

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 10 8 NOVEMBER 2012 PAGES 1154 TO 1245

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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<p style="text-align: right;">Page 1154</p> <p>1 [PROCEEDINGS ON 8 NOVEMBER 2012] 2 [10:18] CHAIRPERSON: Good morning, the 3 Commission resumes. Before we continue with the 4 presentation I have to give our ruling in respect of the 5 matters that were debated earlier, relating to the issues 6 to be considered during the first phase and those who were 7 present will appreciate that by the end of the argument the 8 parties were substantially in agreement on what the first 9 phase would cover and the terms of what amounts to the 10 consensus are set out in the documents from which I shall 11 now read.</p> <p>12 1. The first phase of the Commission will 13 examine the events of 9 to 16 August 2012 at Marikana which 14 led to the deaths of at least 44 people, more than 70 15 people being injured, approximately 250 people being 16 arrested and damage and destruction to property. Those 17 topics are covered by the phrase "the events."</p> <p>18 2. The first phase will be confined to the 19 following issues:</p> <p>20 2.1 An investigation of the facts directly 21 relating to and relevant to the events themselves; 22 2.2 An investigation into the lawfulness of the 23 conduct of the SAPS and its members in fatally shooting 34 24 people on 16 August 2012 and in injuring protestors who 25 were not fatally wounded, and</p>	<p style="text-align: right;">Page 1156</p> <p>1 expect counsel and the other representatives of the parties 2 who address us in argument at the end of the first phase, 3 to deal with the question as to whether there are any 4 issues in respect of which it would be appropriate for 5 findings to be made and we will obviously consider those 6 arguments at the time.</p> <p>7 I understand we have a new party who wishes to 8 participate in the proceedings.</p> <p>9 MS THOMAS SC: Thank you, Chairperson and 10 honourable members of the Commission. It is indeed so that 11 the Minister of Police wishes to participate in these 12 proceedings. My name is Nkosi Thomas from the Johannesburg 13 Bar and I am assisted by Adv Manganye representing the 14 Minister of Police. May we be granted leave, please?</p> <p>15 CHAIRPERSON: Insofar as it may be 16 necessary, the Minister is granted the necessary permission 17 and leave.</p> <p>18 MS THOMAS SC: May it please you.</p> <p>19 CHAIRPERSON: Colonel Visser, you're not 20 under oath so I don't have to remind you that you're under 21 oath, but would you proceed with your presentation.</p> <p>22 MR SEMENYA SC: Chair, I didn't think the 23 Colonel was under oath.</p> <p>24 CHAIRPERSON: I said he wasn't.</p> <p>25 MR SEMENYA SC: Oh.</p>
<p style="text-align: right;">Page 1155</p> <p>1 2.3 An investigation into whether participants 2 in the crowd of protestors at Wonderkop on 16 August 2012 3 should be held criminally liable for the death of 34 of 4 their fellow protestors and/or in respect of the alleged 5 attempted murder or assault of SAPS members at the scene.</p> <p>6 2.4 The direct causes of, and legal 7 responsibility of, any party for the deaths and injuries to 8 any persons and damage to property at Marikana during the 9 period 9 to 16 August 2012.</p> <p>10 The other matter upon which we were addressed was 11 whether it would be appropriate for the Commission to make 12 findings, either final or interim, at the end of the first 13 phase. It's not possible for us at this stage to know 14 whether I will be appropriate. It may well be that at the 15 end of the argument at the end of the first phase it will 16 be clear that, in respect of certain issues, it may be 17 possible to give findings. I think if findings are to be 18 made they would be provisional findings, interim findings 19 and not final ones, but it's not possible for us at this 20 stage to decide whether, in respect of any of the issues, 21 it will be possible or appropriate for us to make findings 22 and so at this stage we do not rule on that issue.</p> <p>23 Is there anything that anyone wishes to add or 24 ask in respect of the ruling I have given? 25 It follows from what I've said that we will</p>	<p style="text-align: right;">Page 1157</p> <p>1 CHAIRPERSON: Now we've got - 2 LT-COL VISSER: Thank you, Mr Chair, 3 members of the Commission. We ended up at the end of 4 Sunday. For easy reference we did distribute copies of the 5 presentation if the television screens are a bit slow, for 6 easy reference. Before we step over to Monday, just allow 7 me one minute just to recap of the events that led up to 8 the end of Sunday. Starting from the build-up, there were 9 various incidents of violence. Starting on Friday, two 10 persons were already wounded in clashes. On Saturday three 11 persons were wounded, on Sunday an additional five persons 12 were wounded through clashes with the strikers. The death 13 toll by the end of Sunday, two of the mine securities were 14 gruesomely murdered, hacked to death and burnt. Later that 15 evening again two of the mine employees were gruesomely 16 murdered but the death toll at the end of Sunday was 17 already four.</p> <p>18 CHAIRPERSON: It's now red. It was 19 ecologically friendly for a moment – green. Colonel, am I 20 correct in saying we're now proceeding from page 42 of the 21 bound bundle of documents that you've given? 22 LT-COL VISSER: Yes, slide 41 page 21, 23 yes. 24 CHAIRPERSON: Yes, I called it page 42. 25 I was referring to the number in the bottom left hand</p>

<p style="text-align: right;">Page 1158</p> <p>1 corner, that's actually the slide number.</p> <p>2 LT-COL VISSER: Yes.</p> <p>3 CHAIRPERSON: Yes, thank you. Please</p> <p>4 proceed.</p> <p>5 LT-COL VISSER: Thank you, Mr Chair.</p> <p>6 We're moving over now to Monday the 13th of August. Again</p> <p>7 Sunday evening, after the escalation of violence, the joint</p> <p>8 operational centre was also established at Lonmin mine and</p> <p>9 every morning at the start of the day a briefing is being</p> <p>10 held then at this joint operational centre.</p> <p>11 Starting on the Monday morning, again reports</p> <p>12 were that the situation about protestors are still very</p> <p>13 serious and that high police visibility is still needed in</p> <p>14 the area to maintain peace and order. To address the</p> <p>15 situation, the contingency plan of the previous day was</p> <p>16 still put in place and initially 121 members of the police</p> <p>17 were deployed for the day, that included members of our</p> <p>18 public order policing, the POP, TRT stands for tactical</p> <p>19 response teams, NIU our national intervention unit, VISPOL</p> <p>20 our normal visible policing members and there were also</p> <p>21 members from detective services. Except for 121 members</p> <p>22 initially deployed, that evening after the incident with</p> <p>23 the protestors an additional 96 members were also deployed.</p> <p>24 If we move over to the next slide, the sequence</p> <p>25 of the events of the day. 10 past five in the morning</p>	<p style="text-align: right;">Page 1160</p> <p>1 persons that were sympathetic to their cause.</p> <p>2 We go over to the next slide. After the meeting</p> <p>3 at 12:45 the Provincial Commissioner of North-West,</p> <p>4 Lieutenant-General Mbombo, instructed the police members</p> <p>5 the following – the gatherings had to be dispersed, the</p> <p>6 dangerous weapons that are part of these gatherings had to</p> <p>7 be confiscated, persons identified from the mine footage</p> <p>8 who were involved in criminal activities had to be</p> <p>9 arrested, deployment to key strategic areas had to be</p> <p>10 enhanced, members of the police had to act professionally</p> <p>11 and to ensure that peace prevailed. An OB entry in this</p> <p>12 nature was also made.</p> <p>13 Simultaneously at this time it was noticed on one</p> <p>14 of the mine security cameras that a group of protestors</p> <p>15 armed with dangerous weapons were gathered near the K3</p> <p>16 shaft near the Karee hostel area. 70 members of the</p> <p>17 police, under the command of Major-General Mpembe of North-</p> <p>18 West, were deployed with the intention to disarm and arrest</p> <p>19 the group of protestors.</p> <p>20 If you move over to the next slide, on arrival at</p> <p>21 the scene Major-General Mpembe addressed the group of armed</p> <p>22 protestors and it was indicated to them that it was</p> <p>23 unlawful for protestors to be in possession of dangerous</p> <p>24 weapons. They were also informed that the police were</p> <p>25 present as a result of all the violent incidents that had</p>
<p style="text-align: right;">Page 1159</p> <p>1 there was already reports about 50 persons that were</p> <p>2 intimidating workers around the Wonderkop hostels. Police</p> <p>3 members were on the scene. One of the members shot two</p> <p>4 rubber rounds and the crowd dispersed peacefully.</p> <p>5 20 past six Monday morning, mine security</p> <p>6 reported about a body with bullet wound. It was later</p> <p>7 linked to the violence on the Sunday. Referring back to</p> <p>8 the slides on Sunday, that was Mr Langa.</p> <p>9 8:30 again that morning mine security reported</p> <p>10 one of the mine employees has been robbed and stripped</p> <p>11 naked for going to work, because of intimidation no cases</p> <p>12 were registered.</p> <p>13 10 o'clock Monday morning there was a meeting</p> <p>14 between Lonmin mine management and police management. On</p> <p>15 this meeting the police were updated about the latest</p> <p>16 situation about the mine. The police were informed that</p> <p>17 employees who were involved at the current strike action at</p> <p>18 this stage were faceless, the mine management could not</p> <p>19 identify if they were part of the mine or not. On this</p> <p>20 meeting mine management indicated about the property that</p> <p>21 was damaged and the members that were killed and they</p> <p>22 requested the police to prevent any further killing of the</p> <p>23 mine's personnel and to protect their property. The police</p> <p>24 were also informed about the gathering of rock drill</p> <p>25 operators at koppie 1, which was also joined by other</p>	<p style="text-align: right;">Page 1161</p> <p>1 been occurring since the Friday the 10th August.</p> <p>2 Representatives from the protestors informed</p> <p>3 Major-General Mpembe then that their fight was not with the</p> <p>4 police but with Lonmin mine. They also informed Major-</p> <p>5 General Mpembe that the possession of dangerous weapons was</p> <p>6 for their own protection against the mine security and to</p> <p>7 oppose union members attacking them, referring to the</p> <p>8 incidents that happened from the Friday itself. They</p> <p>9 demanded then to be left alone so that they can join the</p> <p>10 members that were already gathered at koppie 1.</p> <p>11 At this stage, as will be indicated on a video</p> <p>12 clip later on, we talked to the protestors in Fanagolo but</p> <p>13 to make sure that there was no misunderstandings, Major-</p> <p>14 General Mpembe asked for an interpreter from Lonmin mine.</p> <p>15 At this stage Lonmin mine denied the request and they also</p> <p>16 indicated that they are not prepared to negotiate with the</p> <p>17 protestors. The request at this stage was made to Mr</p> <p>18 Blaauw of Lonmin mine.</p> <p>19 At this stage after the protestors were addressed</p> <p>20 and it was indicated that the possession of dangerous</p> <p>21 weapons is illegal, Major-General Mpembe made a decision</p> <p>22 that the group must be disarmed and dispersed.</p> <p>23 [10:38] Major-General Mpembe indicated to the protestors</p> <p>24 that they would not be allowed to proceed to the koppie 1</p> <p>25 and they need to surrender their weapons. The group of</p>

