michael Harris: 22nd premier of Ontario (Canada) in 2001, interrogated in the "walkerton" inquiry after water contamination resulted in the deaths of seven people. (Erlich & Sidnell, 655, paraphrase)
Type-conforming answers or straightforward answers are answers like "yes or no" when asked a yes-no question or answers that copy part of the question. The term was introduced by Raymond (2003).

The US equivalent is 'direct examination'

The US equivalent is 'man slaughter'

The system was abolished during that time after it was argued that a white jury may be prejudiced in the case of non-white defendants.

This is different in the United States of America, where defendants do respond directly to the lawyers during cross-examination.

Oscar Pistorius was not convicted of murder, however this was trial was referred to as a murder trial.

Bail application: 'Bail' means "the system permitting release of a person from custody" (Collins Dictionary, 88). Whether or not an accused will be released on bail depends on the judge's decision. The judge makes his or her decision with the help of the bail application, which contains all relevant information about the charge and about all possible previous charges against the accused.

Plea explanation: the accused pleads guilty or not guilty in his plea explanation he gives his version of the events in order to give a reason why he pleads guilty/not guilty.

I put it to you/ I'm putting it to you: Jack Sidnell states that these expressions "frame assertions which witnesses are invited to agree or disagree. (In some cases they are simply challenged to defend themselves against an accusation.)" (29)