

Phiyega didn't read affidavit, commission told

RUSTENBURG – National Police Commissioner Riah Phiyega did not read an affidavit she signed before a commissioner of oaths, the Farlam commission heard yesterday.

"I do submit that I didn't read it because I thought I was simply correcting (an omitted initial)," Phiyega told the commission.

The document contains details of the police's role in the fatal shooting of 34 Lonmin platinum mineworkers in Marikana, North West, on August 16 last year.

Two affidavits were submitted by Phiyega's lawyers. Page seven of the first affidavit contains only the commissioner of oaths' initials. The second affidavit features both Phiyega and the commissioner of oaths' initials, but Phiyega said yesterday that the copy was incorrect.

Phiyega said what she signed before the commissioner of oaths on March 12 was a draft version of her statement, which she thought had been corrected and updated on March 7. "For me, it was the same statement ... I looked at where I did not sign and I signed."

Legally, Phiyega would have needed to be sworn in by the commissioner of oaths. Both of them would have needed to initial all the pages of the document after having read through it. Phiyega said she and her lawyers had informed the commission of this discrepancy.

"I said to my lawyer that there's a discrepancy between my statement and one commissioned because one was just a draft," said Phiyega.

A paragraph on page seven of Phiyega's first affidavit, which she

had not initialled, states: "On the afternoon of August 16, 2012, I received a call from Lieutenant-General Mbombo who informed me of the decision to implement a dispersal operation of the plan."

The second affidavit, which contained Phiyega's signature says: "On the afternoon of August 16, 2012, I received a call from Lieutenant General Mbombo who informed me of the decision to implement stage 3 of the plan, which information I relayed to the minister."

Phiyega said the contents of the second statement, which she had drafted, were false.

Schalk Burger SC for Lonmin, asked Phiyega how she could have made such a mistake on her own draft.

She replied that she typed the

document and forwarded it to her secretary. She was given a hard copy of her statement and realised it had errors about her communication with the minister.

Phiyega said she then made changes on the hard copy and returned it for the changes to be made.

After several queries from Burger on what exactly Phiyega had told the minister about the situation, she testified in her home language, Sepedi. She said Police Minister Nathi Mthethwa asked her what had been done to deal with the situation in Marikana, but he did not give her advice on the matter as it was not part of his job description.

Phiyega said Mthethwa simply asked for an update so that he could inform the presidency. – Sapa.

Phiyega slated for 'passing the buck'

Hlengiwe Nhlabathi

Political Reporter

NATIONAL Police Commissioner Riah Phiyega was grilled again yesterday about passing the buck on her subordinates over the Marikana massacre despite her being the accounting officer.

However, Phiyega said the only concept that applied to her was delegation, and that it did not amount to "passing the buck" as suggested by Advocate Dali Mpofu, who is representing some of the survivors of the August 16 police shootings.

"The fact that certain powers may or may not be del-

egated to other people does not absolve you as the ultimate accounting officer," Mpofu said.

This was in relation to Phiyega's refusal to answer some questions but deferred them to her commanders who were on the ground and executed a tactical phase of the operation, which led to police firing live ammunition at striking mineworkers, killing 34.

Phiyega denied that all her answers were calculated to absolve herself.

"It was merely to say, if looking for specific answers, members are available to answer," she said.

Mpofu noted that Phiyega was not present at the time of the shooting and relied on being briefed, but said the buck stopped with her and Police Minister Nathi Mthethwa.

Mpofu explained that certain powers could not be delegated.

He said he had evidence that Mthethwa and Phiyega could have taken decisions on Marikana, based on Cyril Ramaphosa's e-mail correspondence with Lonmin management, which indicated that Mineral Resources Minister Susan Shabangu would engage Mthethwa to "act in a more pointed way" on the Marikana matter. - hlabathih@sowetan.co.za



Extinguished minds of our distinguished governing elite

WANTED: HONEST COP

Novice cop Riah Phiyega, otherwise known as the head of the police, has been dodging questions at the Marikana Commission of Inquiry.

Under cross-examination she seemed unable to convince the commission that she knows what the constitution is all about. Nor does she understand the command structure of the police.

On Wednesday she was unable to show that she understands what signing a statement under oath means.

Vera suggests next time the lawyers ask her difficult question, she must simply give them a standard and honest answer: "Sorry, I am not a trained cop."

THE BEST GOVERNORS

Phiyega was, of course, appointed by President Jacob "Chief Giggler" Zuma who once infamously remarked: "I know what I am doing."

This week he added another missive: "The problem in South Africa is that everyone wants to run the country."

Okay, Chief Giggler, maybe we should leave the country to you, Phiyega, SABC board members,



Dina "Louboutin" Pule, Mathole "Moon Analyst" Motshekga, Humphrey "Credit Card Free-loader" Mmemezi, Nkandla compound builders, the the Guptas and others of their ilk.

Like you, they really know what they are doing and are perfectly capable of running the country.

EXTINGUISHED MINDS

The other day Vera was floating at a function organised by the Black Business Executive Circle to honour top business achievers.