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1 protestors then became very aggressive and they moved
 2 around the police line that was formed by armoured vehicles
 3 and members on foot and they continued in the direction of
 4 Wonderkop koppies.
 5 Looking at the posture and the nature of the
 6 group and the possession of dangerous weapon, Major-General
 7 Mpembe realising that by trying to stop the group now it
 8 will lead to a violent confrontation that would take place
 9 and it could lead to serious injuries, he then decided to
 10 allow them to proceed, but with the police following them.
 11 Keeping in mind the history of violence that we
 12 saw at the mine and looking at informal settlements that
 13 were lying between the protestors and koppie 1, it was
 14 decided that the police must follow the protestors to
 15 prevent them from entering the informal settlements to the
 16 left of their route, to prevent possible incidents of
 17 looting and to safeguard innocent lives and property.
 18 Going to the next slide, the group of protestors
 19 proceeded then to koppie 1. On their way to koppie 1, with
 20 the police following them, some of the protestors changed
 21 direction to enter the informal village. To prevent them
 22 from entering the village, the police used teargas and stun
 23 grenades. Teargas is a grenade that releases smoke that
 24 cause intense burning of the eyes and involuntarily causes
 25 you to just run away from it. A stun grenade, if thrown,

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1 causes two loud bang noises that also cause you to run away
 2 from it.
 3 After the teargas grenades were thrown, it had no
 4 effect on the protestors and they kept on walking through
 5 it in the intended direction. It was only after the stun
 6 grenades were thrown that a response was received from the
 7 protestors. After the stun grenades were thrown, a group
 8 of the protestors turned around and charged at the police
 9 with their dangerous weapons. Two of the members of the
 10 police who died at the scene were retreating and fired at
 11 the protestors with shotgun rubber rounds but they were
 12 overpowered and hacked to death. In order to defend
 13 themselves and their colleagues against the imminent
 14 attack, members of the police started retreating and fired
 15 at the charging protestors with live ammunition. The air
 16 wing helicopter of the police also witnessed these
 17 incidents and to protect the members of the police
 18 services, out of the police helicopter they threw 10 stun
 19 grenades and 20 teargas grenades in an attempt to stop the
 20 attack.
 21 We proceed to the next slide. Two members of the
 22 police were killed in this incident and a third was
 23 seriously wounded. These three policemen were also robbed
 24 of their firearms that included two 9 millimetre pistols,
 25 one R5 rifle, one shotgun, one police radio and the

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1 magazines with ammunition.
 2 One of the protestors was found dead at the scene
 3 after the incident. A second was found about 300 metres
 4 further after the informal village. A third was found dead
 5 in the village with a stab wound. It was not clear if it
 6 was an innocent bystander or a member that was part of the
 7 protest. Four of the protestors responsible for the attack
 8 on the members of the police were pursued by members of our
 9 tactical response teams. They were, however, shot at with
 10 some of the weapons that had been robbed from the other
 11 members of the police. They returned fire but the
 12 protestors managed to escape.
 13 The next slide is just for geographical
 14 orientation again. Initially the group of protestors were
 15 gathering at the Karee hostel. That is to the left bottom
 16 of the screen that you see there in front. They demanded
 17 to join the other protest that was already gathering at the
 18 koppie 1, that is approximately about seven kilometres from
 19 where they were gathering.
 20 The incident happened – there’s a little red
 21 area, a triangle with a white outline where the incident
 22 happened and in front of them to the left, encircled in
 23 blue, you can see some of the informal villages that were
 24 lying between them and koppie 1.
 25 CHAIRPERSON: Where did the incident take

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1 place? Where did General Mpembe address the protestors?
 2 LT-COL VISSER: Just at the point of that
 3 triangle that we have pointed there with the mouse on the
 4 screen, at that point, and then they started walking and
 5 the incident happened about at the end of the triangle.
 6 CHAIRPERSON: I understood that
 7 Lieutenant-General Mpembe actually addressed them near the
 8 railway line.
 9 LT-COL VISSER: Yes.
 10 CHAIRPERSON: Is the railway line visible
 11 on your – on the photograph? That’s the railway line?
 12 Yes, I see.
 13 LT-COL VISSER: Looking at available
 14 footage – but before we go to the footage, Mr Chair, first
 15 a warning as well. Some of the people that are going to
 16 feature in this footage were part of the deceased members
 17 later on the 16th and at the end of the footage and some of
 18 the photographs that will follow, looking at the police
 19 members that were killed – Warrant Officer Lebaaku, Warrant
 20 Officer Monene, the three protestors that were killed, Mr
 21 Sukanile, Yukanise and Mr Mati – there will again be some
 22 pictures, so a warning again if some of the relatives or
 23 any people that don’t want to see this, maybe if we can
 24 allow them a minute or so, the people that want to leave.
 25 CHAIRPERSON: Yes, before you do, while

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1 that's happening you can also show – tell me something
 2 else. The railway line you say is, one sees actually
 3 touching this triangle at the bottom left hand corner,
 4 that's the railway line, right. Then also there was a
 5 river that we saw and there was an informal settlement in
 6 front of one of the houses one of the bodies, I think, was
 7 found. Where's that? That's –
 8 LT-COL VISSER: That's the informal
 9 settlement and the body was found –
 10 CHAIRPERSON: Alright, alright. Now I
 11 think you should repeat what you've said into the
 12 microphone so that members of the auditorium can follow and
 13 also, I'd be grateful if that cell phone were turned off.
 14 I'd also be grateful if you could indicate, as you
 15 indicated to me, where the informal settlement was where
 16 the house was in front of which one of the bodies was
 17 found. You showed that to me but I think those in the
 18 auditorium are entitled to see it too.
 19 LT-COL VISSER: If you look at the
 20 television screens where the mouse cursor is – first of all
 21 we're going to indicate to you the railway line where the
 22 protestors were gathered. If you look at the mouse cursor,
 23 that is where the railway line is. The next thing we want
 24 to indicate to you is the informal settlement where one of
 25 the bodies was also found. It's just in front, encircled

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1 with the blue. If you look again at the mouse cursor
 2 there, that is where the informal settlement was where also
 3 one of the bodies was found. And then there's also a river
 4 that went through, if you look at the mouse cursor there it
 5 indicates to you the flow of the river as well.
 6 The railway line on the footage that we're going
 7 to show you, you will also see the members are gathered
 8 directly next to the railway line. What we've done is
 9 we've looked at footage that is available from our public
 10 order policing unit. At the end we also added some footage
 11 from the mine security. All the original clips are
 12 available at the evidence leaders. We tried to put the
 13 incident together to make logical sense out of it and again
 14 I want to repeat the warning, there will be some images –
 15 CHAIRPERSON: We'll wait a minute so - to
 16 give people who wish to leave, an opportunity to do so.
 17 LT-COL VISSER: Thank you, Mr Chair, can
 18 we continue? Please ask the police family members - This
 19 is the video footage when General Mpembe came to the group
 20 and addressed the group. Then you can see the change in
 21 posture from this group and the march that we indicated on
 22 Friday. That is General Mpembe talking in Fanagolo to the
 23 group.
 24 [VIDEO IS SHOWN]
 25 MR MAHLANGU: We have not come to arrest

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1 you. The problem we have is what you have in your hand. I
 2 am pleading with individuals to come to me and hand over
 3 these items. It's illegal for you to possess these things.
 4 I must also say that such a gathering as you're gathering
 5 here is contrary to the law, it's illegal to form such a
 6 gathering. From here we're going to go to those people on
 7 the mountain, we're going to tell them the same thing but
 8 before you disperse, the – the weapons that you have are
 9 illegal. We only have these weapons here to indicate to
 10 you that we are fighting nobody. What we want are those
 11 assegais that you have and the other weapons only, that's
 12 all. Unless you disarm, unless you give me those weapons,
 13 I'm not going to allow you to proceed.
 14 LT-COL VISSER: This is where the group
 15 decided to proceed anyway, in disrespect of the
 16 instructions that were given by the police. The police
 17 then allowed them to proceed and again you can see the
 18 difference between this group of people and the original
 19 march on the Friday.
 20 This footage is from the mine security since the
 21 police video unit was not very close by. At this stage
 22 they're proceeding towards koppie 1 with the police
 23 following them. This is the best footage that we have,
 24 although it's from a distance and it's not very clear.
 25 There the first teargas grenade is being thrown.

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1 [10:58] It had no effect and it didn't change the
 2 direction of the protesters. They just continued through
 3 it. There first stun grenade was thrown, and that had
 4 reaction. There you can see it. The majority of the
 5 protesters ran away, but a group of them turned around and
 6 charged at the police. You cannot see them, it's there
 7 behind the bushes. Other police members ran to their
 8 rescue. That's where the incident took place.
 9 [VIDEO IS SHOWN]
 10 Again looking at the video footage, injured
 11 policemen, the injured policeman that is still serious in
 12 hospital, policemen that were killed. Again the force and
 13 the nature and the gruesomeness of the attack is visible.
 14 In the informal settlement the body that was found there
 15 with a spear lying close to it, it had a stab wound in the
 16 leg and it bled to death. At this stage it was not clear
 17 if he was part of the protest, or he was an innocent
 18 bystander in the village.
 19 Again some of the following slides again show
 20 some of the bodies, the policemen that were hacked to
 21 death, and again the severity of the attack can be seen on
 22 his face and the wounds. Also looking at some of the
 23 footage you can see the force that was used in these
 24 attacks, looking at the wounds. The second policeman that
 25 was shot and hacked to death, you can see the bullet

<p style="text-align: right;">Page 1170</p> <p>1 wounds, one in his shoulder, one in his chest and again the 2 gruesome wounds that is visible on his head, again looking 3 at the force that was applied during these attacks. The 4 three protesters that were also killed, all civilians, to 5 the bottom left is the person that was found in the 6 village, above him the body of the protester that was found 7 about 300 metres from the scene where the incident took 8 place and to the right-hand side the body that was found on 9 the scene, Mr Mati.</p> <p>10 CHAIRPERSON: Colonel, which body was 11 found on the other side of the river?</p> <p>12 LT-COL VISSER: It's the one in the left 13 top corner, the one with the white overall, Chair.</p> <p>14 CHAIRPERSON: Thank you.</p> <p>15 LT-COL VISSER: At this stage it's not 16 very clear how the body got there, whether he was assisted 17 by fellow protesters or whether he went there on his own, 18 but that is where the body was found.</p> <p>19 Looking at the short summary of the consolidation 20 of the scene by our crime scene members, shell casings that 21 were retrieved at the scene, 9 millimetre cartridges from 22 handguns, eight cartridges were received. Shotgun 23 cartridge cases, that will be rubber bullets, 19 cases were 24 retrieved at the scene. R5 cartridges, four casings were 25 retrieved. There were also one R5 round that were not</p>	<p style="text-align: right;">Page 1172</p> <p>1 Continuing to the next slide, looking at the 2 following events still on Monday, the 13th, at 6 o'clock in 3 that evening personnel from our Employee Health & Wellness 4 arrived at Marikana to debrief the members that were 5 involved. This was done to assist members in dealing with 6 the events of the day and post-traumatic stress. 7 20 minutes past eight that evening a police 8 delegation, which the National Commissioner led and also 9 included the Provincial Commissioners of the North West 10 province and Gauteng province arrived and was also briefed 11 by our joint operational centre. After they were briefed 12 about the events of the day, round about half past nine 13 that evening they had a meeting with management of Lonmin. 14 Lonmin mine management were briefed about the events of the 15 day, and a clear request was made for them to engage with 16 the relevant unions to try and resolve the issue to ensure 17 a peaceful end to the strike. Lonmin mine management took 18 note about the briefing and request, but no specific 19 commitment at this stage was received from them to get 20 involved or to resolve the issue. 21 Looking at the summary of the events of the 22 Monday, additional members of the police were deployed to 23 intensify visibility in the area. A meeting was held with 24 Lonmin mine's management, where they indicated and they 25 requested the police to protect their members and their</p>
<p style="text-align: right;">Page 1171</p> <p>1 dispersed that were found at the scene and when we come to 2 incidents on Wednesday there's a specific reference to 3 similar rounds that were found there. Stun grenades, 12 4 casings were found at the scene. Teargas rifle grenades, 5 21, and two sharp edged weapons were found at the scene.</p> <p>6 In addition to what was found on the scene, the 7 following munitions was expended by police members, either 8 first of all to get the protesters to change direction, not 9 to enter the informal village, and later on sharp point 10 ammunition was used in defence of their own lives and the 11 lives of their colleagues. Members of various units were 12 on the scene, NIU again stands for our National 13 Intervention Unit, TRT for our Tactical Response Teams, 14 POP, Public Order Policing, helicopter refers to the police 15 helicopter that was on top of the scene. In total 9- 16 millimetre rounds, 64 were expended. Only eight cartridges 17 were retrieved, but 64 were expended. R5 rounds, that the 18 5.56-millimetre, 34 were expended although only 19 casings 19 were retrieved at the scene. Rubber rounds, 19 were 20 dispersed. All 19 cartridges were found at the scene. 21 Teargas grenade, 25, of which only 21 casings were 22 retrieved. Stun grenades, 12, of which all 12 casings were 23 retrieved at the scene. In total 56 non-lethal or less 24 than lethal munitions were expended at the scene. In total 25 98 sharp point ammunitions were expended.</p>	<p style="text-align: right;">Page 1173</p> <p>1 property. At that stage police met with a group of 2 protesters that was gathered near the railway line. They 3 escort these members on their way to Koppie 1, doing this 4 to prevent them from entering the informal settlement and 5 to protect the lives of innocent members and property. 6 Stun grenades and teargas grenade was thrown. In this 7 incident three, two policemen were killed, one was 8 seriously injured, three protesters - two protesters, one 9 alleged protester - also died, and again in the evening 10 senior police management arrived at the scene, were briefed 11 and held meeting with Lonmin mine management to see, to 12 resolve the issues and get to a peaceful resolution of the 13 strike. 14 Looking at the casualties at this stage, wounded, 15 16 persons, including five protesters that were wounded in 16 the clash on Monday. The death toll at the end of Monday 17 stood at nine. On Sunday it was two guards, two mine 18 employees; on Monday, two policemen, two protesters and the 19 person that was stabbed in the village. 20 CHAIRPERSON: Before we take the tea 21 adjournment, I take it from now on you, at this point you 22 move on to the unrest on the Tuesday. In your slide 61 23 where you talk about casualties, people who were wounded, 24 in respect of Monday the 13th there's a gap before the word 25 "protesters." It reads, "On Monday, protesters wounded,"</p>

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1 are you able to give us the number of protesters who were
2 wounded on Monday? Why is there a gap? It looks like a
3 number that's missing.

4 LT-COL VISSER: If you read the sentence,
5 "The protesters wounded, one member of the police and the
6 police wounded five protesters." Sorry, the gap is just an
7 alignment –

8 CHAIRPERSON: I understand, thank you.

9 LT-COL VISSER: Just a rectification
10 there, Mr Chair, on Saturday it was three persons that were
11 wounded, not eight, but the total tally is still 16
12 members. The three members on Saturday was during the
13 clashes of the protesters itself.

14 CHAIRPERSON: - point we'll take the tea
15 adjournment for 15 minutes.

16 [INQUIRY ADJOURNS INQUIRY RESUMES]
17 [11:46] CHAIRPERSON: The Commission resumes.
18 Colonel, before you move on to the events of the 14th of
19 August, I'd be grateful if we could go back to the video of
20 the General addressing the protesters and if the video
21 could be stopped at various points because the interpreter
22 was doing his best to interpret what was being said but I'm
23 not sure that we got everything – particularly, we didn't
24 get, at least I didn't get what was said by what one could
25 describe as the leading member of the protesters. The

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1 General spoke, the interpreter interpreted what the General
2 said, the leading member of the protesters replied and I'd
3 be grateful if we could just go through that again and it
4 may be necessary, to assist the interpreter, if those
5 responsible for showing us the video could stop after the
6 General has spoken to give the interpreter a chance to
7 interpret and then proceed with another stop at an
8 appropriate stage. I'd appreciate that, before we move on
9 to the events of Tuesday the 14th.

10 LT-COL VISSER: No problem, Mr Chair, we
11 could slowly go through the video and we'll stop to give
12 the interpreter time to do it.

13 [VIDEO IS SHOWN]
14 Okay, the first part is only where they're
15 sitting in the crouching position, they're singing songs
16 and they're clapping their weapons together and in a moment
17 it will start where the General –

18 CHAIRPERSON: It might be helpful to know
19 what they're singing. I take it they're not singing "bring
20 me my machine-gun," but what are they singing?

21 MR MAHLANGU: It's not very clear what
22 they're singing, what the words are of the song.

23 CHAIRPERSON: We'll have evidence on that
24 if it's necessary or relevant.

25 LT-COL VISSER: We're going to start

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1 there from the beginning again and see if we can just hear
2 the singing again.

3 [VIDEO IS SHOWN]
4 MR MAHLANGU: It's not very clear, Mr
5 Chairperson, the song – the words are definitely not clear.
6 Possibly there are people in the gallery that knows it from
7 home but I don't know it.

8 LT-COL VISSER: We can continue.

9 MR BIZOS SC: Could we have an estimate
10 of the number of the persons present? It may be of some
11 importance.

12 CHAIRPERSON: You heard what Mr Bizos
13 said. You're not under oath, but still, give the estimate
14 to the best of your ability.

15 LT-COL VISSER: From the people that were
16 on the scene, General Mpembe and his members, the estimate
17 was between 200 and 300 members, part of the group. That
18 was their estimate on the ground that day. We are going to
19 continue with the video, step by step.

20 [VIDEO IS SHOWN]
21 MR MAHLANGU: Here the General says the
22 reason we have come to you –

23 LT-COL VISSER: Continue.

24 [VIDEO IS SHOWN]
25 MR MAHLANGU: I want to tell you that we

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1 have not come here for any reason to arrest you.

2 [VIDEO IS SHOWN]
3 LT-COL VISSER: Stop.

4 MR MAHLANGU: But we have a very serious
5 problem. The problem we have is the things that you are
6 carrying, the weapons that you are carrying. This is
7 illegal.

8 LT-COL VISSER: Okay.

9 [VIDEO IS SHOWN]
10 LT-COL VISSER: Stop.

11 MR MAHLANGU: Now you tell me you want to
12 move from here, but my request to you is, I want each and
13 every one of you to please hand over those things, one
14 person at a time.

15 LT-COL VISSER: Okay.

16 [VIDEO IS SHOWN]
17 LT-COL VISSER: Stop.

18 MR MAHLANGU: Listen, and repeats, please
19 listen. Those things that you have in your possession are
20 illegal. You are in possession of illegal weapons.

21 LT-COL VISSER: Okay.

22 [VIDEO IS SHOWN]
23 MR MAHLANGU: You want to – you say you
24 want to go and meet those people at the mountain, but I
25 want to say to you such gatherings like the one you are