Malusi Gigaba, the minister of public enterprises, who moonlights as a self-appointed intellectual, took to the stage to welcome the "distinguished and extinguished guests".

Vera took time to report on this matter as she sought to verify whether the guests were still alive after the event.

It has since become clear only Gigaba's mind was, for a moment, extinguished.

'NOT GATSHA' OFFENSIVE

IFP leader Mangosuthu Buthelezi, who wears many titles – such as Prince and Inkosi – has lodged a complaint with the Press Ombudsman against Vera's use of the fake name "Not Gatsha" when referring to him in previous columns.

Vera sincerely apologises to Buthelezi.

Although she routinely makes

fun of politicians, Vera accepts that the fake name is unfairly offensive.

Vera undertakes not to use the derogatory name again in her column. *uVera uyaxolisa kuMtnwana wakwaPhindangene.*

● Vera's question of the week: What is Cassel Mathale's job?

Police 'ducking responsibility for Marikana'

ERNEST MABUZA

Legal Affairs Correspondent

POLICE commissioner Riah Phiyega yesterday refused to be drawn on the conclusions reached by public order policing analyst Gary White. He had criticised police conduct at Marikana on August 16 before the Farlam commission of inquiry at Rustenburg.

Mr White was instructed by the South African Human Rights Commission to give expert opinion on police action when 34 protesters were killed and more than 70 injured.

Among his criticisms were that, individually and as an organisation, there appeared not to have been any clear acceptance of responsibility by the police.

Notwithstanding the fact that the police operation had not succeeded, the evidence submitted to the commission by the police did not contain what one would expect to see from a police service in the aftermath of such a failure, Mr White said.

This included an acceptance of responsibility, the identification of strategic errors, and lessons learnt. Mr White said police evidence lacked detail and was almost defensive.

There were significant gaps in the evidence, he said, and these made it difficult to do a full assessment of the police oper-

ation between August 13 and 16.

Counsel for the human rights commission, Gcina Malindi SC, asked Gen Phiyega whether she accepted these criticisms, but she would only say the officers in charge of the operation would present evidence.

She had previously told the commission what happened at Marikana was regrettable and unprecedented. Yesterday, she clarified this by saying everything prior to the shooting had had a precedent and the police had been planning to handle Marikana the same way as other protests.

Dali Mpofu, for the injured and arrested miners, said when Gen Phiyega was previously questioned, she had said the police had a plan in place, but that it had failed since it was disrupted. He asked her to explain how, and at what point, the disruption occurred.

"The people who were there can give you an account of what happened," she responded. Mr Mpofu said Gen Phiyega's answer suggested she did not know why the plan had failed.

"Let me not contaminate the space. My understanding is that there was a disruption; they (commanders) were there on the ground," she said.

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Marikana plan was disrupted, Phiyega

SAPA

NATIONAL POLICE commissioner Riah Phiyega does not know how the police's plan to disperse striking Marikana mineworkers had failed, the Farlam Commission of Inquiry heard yesterday.

Police shot dead 34 mineworkers during a wage-related strike at Lonmin's platinum mine on August 16 last year.

Advocate Dali Mpofu, for the injured and arrested miners, said when Phiyega was previously questioned she said the police had a plan in place, but that it failed because it was disrupted. Mpofu asked Phiyega to explain how, and at what point, the disruption occurred.

"Let me not contaminate that space," Phiyega replied.

"The people who were there can give you (an account) of what happened."

Mpofu said Phiyega's answer suggested she did not know how the plan had failed. He quizzed her on why police had not warned protesters of their intentions (to use live bullets, water cannons, rubber bullets, and stun grenades).

Apartheid police would give warnings prior to an attack and give demonstrators time to disperse before they acted, Mpofu said.

Phiyega said police had not been given a chance to communicate their plan to the miners.

"Part of the plan would have

been for the cops to place the barbed wire, call the protesters and get them to place their weapons down, but the plan was disrupted," said Phiyega.

Mpofu asked how long it would have taken the police to warn the protesters what would happen if they failed to surrender their weapons and disperse.

"That the plan was disrupted was a fact that I stand by."

Yesterday, she said that everything prior to the shooting had a precedent and police had been planning to handle Marikana the same way they had dealt with other protests and events.

Phiyega's cross-examination was expected to continue today.

Phiyega vague about failure of Marikana plan

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In answering the question, Phiyega accidentally called Mpfu by his first name.

"Dali...", she began, before laughing at what she had said.

Starting his cross-examination yesterday, Mpfu pointed out that he knew Phiyega in a greater capacity than his being a lawyer.

"Advocate Mpfu, our plan was usurped," she finally said when she answered the question.

"That the plan was disrupted was a fact that I stand by."

Phiyega previously told the commission that what happened at Marikana was regrettable and unprecedented.

Yesterday she clarified that everything prior to the shooting had a precedent and that the police had been planning to handle Marikana the same way they had dealt with other protests and events.

"In the morning, the situation was not unprecedented because an assessment (of the situation) had been done... Threat assessment progressed and that was taken into consideration before a plan was made."

Phiyega's cross-examination was expected to continue today. - Sapa