<p style="text-align: right;">Page 1178</p> <p>1 holding and the one they are holding there are illegal in 2 terms of law. 3 LT-COL VISSER: Okay. 4 [VIDEO IS SHOWN] 5 LT-COL VISSER: Stop. 6 MR MAHLANGU: You are not supposed to 7 form such gatherings. 8 LT-COL VISSER: Okay. 9 [VIDEO IS SHOWN] 10 LT-COL VISSER: Stop. 11 MR MAHLANGU: Because such gatherings as 12 the one you are forming is against the laws. 13 LT-COL VISSER: Okay. 14 [VIDEO IS SHOWN] 15 LT-COL VISSER: Stop. 16 MR MAHLANGU: We have come here today in 17 order to stop this thing. My plea is do not again in 18 future gather in this manner. 19 LT-COL VISSER: Okay. 20 [VIDEO IS SHOWN] 21 LT-COL VISSER: Stop. 22 MR MAHLANGU: If you do meet again and 23 form such a gathering, the police will unfortunately have 24 to tell you to disperse. When you move from here – 25 LT-COL VISSER: Okay.</p>	<p style="text-align: right;">Page 1180</p> <p>1 and I'm thinking perhaps it should rather be Mr Mahlangu 2 who says stop. He will know where to say stop. 3 MR MAHLANGU: I think that's the best. 4 MR MADLANGA SC: Yes. 5 [VIDEO IS SHOWN] 6 MR MAHLANGU: From here we are going to 7 those people at the mountain and we are going to tell them 8 that they are not supposed to gather at the mountain. 9 [VIDEO IS SHOWN] 10 And further that you are not supposed to gather 11 in this manner. 12 [VIDEO IS SHOWN] 13 And you are not supposed to be carrying sticks, 14 you are not supposed to be carrying the weapons because the 15 spears - the spears that you are carrying are illegal 16 weapons. 17 [VIDEO IS SHOWN] 18 Just to have that bit again for the start of the 19 speech of this man. 20 [VIDEO IS SHOWN] 21 I'm going to ask for a repetition of the 22 speeches, the beginning is not very clear but the operator 23 has got earphones now. 24 [VIDEO IS SHOWN] 25 The very first part of the speech is not very</p>
<p style="text-align: right;">Page 1179</p> <p>1 [VIDEO IS SHOWN] 2 LT-COL VISSER: Stop. 3 MR MAHLANGU: You are not supposed to 4 gather on the mountain. 5 LT-COL VISSER: Okay. 6 [VIDEO IS SHOWN] 7 LT-COL VISSER: Stop. 8 CHAIRPERSON: Yes, Mr Mpofo, do you want 9 to take over as interpreter? 10 MR MPOFU: Yes, Chair – no, unfortunately 11 I think that last part was not properly interpreted. What 12 he said is that when we move from here, not you, the 13 police. When we move from here we are going to go to those 14 in the mountain and tell them the same thing. That may be 15 – you can just rewind and give the interpreter – 16 CHAIRPERSON: If the section concerned 17 can be played again and the interpreter can listen and then 18 tell us whether he agrees with your interpretation or 19 thinks his interpretation is better. 20 MR MADLANGA SC: Chair, commissioners, 21 may I ask to make a suggestion also please? I think what 22 gives rise to the problem, perhaps the Colonel understands 23 the language being spoken there, I do not know, but what 24 I'm picking up is that the Colonel stops sometimes mid- 25 sentence and then that causes problems with the translation</p>	<p style="text-align: right;">Page 1181</p> <p>1 clear but in the middle he says, we are going to go there 2 but one thing I want to say is that these things that we 3 have here – he points at the weapons that he has – we are 4 just carrying them for our own protection, we want to show 5 you we are not fighting. 6 [VIDEO IS SHOWN] 7 MR MPOFU: I'm sorry, Chairperson, I'm 8 sorry to do this. There is an important part that's been 9 left out. What the interpreter said was quite correct but 10 one of the things the man said is that you, meaning the 11 police, must come with us and that was left out. 12 CHAIRPERSON: - part wasn't clear, 13 obviously wasn't clear to him. Maybe it was clear to you. 14 MR MPOFU: It was in the clear part at 15 the end. 16 CHAIRPERSON: Mr Interpreter, you heard 17 what Mr Mpofo says. Is he correct? 18 MR MAHLANGU: I would ask that it be 19 repeated, please. 20 [VIDEO IS SHOWN] 21 MR MAHLANGU: It is true, it is true, 22 Chairperson. He says all of us, that is us together with 23 you, should go over there. We want to show you we are not 24 fighting. 25 [VIDEO IS SHOWN]</p>

<p style="text-align: right;">Page 1182</p> <p>1 I have no problem with you. The only thing we 2 want is the spears, that is the police officer. 3 [VIDEO IS SHOWN] 4 I [inaudible] the spears. 5 [VIDEO IS SHOWN] 6 Everything, if I do not get the spears I will not 7 allow you. 8 [VIDEO IS SHOWN] 9 I must say here there's some singing in the 10 background. The song is not very clear, what is being 11 said, but what is very clear is there's some ululating in 12 the background. 13 LT-COL VISSER: The rest of the video was 14 just video clips and the part of the mine without any 15 sounds. 16 CHAIRPERSON: That was the part I wanted 17 you to replay because it seemed to me we didn't get a full 18 interpretation of what had been said, which we now have, 19 thanks to the interpreter and Mr Mpofu. 20 MR MAHLANGU: I want to thank Mr Mpofu. 21 MR CHASKALSON: Mr Chairperson, if I may 22 make a request on behalf of the evidence leaders. To the 23 best of my knowledge we haven't yet received the underlying 24 source footage in relation to this video. It's clearly not 25 a continuous video, it's a compilation of various shots and</p>	<p style="text-align: right;">Page 1184</p> <p>1 deployments were called up from other provinces to come and 2 assist with the situation. At six o'clock the initial 3 interim operation strategy considered was to prevent the 4 protesters from coming to the koppie armed, by deploying a 5 filtering police line to search those approaching or moving 6 along the approach route, encircle a few protesters at the 7 koppie, estimated at less than 50 by that time, disarm the 8 rest and transport for processing to Marikana police 9 station. 10 [12:06] After discussion and consideration it was deemed 11 not feasible, due that some of the forces are still coming 12 from provinces as far as KwaZulu Natal and they haven't 13 arrived yet, and those that already have arrived had not 14 yet been orientated to the mission and the area and briefed 15 sufficiently. As alternative, the next slide, the visible 16 policing strategy was put in place from 11 o'clock till two 17 o'clock in order to monitor the gathering protesters around 18 the koppie, familiarise the members with the newly - road 19 conditions, approach routes and the koppie itself and the 20 proposed neutral area, that we will indicate later on, 21 where they will be deployed. 22 A concept operational plan was finalised for 23 implementation later in the day, of which stage 1 focused 24 on a peaceful solution through dialogue with the 25 protesters. Initially during the course of the day 548</p>
<p style="text-align: right;">Page 1183</p> <p>1 we haven't receiving the underlying footage and I'd ask the 2 SAPS to make that available to us. I understand it may 3 come from Lonmin, if it comes from Lonmin I'd address that 4 request to Lonmin. 5 MR SEMENYA SC: Chair, it's possibly a 6 matter we can tidy with the evidence leaders. As far as we 7 know, we would have given a 41 minute video in totality. 8 It is correct that these are excerpts but to the extent 9 that there is a disconnect there, we'll tidy it up. 10 CHAIRPERSON: Thank you, Mr Semenya. 11 Colonel, you can now proceed to deal with slide 62 and 12 following, which deal with the events of Tuesday, the 14th 13 of August. 14 LT-COL VISSER: Thank you, Mr Chair. 15 Looking at the sequence of events from Friday the 10th up 16 until the Monday the 13th, 16 people wounded already, nine 17 people dead already. It became quite clear that we are not 18 dealing with a normal public order policing situation here 19 and that in order to disarm and disperse this group, a 20 different strategy than normal should be followed. 21 Looking at the Tuesday itself, the joint 22 operational centre that was in operation, reports were 23 given, information was available that the group of 24 protesters was expected to increase and become more 25 aggressive the longer the strike continues. Additional</p>	<p style="text-align: right;">Page 1185</p> <p>1 members were deployed from various provinces, followed by 2 an additional 41 members of the police later that evening. 3 The next slide, just again the orientation about 4 the areas identified where we increased our visibility. 5 Area number 1, area number 1 is the incidents that took 6 place earlier in the week where the mine security were 7 killed, various incidents, members were wounded. It also 8 included various hostels in the area. Area number 2 on the 9 map, that was specifically looking at the informal 10 settlement where the incident of Monday also occurred. 11 Area number 3 is the informal settlement just next to 12 koppie 1 where the people were gathering. Area number 4 is 13 the same informal settlement, it's just further away from 14 the koppie. So the initial strategy was to increase our 15 visibility in those areas, also to allow the members coming 16 from other provinces and areas to get familiarised with the 17 area itself. 18 The next slide, with the arrival of external 19 role-players from other provinces itself, the joint 20 operational co-ordination committees, or the JOC COM as we 21 call it, was established to enable the effective management 22 of the different units within their roles and 23 responsibilities during the operation. Each field of 24 functionality was represented within the structures of JOC 25 COM to ensure effective command and distribution of</p>

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1 information to the line function members in the field.
 2 Throughout these representatives would also provide inputs
 3 with regard to the capabilities of their sections with
 4 regard to resources, experience, as well as act to the
 5 entry point to brief the JOC COM with regard to information
 6 gains which has relevance to the operational planning.
 7 The designated command positions of the JOC COM
 8 was as follows, the commander of the JOC was Major-General
 9 Mpembe. His role was the overall command of the operation.
 10 Chief of Staff, Major-General Annandale, his role was to
 11 co-ordinate the running of the operation by managing the
 12 JOC, with the designated role-players representing each
 13 field. The operational room commander, Brigadier
 14 Pretorius, her role was to manage the information flow and
 15 recordkeeping in the joint operational centre. Commander
 16 of the reserve and support forces, Major-General Naidoo,
 17 his role, to manage the reserve and support forces kept at
 18 forward holding area 1, deploy the resources as required by
 19 the operational commander. Operational commander,
 20 Brigadier Calitz, his role to co-ordinate the operation on
 21 ground level. That was the command structure.
 22 The representatives in the JOC COM itself, the
 23 special task force was Brigadier Fritzi; national
 24 intervention unit, Brigadier Tsiloane; public order
 25 policing, Brigadier Calitz, but he was also the operational

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1 commander; detectives representative by Brigadier Van Zyl;
 2 crime intelligence, Brigadier Engelbrecht; visible
 3 policing, Brigadier Seboloke; planning, Lieutenant-Colonel
 4 Scott; legal services, Captain Moolman.
 5 Looking at the operational plan that was
 6 developed for implementation from two o'clock that
 7 afternoon, looking at the role of the police service,
 8 although the Constitution guarantees the rights and imposes
 9 responsibilities on the citizens of the Republic, looking
 10 at section 7, "to peacefully and unarmed, demonstrate,
 11 picket," section 205 also put the responsibility on the
 12 police, "to prevent and combat, investigate crime, maintain
 13 public order and protect and secure the inhabitants of the
 14 Republic and their property." So the role of the police
 15 was to restore and maintain law and order in the Marikana
 16 area. The strategy that will be followed, looking at
 17 negotiation for a peaceful solution, protect the life and
 18 property where necessary, also looking at the previous
 19 instances, protect the police members deployed as well.
 20 Next slide, the emphasis was to engage in
 21 dialogue to seek a non-violent solution through the use of
 22 crisis negotiators. The group at the koppie needed to be
 23 monitored, but not approached without reason, in order to
 24 prohibit opportunity for confrontation. Available reserve
 25 forces were to be kept at a fair distance, out of the

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1 vicinity of the gatherings, as not to provoke unnecessary
 2 confrontation. Caution was to be taken not to search
 3 individuals of the group without due vigilance and the
 4 necessary cover. Soft skin vehicles - that is referring to
 5 normal sedans, bakkies, not armoured vehicles like Nyalas
 6 in the police – needed to be kept in reserve. Utilise only
 7 armoured vehicles near the crowd, with no police members
 8 leaving the Nyalas and exposing themselves unnecessarily
 9 for attacks.
 10 The next slide, the operational overview of the
 11 operation contained six stages. Stage 1 was dialogue and
 12 monitor the protesters through our negotiation. Stage 2
 13 will be a continuing of the negotiations, but with a show
 14 of force. So there will be forces behind the negotiation,
 15 positioned in case of emergency deployment. Should
 16 negotiations fail to resolve the issue, stage 3 will be a
 17 tactical option to resolve and it will entitle to disperse
 18 the crowd into smaller groups and disarm them from there.
 19 Stage 4 would be the process to arrest the protesters and
 20 handle the crime scenes and the weapons confiscated. Stage
 21 5 of the operation were intelligence-driven follow up
 22 operations to arrest identified individuals at places of
 23 residence. Stage 6 of the operation will be cordon and
 24 search of hostels to remove all dangerous weapons in the
 25 area.

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1 Coming back to stage 1 of the operations, the
 2 negotiations, the police had to deploy one of the public
 3 order policing's monitoring contingents with negotiation
 4 components to engage in dialogue, seeking a peaceful
 5 disarming and dispersion solution. This approach will
 6 allow the police to move closer to the crowds of protesters
 7 gathered at the koppie in order to monitor their behaviour,
 8 and to engage in dialogue to negotiate a peaceful
 9 dispersion and laying down of weapons.
 10 The police armoured vehicles were then positioned
 11 as such between the protesters on the koppie and the
 12 informal settlements behind them to create a neutral area,
 13 that we will indicate later on a map for you. The
 14 negotiators and members of public order policing in the
 15 armoured vehicles will have a response group of members of
 16 the tactical response team approximately 100 metres behind
 17 them to respond and assist their colleagues should the
 18 protesters threaten the members of public order policing's
 19 lives to the point where they could not escape, or were
 20 forced to exit their armoured vehicles.
 21 Continue to the next slide, the reserve groups
 22 consisting of additional public order police in armoured
 23 vehicles with barbed wire trailers to form barriers should
 24 it be needed. Tactical forces from the national
 25 intervention unit, special task force, emergency medical

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1 services, fire brigade, crime scene and investigation
 2 experts, et cetera, were put at forward holding areas,
 3 about one kilometre from the frontline in order to respond
 4 as a backup, if necessary. Helicopters from the police and
 5 the South African Air Force were also used as command post
 6 and specialised force response platforms that were based at
 7 the joint operational centre at Lonmin.
 8 [12:26] The next slide is a visual representation of
 9 stage 1 of the deployment. First of all on the screens I'm
 10 going to indicate with the computer mouse, koppie 1 where
 11 the protesters were gathering. The blue line of vehicles
 12 that is visible there, that will be the negotiation line of
 13 armoured vehicles and that consists out of negotiators and
 14 public order policing members. Behind them, the orange-red
 15 line, that will be tactical forces for their protection,
 16 should something happen, about 100 metres behind them.
 17 These two lines formed a line between koppie 1 and the
 18 neutral area at the back of them that consisted out of
 19 various informal settlements, hostels, so as protection as
 20 well a neutral area is formed behind those two lines.
 21 Out of sight of the protesters on the koppie
 22 there was reserve forces placed, forward holding area 1,
 23 where we have basically crime scene experts, detectives,
 24 medical personnel. Also at forward holding area 2 outside
 25 of the people at the koppie, we had forces on standby,

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1 should they be necessary.
 2 Going over to the next slide, stage 2 of the
 3 operational plan, should negotiations during the stage 1
 4 not render a successful solution, we will go over to stage
 5 2. That will still be negotiations, but with a show of
 6 force. It starts with the deployment, exactly the same as
 7 stage 1, again the public order policing contingent with
 8 negotiation to engage in dialogue, seeking a peaceful
 9 disarming and dispersion. In addition to stage 1
 10 deployment, the reserve forces would be brought forward to
 11 the neutral area as a show of force with the intent to
 12 dissuade confrontation with the police. The public order
 13 policing and technical response team reserves would be
 14 moved to the police rear formation as a show of force.
 15 The defence assets for crowd control, being six
 16 armoured vehicles with barbed wire trailers, would be
 17 positioned between the first line of the police and the
 18 protesters. The wire would not be deployed yet, only be
 19 prepositioned. This will allow the police to rapidly
 20 deploy the barbed wire to close off the neutral area from
 21 aggressive approaches by the protesters.
 22 The special task force members and national
 23 intervention unit would move to the immediate reaction
 24 areas to the south, generally still out of sight behind the
 25 power station, and the remainder of the NIU in their soft

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1 skin vehicles to the far north of the koppie, a safe
 2 distance away so as not to be a target for the protesters.
 3 Their role was to provide assistance to the public order
 4 policing and the technical response team should they
 5 experience imminent life-threatening circumstances.
 6 Going to the next slide, a reaction team from the
 7 special task force and national intervention unit at a rear
 8 staging area with the joint operational centre would
 9 sporadically be airborne to provide a show of force
 10 deployment from the air. This group would be mobile enough
 11 to provide a rapid response, do away with incidents where
 12 protesters isolate members of the police, media
 13 representatives or innocent members of the public in life-
 14 threatening circumstances.
 15 The police elements dealing with crime scenes
 16 were left at the forward holding area to keep them safe and
 17 maintain their integrity in dealing with any crime scene.
 18 Stage 2 of the operational plan, the deployment
 19 was multi-purposed, first of all to provide a show of force
 20 to dissuade action and promote peaceful resolution still
 21 via negotiations continue. Also to enable the police to
 22 preposition a stage 3 force without causing alarm, in other
 23 words not employing stage 3 deployment as such, but keep
 24 them closer from forward holding areas 1 that were about
 25 one kilometre away, also to provide a higher level of

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1 preparedness in view of protecting the police members,
 2 other supporting elements co-opted into the operation whose
 3 services are required for contingency procedures in the
 4 event of emergency, and media members.
 5 Okay, the next slide is again a visual
 6 presentation of stage 2. First of all just an indication
 7 on the screens where koppie 1 is. The blue line and the
 8 red line behind that, that was the stage 1 deployment, the
 9 negotiators with technical response teams behind them for
 10 protection. The biggest change from stage 1 to stage 2 is
 11 the barbed wire vehicles, the yellow line in front of the
 12 blue line, were positioned without the barbed wire being
 13 deployed, and additional forces were added behind the blue
 14 line. Also additional forces were moved a little bit
 15 closer to response area 1 and 2, indicated there with the
 16 mouse pointer. So if emergency response is needed, that
 17 they are closer than the forward holding areas.
 18 If we go to the next slide, the implementation of
 19 phase 1 and 2, the main focus was still negotiation to get
 20 a peaceful solution to the situation. Only if negotiation
 21 should seem not feasible anymore we would go over to stage
 22 3 of the operational plan. Still it will mean addressing
 23 the protesters, ask them to voluntarily lay down their
 24 weapons; if not, disperse them into smaller groups,
 25 encircle and disarm them. Again it was emphasised, this is

<p style="text-align: right;">Page 1194</p> <p>1 only where negotiations are deemed unsuccessful or no 2 longer feasible by higher authorities and a tactical option 3 was needed. The option then was considered and deemed 4 preferable, was to disperse them into smaller groups, 5 encircle and disarm. The dispersion strategy would enable 6 the police to deal with more manageable disorganised group. 7 This would prove easier than to handle a group of about 3 8 000 persons at the koppie. It would also allow for the 9 water canons to be used to break up the more militant 10 groups, site information and structuring. 11 Continue to the next slide, the force continuum 12 that could be used during the dispersion were as follows. 13 Giving a verbal command to disperse, in languages that will 14 be understandable to the group. Members that will still 15 remain and do not want to disperse, advancing the water 16 canons to engage the protesters, getting them to disperse, 17 flanked by Nyalas with members of public order policing 18 deployed outside the armoured vehicle, using the armoured 19 vehicles only as a safe haven to climb back into should 20 they be attacked by the protesters. Should a verbal 21 command and the use of water canons don't cause the 22 protesters to disperse, teargas will be used as the next 23 phase, whereafter stun grenades will be used to force the 24 dispersion, and then advancing rubber rounds from the 25 public order police members to encourage dispersion.</p>	<p style="text-align: right;">Page 1196</p> <p>1 holding area 1 will be moved forward closer to the 2 situation and forces at forward holding area 2 will be 3 moved in front of the informal settlement there to protect 4 them against the protesters that will be dispersing in that 5 direction. In this process the bigger group that were 6 gathered at the koppie will be dispersed into smaller, more 7 manageable groups, where they will be encircled and 8 disarmed by the various forces. 9 Going over to the next slide, quickly going 10 through stage 4, 5 and 6, stage 4 will be then to process 11 arrested protesters and handling of crime scenes. Once the 12 protesters are disarmed and arrested and the area is 13 declared safe, our Local Criminal Record Centre, LCRC, and 14 detectives are to handle the processing of evidence and 15 suspects. Weapons which appear to have blood on them are 16 then to be swabbed for forensic testing. 17 [12:46] Stage 5 of the operation will then be 18 intelligence-driven follow-up operations to address, 19 identify people at their places of residence. The 20 detectives and/or our crime scene intelligence will follow 21 up information gained from interviewing suspects or 22 intelligence received with regard to suspect leads to 23 murders or the whereabouts of the stolen firearms taken 24 from the murdered mine security and police officials. 25 Phase 6, the last phase of the operation will be cordon and</p>
<p style="text-align: right;">Page 1195</p> <p>1 Going over to the next slide, should the 2 protesters attack members of the public order policing in a 3 dispersion line who would be outside their Nyalas at that 4 stage, the second line of armed members of the tactical 5 response teams, the TRTs, backed up by NIU and the special 6 task force and following behind the POP line, would respond 7 proportionately to address the threat and to protect their 8 lives. In addition to this, these forces will also be 9 responsible for close-quarter confrontation to approach 10 smaller groups armed with sharp-edges weapons that refuse 11 to disperse and move to higher ground where the armoured 12 vehicles and water canons could not access them. 13 The next slide again is a visual representation 14 of stage 3. Again firstly I will indicate to you the 15 koppie. During stage 3 deployment the barbed wire will be 16 deployed, that's the yellow line that is visible. The 17 deployment of the barbed wire will keep the protesters from 18 entering the neutral area and running into the informal 19 settlements behind the wires that is indicated there. 20 After the barbed wire has been deployed, there will be 21 Nyalas, flanked with water canons, to disperse the people 22 on the koppie and disperse them in a positive direction. 23 That will be into the open field away from the informal 24 settlements and the hostels that were at the other side of 25 the barbed wire. Forces that were placed at forward</p>	<p style="text-align: right;">Page 1197</p> <p>1 search of hostels in order to complete the disarming 2 process in the Marikana area. The Karee and Wonderkop 3 hostels will be cordoned off, searching operations executed 4 to remove any further dangerous weapons in order to bring 5 back stability in the area. 6 That was the six phases of the plan that was 7 decided on to resolve the situation after the initial 8 visible policing plan ended. 9 Going to the next slide, taking you through the 10 sequence of events, Tuesday the 14th. 8:30 in the morning 11 another meeting was held between Major-General Mpmembe and 12 the mine's management. After the initial indication from 13 the mine management the previous night that they do not 14 know who's the members that are involved in sitting at the 15 koppie. They were referred to as faceless. Video footage 16 and footage was presented to the mine management and some 17 of the persons on the available footage were identified as 18 employees by Lonmin, by the mine management. 19 By 12:30 the negotiators had already arrived. 20 They were briefed by Brigadier Calitz and Brigadier Fritz 21 with regard to the situation and the striking workers at 22 koppie 1. After two o'clock that evening when all – that 23 afternoon, when all the additional forces arrived, first 24 the commanders and then the full visible policing 25 employment was recalled and briefed on stage 1 of the</p>

<p style="text-align: right;">Page 1198</p> <p>1 operation, that is negotiation. 2 Going over to the next slide, round about 15:23 3 it was reported that the protesters have imported an 4 inyanga or sangoma to perform certain rituals and 5 manufacture muti which would ensure their victory in 6 confrontations with their opponents. The men who gathered 7 at the koppie armed with knobkerries, iron rods, spears, 8 pangas, believed the inyanga could perform a ritual at the 9 koppies and sprinkle them with muti to make them brave. 10 These rituals were witnessed by members in the police 11 chopper that were above the scene and the members were seen 12 undergoing a ritual where their bodies were wiped down with 13 a substance believed to be made from or called Ntelezi. 14 The next slide indicates photographs that were 15 taken from the police chopper. In the red circle there's 16 two lines clearly visible of naked men that are standing in 17 half-moon circles and they're being sprinkled by muti by a 18 person. This is at 15:23 before the police arrived at the 19 koppie yet. 20 The next picture also indicates clearly the two 21 half-moon circles by naked men, so it's not all the people 22 that at the koppie that were involved with the rituals but 23 only a selected group. 24 Going over to the next slide to continue with the 25 sequence of events during the day, in the next slide at</p>	<p style="text-align: right;">Page 1200</p> <p>1 behind them, armoured vehicles in front with the soft skin 2 vehicles behind them. On the arrival of the police, the 3 last part of the rituals were captured on video and that's 4 what we're going to show you now. As soon as the police 5 arrived, the people started to get dressed but the last 6 part of the ritual is visible. 7 [VIDEO IS SHOWN] 8 LT-COL VISSER: [Indistinct] - the muti 9 being sprinkled. Footage is taken out of the Nyala, that's 10 the noise that you're hearing. You can clearly see the 11 last part where some of the people are still being 12 sprinkled by some or other substance. As the police 13 arrived, as some sort of a sign, one member also came 14 forward and urinated in the direction of the police. So 15 that was the last part of the ritual when the police Nyalas 16 arrived at the scene, that were caught on camera. 17 CHAIRPERSON: Colonel, is this an 18 appropriate time or stage to take the lunch adjournment? 19 LT-COL VISSER: It's fine. 20 CHAIRPERSON: The Commission will adjourn 21 for the lunch adjournment. 22 [INQUIRY ADJOURNS INQUIRY RESUMES] 23 [14:10] CHAIRPERSON: The Commission resumes. 24 Yes Colonel, would you like to proceed with the 25 presentation?</p>
<p style="text-align: right;">Page 1199</p> <p>1 15:35 the body of a mine supervisor was also seen by the 2 police helicopter, lying close to the koppie. At four 3 o'clock the police deploy from the rear staging area 1 to 4 the neutral area, initiating stage 1 of the strategy. 5 On Tuesday the 14th, half past four, stage 1 6 formation is deployed at koppie 1. Public order policing 7 and the negotiation group were positioned about 80 metres 8 from the protesters at the koppie, with the soft skin 9 vehicles behind them. 10 20 to five the first contact was made with the 11 protesters. Following now is a couple of videos and photos 12 that will indicate to you how the events evolved. At 17 13 minutes past six, what is visible out of the police 14 helicopter is the police deploying from the forward holding 15 areas to initiate stage 1. The row of vehicles that you 16 see there, that's the Nyalas of the negotiators and public 17 order policing and the soft skin vehicles on their way to 18 the koppie. 19 The next photo was also taken out of the police 20 helicopter. It indicates 16:26, 26 minutes past four. 21 First of all with the mouse pointer I'm going to indicate 22 to you koppie 1 where the protesters were gathering and 23 then you can see the police vehicles entering the area and 24 being positioned. They were positioned in front of the 25 koppie between the koppie and the informal settlements</p>	<p style="text-align: right;">Page 1201</p> <p>1 LT-COL VISSER: Mr Chairperson, with your 2 permission, I had one or two enquiries in the break. I 3 would like just to recap from three slides back about the 4 rituals, if I have your permission. 5 CHAIRPERSON: Yes. 6 LT-COL VISSER: Okay, we're going to go 7 back to slide 86, the first picture about the ritual. Just 8 one thing I want to clarify, out of all the photos that 9 were taken we synchronised photos according to a time line, 10 the standard time line. That's the time that is in the 11 right bottom corner, 6:21 to 15:23, that is on top of the 12 screen. That was the original time on the camera, if we 13 can just change that also to 16:21 on both pictures. The 14 actual time after we re-synched the cameras was 16:21 15 according to a standard time line and not 15:23 anymore. 16 CHAIRPERSON: Does the same apply to 17 slide 87? 18 LT-COL VISSER: Yes. So slide 86 and 87. 19 Then just to highlight, just before the police arrived at 20 the scene these photos were taken out of the police 21 helicopter. Again the two lines of naked men that 22 underwent some sort of ritual. Simultaneously to those 23 photographs being taken, the police depart from the forward 24 holding area to deploy phase 1 of the operational plan, 25 negotiations.</p>

<p style="text-align: right;">Page 1202</p> <p>1 Slide 89 just shows the police coming into 2 position in front of the koppie and then we're quickly 3 going to play the video again. As soon as the police 4 stopped at the scene, the last part of the rituals, and 5 then we're going to continue. 6 [VIDEO IS SHOWN] 7 As soon as the police came in position they 8 started to get dressed and this is the last part we got on 9 video. There you can see the sprinkling of the muti. 10 CHAIRPERSON: You can only really see the 11 sprinkling of a liquid. One doesn't know what it actually 12 is, but there may well be evidence that it's muti but all 13 we can see on the video is liquid, isn't it? 14 LT-COL VISSER: Yes. 15 [VIDEO IS SHOWN] 16 Also the dangerous weapons that are still visible 17 in the group. Then just the last part of the footage. 18 [VIDEO IS SHOWN] 19 Thanks, we continue and that is where we ended. 20 The next slide, slide number 91 shows 16:39 just before the 21 first contact. The police phase 1 is in place. What is 22 eminent about all the days, if you look at the koppie where 23 the protesters were gathering, on all the days leading up 24 now in front of the koppie there was always a more 25 organised group that were present. It's also that group</p>	<p style="text-align: right;">Page 1204</p> <p>1 vehicle and the negotiators moved forward, they met one 2 another halfway and then entered into dialogue with the 3 representatives a short distance away from the Nyala. The 4 next photograph is just stage 1 of the first dialogue, the 5 five representatives that came forward from the group of 6 protesters. 7 To continue with the sequence of events, the 8 initial greetings were made to the representatives and 9 again their safety was reassured. The representative doing 10 most of the talking did not want to give his name and was 11 therefore dubbed as Mr Green for identification purposes 12 within the police deployment, as he continuously wore a 13 green blanket around his upper body. He was later 14 identified as Mr Noki. Mr Noki was also one of the main 15 representatives from the group that we saw on the Monday 16 before the attack on the police. 17 The negotiators explained that the police's 18 purpose was to try and find a peaceful solution to the 19 situation as aggression and fighting were not the solution. 20 The representative stated that the protesters wanted the 21 mine management to give them an increase to ensure that the 22 salaries were at R12 500 per month. The group was informed 23 that their request would be forwarded to the joint 24 operational centre and that the police cannot force the 25 mine to negotiate with them, the police could also not</p>
<p style="text-align: right;">Page 1203</p> <p>1 that was involved in some sort of ritual. 2 Continuing to the next slide, the next contact 3 that was made over the armoured vehicle's public address 4 system informed the protesters that the police were there 5 in peace and we try to find a peaceful resolution through 6 negotiations. Throughout the negotiations a Fanagolo 7 interpreter from Lonmin mine was used. After the incident 8 on Monday they availed a permanent interpreter that was 9 used. Police negotiators requested representatives to come 10 forward to talk to the police so that a communication line 11 could be opened and eventually five men approached from the 12 group of protesters. 13 The following is a short video clip just 14 indicating the first contact that was made. 15 [VIDEO IS SHOWN] 16 Then eventually the five representatives came 17 forward. 18 [VIDEO IS SHOWN] 19 During the first contact, looking at the 20 incidents that happened, all negotiations from the police's 21 side was from inside the Nyala. After the five 22 representatives came forward they were again reassured that 23 their safety was a police concern and they would be free to 24 return back to the group after negotiations. After they 25 were reassured about their safety, the police armoured</p>	<p style="text-align: right;">Page 1205</p> <p>1 negotiate any labour issues on anybody's behalf. 2 We continue to the next slide. The 3 representatives then indicated that their fight is not with 4 the police and that there are members of AMCU, had been 5 shot and killed by persons of NUM, the mine security and 6 the police. The representatives of the protesters were 7 informed that several people had been killed in the recent 8 past, including two of the mine security personnel and two 9 members of the police. The protesters became very 10 aggressive, stated that they don't know why the police are 11 present and that their fight is with the mine management. 12 The representatives were informed again that the police 13 could not negotiate on labour issues, but were present to 14 engage in dialogue to bring about a peaceful solution with 15 regard to the protesters gathering at the koppie. 16 The following is a short video clip about this 17 first engagement and dialogue between the police 18 negotiators and the representatives. 19 CHAIRPERSON: May I suggest that if there 20 is audible dialogue we should deal with it the way the 21 earlier one was dealt with, with pauses to give the 22 interpreter a chance to interpret what can be heard. 23 LT-COL VISSER: That's fine, sir. 24 [VIDEO IS SHOWN] 25 MR MAHLANGU: They was talking, Mr</p>

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1 Chairperson, but it's – I can't make out what is being said
2 there.

3 [VIDEO IS SHOWN]

4 LT-COL VISSER: Stop.

5 MR MAHLANGU: The first thing I heard
6 was, "what is your name" and somebody interpreted in
7 Fanagolo - what is your name?

8 [VIDEO IS SHOWN]

9 Again the same question is asked – "what is your
10 name?"

11 [VIDEO IS SHOWN]

12 One can hear the word Macintosh and then he was
13 saying – "but that is mine." And then the next thing that
14 followed was Macintosh and I don't know who was asking who.

15 [VIDEO IS SHOWN]

16 LT-COL VISSER: Can we wind a little bit,
17 we just want to get the headphones?

18 [VIDEO IS SHOWN]

19 MR MAHLANGU: Something said in Fanagolo
20 – "we want to see our manager."

21 [VIDEO IS SHOWN]

22 [14:30] LT-COL VISSER: So Mr Chairperson, it's
23 just a short clip, basically just the initial greetings and
24 the opening of the communication lines between the police
25 negotiator and the five representatives. If we continue

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1 with the sequence of events after the initial greetings, as
2 a gesture of goodwill the representatives were requested to
3 allow investigating officers and crime scene personnel to
4 access the scene where the body was found next to koppie 1.
5 The protesters then gave feedback that the police could
6 attend to the crime scene, they would not interfere with
7 the process. The representatives further stated that they
8 did not know anything about the body or the circumstances
9 of the death. At about 20 past five detectives and members
10 of our local criminal record centre crime scene experts
11 were transported to the crime scene.

12 Just some geographical orientation again. The
13 red circle that you see is the koppie where the protesters
14 are gathered and then roughly 100 metres away from the
15 koppie in the yellow circle is where the body of the
16 supervisor was found. The supervisor was killed round
17 about between two o'clock and four o'clock in the afternoon
18 while the police had withdrawn from their visible policing
19 strategy and were busy with the briefings with regard to
20 deployment and reorganisation to implement stage 1.

21 Mr Chairperson, again a warning. There will be
22 some footage now of the body of the deceased supervisor, Mr
23 Twala. Again if we can have the same opportunity, if
24 there's family members or members that do not want to see
25 these graphic images, to give them an opportunity to leave.

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1 I'm going to continue. The next slide shows an
2 image of the body that was found with the skull on its
3 chest. The second image again indicates the gruesome and
4 the violence of the attack. Nobody was spared by the
5 violent nature of this group, not co-workers, not mine
6 security, not mine supervisors, not even the police were
7 spared.

8 The next slide indicates also a number of stab
9 wounds to the body of the supervisor. Next is a short
10 video clip of the body and the surroundings where the body
11 was found. There is no [inaudible], it's only images.

12 [VIDEO IS SHOWN]

13 The crime scene was secured, there are people
14 [indistinct] to the crime. Then the skull that was found
15 on the body of the supervisor. In the surrounding areas
16 that we will show you just now there were various skulls
17 lying in the field, so whether the skull had any
18 significance is unknown to us. That's just a short
19 indication of what the scene was like.

20 We continue with the last part of Tuesday, the
21 14th. At six o'clock the representative requested the
22 police to postpone any further meetings to the following
23 day at nine o'clock to allow the group to discuss the
24 process they wanted to follow. The representatives were
25 also informed by the police not, they do not wish to

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1 negotiate in an aggressive atmosphere and they should not
2 bring any weapons of any nature the following morning.

3 20 minutes later at 20 minutes past six the
4 representatives gave feedback to the group of protesters at
5 the koppie and they dispersed peacefully. The members of
6 the public order policing, including the negotiators then
7 monitoring the group dispersion while the soft skin
8 vehicles behind them returned back to the joint operational
9 centre.

10 Round about half past eight that evening, all
11 forces proceeded back to the rear staging area at the joint
12 operational centre. In this period Major-General Mpembe
13 had also arranged with the two union presidents of AMCU and
14 NUM as well as representatives of COSATU to meet the
15 following day to discuss the situation.

16 Looking at the rituals that were witnessed and
17 looking at the role of the sangoma in hindsight, various
18 articles were placed in various newspapers – this is just a
19 couple that was highlighted. The Sunday Times online
20 2012.08.25 reported that the sangoma had performed rituals
21 on the hill where the strikers were gathered and had dished
22 out muti to make the men invincible. It was also reported
23 that the sangoma, also known as the medicine man from the
24 Eastern Cape, had cut the workers with a razor blade and
25 then had the muti smeared on their bleeding wounds before

<p style="text-align: right;">Page 1210</p> <p>1 he sprinkled them with Ntelezi, a herbal poison. These 2 procedures as reported by the some of the ritual 3 participants, were part of a process to make them 4 invincible to bullets. After they got the muti, people 5 were so aggressive, they just wanted to fight, they felt so 6 invincible, Lonmin miner Bulelani Malawana told the Eastern 7 Cape Daily Dispatch newspaper on the 21st August. 8 To continue with the sangoma, in hindsight, 9 through the media, on the 21st August the Daily Dispatch 10 also broadcast an interview with the President of the 11 Congress of Traditional Leaders of South Africa and ANC MP, 12 Chief Phathekile Holomisa who stated, "He did not say they 13 must go to war. When the healer was called, these miners 14 had already taken a decision to go to war. What was 15 required from him was to administer the medicine." 16 The South African Press Association also reported 17 on the 21st August that they interviewed a mineworker, Nothi 18 Zimanga, who explained the ritual. "They were cut several 19 times on their upper bodies and a black substance was 20 smeared on the wounds. They were then told when they 21 confronted the police they should not look back and should 22 instead just charge forward. If you look back then the 23 muti will not work. Miners had also drunk a brown muti 24 poison to strengthen them ahead of the confrontation with 25 police," Zimanga explained.</p>	<p style="text-align: right;">Page 1212</p> <p>1 Wonderkop Stadium. Explosives were used at the ATM but 2 also on the scene a live R5 round was found. Through 3 ballistics, this round was linked to a batch of ammunition 4 that was issued to the police service and it was also 5 linked to the round that was recovered on the scene of 6 Monday where the police were robbed of the R5 and its 7 ammunition. This incident raised the possibility that some 8 of the protesters were involved and that they were also in 9 possession of explosives now, despite the various firearms 10 that had been robbed from mine security and police members. 11 [14:50] Continuing to the next slide, half past five in 12 the morning of the 15th a meeting was again held between 13 Lonmin mine management and the police management. Lonmin 14 still stated that the mine would not negotiate with 15 striking mineworkers as there was a 2-year wage agreement 16 in place with all the applicable unions. They also stated 17 that the strike was unprotected and they would only talk to 18 the unions again when the protesters put down their weapons 19 and returned to normal duties. The police requested the 20 mine again to engage with AMCU and NUM for them to address 21 the protesters at the koppie so that a peaceful solution 22 can be achieved. 23 To continue to the next slide, six o'clock in the 24 morning in the sitting of the JOC COM, the reports that was 25 available indicated the protesters did not want to</p>
<p style="text-align: right;">Page 1211</p> <p>1 Looking at the summary of the day's, of the 2 events of Tuesday the 14th, additional deployment arrived 3 from other provinces to assist with the escalation 4 situation. One of the mine's employees was killed and an 5 animal skull put on his chest. Again reports were received 6 about protesters involved in some sort of rituals. These 7 reports had, however, no effect on the operational plan 8 that had been put in place on the Tuesday. The police 9 implemented stage 1 of the operational plan to engage in 10 negotiation with the protesters for a peaceful resolution. 11 The mine management was still not prepared to engage in 12 negotiations with the protesters. Violence and casualties 13 kept escalating and it was becoming clear that this 14 incident differed from other incidents at platinum mines. 15 The next slide are casualties as you stand at the 16 end of Tuesday, the 14th of August. Wounded, the same as 17 the previous day, 16 members were wounded, that included 18 co-workers, also members of the police. Deaths, 10, that 19 also included co-workers, mine security, police members and 20 the latest casualty was a mine supervisor. 21 Thanks, Mr Chairperson, we're going to move over 22 now to Wednesday, the 15th August 2012, slide number 111. 23 Continuing, looking at the sequence of events, early in the 24 morning, at quarter to three in the morning there was an 25 ATM bombing at the supermarket in Wonderkop, close to the</p>	<p style="text-align: right;">Page 1213</p> <p>1 surrender their weapons as they alleged that they needed 2 them for protection against members of NUM. The 3 protesters' behaviour was becoming more aggressive and the 4 senior command of the police put the emphasis on 5 negotiations. This was not only a security issue and the 6 root of the conflict was outside the mandate of the police. 7 To continue to the next slide, a briefing of the 8 morning – operational commanders were briefed again about 9 stage 1 deployment, to continue negotiations and monitor 10 the protesters. Again looking at the information that was 11 available and the nature of the protest, 746 members were 12 initially deployed, followed by an additional 36 members in 13 the area. The operational plan implemented, again at nine 14 o'clock stage 1 of the operational plan was implemented, 15 the same as the previous day. 16 The next photograph indicates again the aerial 17 photograph of the deployment on the day at 10:27 in the 18 morning. Again the first thing we're going to indicate on 19 the photograph, if you look at the mouse pointer, position 20 of koppie 1 where the protesters were gathering. Again in 21 front of the bigger group on the koppie there was a 22 smaller, more organised group that was visible on all the 23 days. Approximately 80 metres from that group the first 24 line of police with armoured vehicles – that includes 25 members of our public order policing and the negotiators –</p>

<p style="text-align: right;">Page 1214</p> <p>1 were placed. Behind them, about 100 metres, there were 2 soft skin vehicles including members of our TRT units, 3 tactical response teams that were placed there for the 4 protection. Again the area behind the armoured vehicles we 5 refer to as the neutral area and again the vehicles were 6 placed between the protesters on the koppie and some 7 informal settlements and hostels behind.</p> <p>8 To continue with the next slide, 10 o'clock that 9 morning the police negotiation team greeted the protesters 10 at the koppie and again stated that the police came in 11 peace and that a peaceful solution had to be negotiated. 12 The five leaders or representatives were again called 13 forward to the Nyala. 15 minutes later the group of five 14 moved forward to the Nyala after they were again assured of 15 their safety and the police wanted to build on the trust 16 relationship that had been initiated the previous day. The 17 representatives asked if the mine management was present 18 and they were informed that the mine had indicated that 19 they would not negotiate with them unless the workers put 20 down their weapons and return to normal duties. The 21 representatives stated that they wanted the telephone 22 number of the commander of the operation and, if present, 23 he or she had to come forward as they wanted to provide him 24 or her with the telephone number of their Adv Shapiro. The 25 representatives were informed that their request would be</p>	<p style="text-align: right;">Page 1216</p> <p>1 request if we can rewind a little bit? The headphones were 2 dead for a while, if we just can rewind a bit and see if we 3 can make out anything that was said.</p> <p>4 [VIDEO IS REWOUND AND SHOWN AGAIN]</p> <p>5 LT-COL VISSER: Stop.</p> <p>6 MR MAHLANGU: The person speaking said, 7 "We want to say the only thing we want is the following" – 8 if you could just turn back a bit?</p> <p>9 LT-COL VISSER: Rewind a little bit.</p> <p>10 MR MAHLANGU: To rewind a bit, yes.</p> <p>11 [VIDEO IS REWOUND AND SHOWN AGAIN]</p> <p>12 MR MAHLANGU: What we want is that the 13 employer should come forward to us and not the police. 14 [VIDEO IS SHOWN]</p> <p>15 LT-COL VISSER: Rewind a bit?</p> <p>16 [VIDEO IS REWOUND AND SHOWN AGAIN]</p> <p>17 MR MAHLANGU: If they could stop bringing 18 the police, what we want is the person who employs us to 19 come and talk to us.</p> <p>20 [VIDEO IS SHOWN]</p> <p>21 MR MAHLANGU: It's not very clear.</p> <p>22 LT-COL VISSER: Okay, the last part is 23 not very clear but the video is just to show the mood of 24 the protesters and the crowd's behaviour. The majority of 25 the footage is focused on the front part of the group that</p>
<p style="text-align: right;">Page 1215</p> <p>1 forwarded to the joint operational centre for a decision to 2 be made.</p> <p>3 At this point one of the representatives became 4 very aggressive and stated that the police should not be 5 these and that the people in their hippos – referring to 6 the armoured vehicles of the police – would die there and 7 that not one Nyala would leave the ground. The group of 8 five representatives then turned around and walked away. 9 Calls were made for them to return. One of the 10 representatives returned and he was asked to provide Adv 11 Shapiro's telephone number, to which he refused as they 12 wanted the commander's telephone number first.</p> <p>13 The larger group was again requested to put down 14 their weapons as negotiations were impossible with weapons 15 present. The next video clip is an indication of the 16 crowd's behaviour on Wednesday, the 15th of August.</p> <p>17 [VIDEO IS SHOWN]</p> <p>18 LT-COL VISSER: A large number of 19 dangerous weapons present. At this stage there were also 20 media personnel in between the group.</p> <p>21 [VIDEO IS SHOWN]</p> <p>22 LT-COL VISSER: The placard that is 23 visible there only indicated a 12 500 salary demand.</p> <p>24 [VIDEO IS SHOWN]</p> <p>25 LT-COL VISSER: Mr Chair, can I just</p>	<p style="text-align: right;">Page 1217</p> <p>1 were gathered in front of the koppie.</p> <p>2 To continue then with the sequence of events on 3 Wednesday, the 15th. At 11:30 that morning feedback was 4 given that, to the protesters that Major-General Mpembe, 5 the overall commander, is available at the joint 6 operational centre and they provided the representatives 7 with the telephone number. At 12 o'clock negotiations to 8 disarm and disperse the protesters were at a deadlock and 9 the decision was made to monitor the situation forward.</p> <p>10 At two o'clock in the afternoon of the 15th, 11 Major-General Mpembe held a meeting with the leadership of 12 AMCU and NUM where he negotiated with them to address the 13 protesters. He requested that a peaceful solution had to 14 be found and that the firearms that were stolen from the 15 policeman who was killed on Monday had to be returned.</p> <p>16 The next slide, slide 121, is a small collage of 17 photographs to indicate some of the dangerous weapons that 18 were present in the group of protesters on Wednesday the 19 15th.</p> <p>20 [15:10] If this footage is compared with the initial 21 march on the Friday where we looked at traditional weapons 22 like knobkerries, it escalated a lot and the weapons that 23 were present here is a lot of dangerous weapons.</p> <p>24 To continue with the sequence of events, 25 Wednesday the 15th, at four o'clock that afternoon the</p>

<p style="text-align: right;">Page 1218</p> <p>1 police arranged to take the leadership of the unions in 2 separate Nyalas to address the group of protesters at the 3 koppie. 4 At 10 past four that afternoon members of the 5 police second helicopter reported again naked men were 6 performing rituals at the koppie and an occurrence book 7 entry was made in that regard. 8 At quarter past five that afternoon a delegation 9 of three members, including the President of NUM, were 10 taken to the koppie to allow them to address the crowd but 11 they were chased away by the protesters before they could 12 say anything. The crowd was very aggressive at this stage 13 and the Nyala was withdrawn and the NUM delegation left the 14 koppie. 15 Continuing to the next slide, quarter to six that 16 evening a delegation of three members, including the 17 President of AMCU, were taken to the koppie. 18 Representatives did not want to board the Nyala to speak to 19 the crowd, they wanted to walk to the crowd on foot but for 20 safety reasons they were later taken in the Nyala. The 21 leadership of AMCU spoke to the crowd. The crowd was still 22 very aggressive but reacted positively to the leadership's 23 message. After the discussion, the leadership stated they 24 would return at nine o'clock the following day, that'll be 25 Thursday 16th of August 2012, to give feedback to the group</p>	<p style="text-align: right;">Page 1220</p> <p>1 following day – again, that being Thursday, 16th of August 2 2012, and there was a commitment that protesters would 3 surrender their weapons. This commitment was given in the 4 presence of Major-Generals Mpenbe, Annandale and Naidoo in 5 the joint operational centre. 6 Looking at the summary of events, Wednesday the 7 15th of August, the situation was reported as still being 8 very tense. Negotiations between the protesters and the 9 police continued. Police were forced into the role of 10 facilitating labour conflict instead of enforcing law and 11 order. The leadership of NUM and AMCU were convinced to 12 intervene and address the protesters. Although the 13 leadership of NUM were chased away, AMCU did address the 14 protesters. The mine management at this stage was still 15 not prepared to get, engage in any negotiation with the 16 protesters until they surrendered their weapons and 17 returned to work. Later that evening the President of AMCU 18 reported that the protesters were prepared to put down 19 their weapons the following morning at nine o'clock, that 20 will be Thursday the 16th. 21 At the end of Wednesday the 15th, all indications 22 showed that stage 1 of the police, with regard to 23 negotiations, was successful, weapons will be downed the 24 following day and a peaceful solution will be achieved for 25 the situation.</p>
<p style="text-align: right;">Page 1219</p> <p>1 with regard to their meeting with the mine's management. 2 The following are two very, very short video 3 clips that we have just to indicate that the leadership of 4 NUM and the leadership of AMCU was on the scene – it's 5 very, very short, we're just going to indicate it. The 6 first one is the NUM representatives that were at the scene 7 and then were chased away. 8 [VIDEO IS SHOWN] 9 LT-COL VISSER: This is evidence they got 10 in the vehicle there and they left. The next one is just 11 an indication that AMCU leadership also was at the scene. 12 [VIDEO IS SHOWN] 13 LT-COL VISSER: Here the leadership is 14 being convinced to enter into the Nyala and not to go to 15 the protesters on foot. As from there they entered into 16 the Nyala and they addressed the protesters. 17 Okay, to continue with the events of Wednesday, 18 the 15th. 18:45 that evening the crowd started to disperse 19 and the Nyala group monitored the peaceful dispersion. 20 Half past nine that evening the representatives of NUM and 21 COSATU reported to Major-General at the joint operational 22 centre that the crowd had rejected them on the koppie but 23 they had offered their assistance in every way needed. The 24 representatives of AMCU reported that they would meet with 25 their members at the koppie again at nine o'clock the</p>	<p style="text-align: right;">Page 1221</p> <p>1 Looking at the casualties, at Wednesday 2 specifically there were no additional casualties, so 3 nothing for the Wednesday. So the wounded count still 4 stands at 16 and the death count still stands at 10 at the 5 end of Wednesday, the 15th August 2012. 6 Mr Chairperson, before we start with Thursday, 7 the 16th of August, we're going to change presenters now, so 8 may we request a short recess? 9 CHAIRPERSON: It seems it's now already 10 22 minutes past three by my watch, so it may be appropriate 11 for us to take the tea adjournment at this stage. We'll 12 take the tea adjournment now. 13 LT-COL VISSER: Thank you, Mr Chair. 14 [INQUIRY ADJOURNS INQUIRY RESUMES] 15 [15:49] CHAIRPERSON: The Commission resumes. 16 MR MAHLANGU: Mr Chairperson and 17 commissioners, if I just take you a minute. It's at 107 18 where I made a little mistake and which I wish to correct 19 now. 107, the Sunday Times online on the 25th of August. I 20 read the word "invisible" and I interpreted it as 21 invincible. Invincible would mean not capable of being 22 defeated but my interpretation was, invisible, not able of 23 being seen. 24 CHAIRPERSON: Yes, so do you want to 25 repeat your interpretation using the correct word?</p>

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1 MR MAHLANGU: That's correct.
 2 CHAIRPERSON: Yes, fine.
 3 MR MAHLANGU: Thank you, Mr Chair.
 4 CHAIRPERSON: Thank you, Mr Interpreter.
 5 We now have a new presenter, so would you – I'm not going
 6 to swear you in because I didn't swear your predecessor in
 7 either. I understand you will be giving evidence under
 8 oath later, but put yourself on record and then I think we
 9 are proceeding from slide 129.
 10 LT-COL SCOTT: Thank you Chairperson, and
 11 greetings to the commissioners, to the legal
 12 representatives, to the family members and the members of
 13 the audience and members of media. I am Lieutenant-Colonel
 14 Scott, I'm from the South African Police Service and I'll
 15 be presenting the second half of the presentation which
 16 predominantly deals with the 16th of August.
 17 Chairperson, what I would like to do at the
 18 outset is refer to a map which has been laminated and given
 19 to all parties.
 20 CHAIRPERSON: Can it be shown on the
 21 screen so that those in the auditorium, who obviously
 22 haven't got copies, will be able to follow what you're
 23 going to say?
 24 LT-COL SCOTT: I see that the computer
 25 operator is going to have a look. We've got it on the

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1 computer upstairs. Right, it's on screen now. This is an
 2 orientation map which has been given out to all parties, so
 3 when we start speaking of the different koppies, if I can
 4 refer you to koppie 1 which is the larger koppie with the
 5 rocks, if you look to koppie 2 it's a smaller koppie just
 6 north of koppie 1. then you can see to the left of the
 7 picture, that's to the west, that is koppie 3. You'll
 8 notice the blue dotted line, that is initially where the
 9 stage 2 Nyalas are positioned and on to the right or to the
 10 east of the dotted line is the neutral area, what we know
 11 as the neutral area. What you see in yellow, scene 1, is
 12 at the kraal to the north of the neutral area and to the
 13 west, to koppie 3, is known as scene 2.
 14 As we're dealing with Thursday the 16th of August,
 15 the key marks on your maps will bear reference to the
 16 comments made inside the presentation.
 17 CHAIRPERSON: To get it out of the way,
 18 you may tell us what the meaning of negative in respect of
 19 the red arrow and positive in respect of the green arrow
 20 refers to.
 21 LT-COL SCOTT: Chairperson, in the
 22 terminology of the police when we have a crowd and when we
 23 create a neutral area, we'll always create the neutral area
 24 in between what we call a negative attraction and the
 25 crowd, where the police will position themselves between

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1 what could be considered an area where destruction can be
 2 and then we'd have a position attraction direction where,
 3 if there was dispersion action to happen, we would want the
 4 crowd to move in that direction. That would normally be
 5 towards areas where there would not further unrest,
 6 destruction or violence.
 7 The neutral area, looking at the map still, was
 8 created specifically to the east of the protesters on the
 9 koppie. The appreciation was done with regard to the
 10 clashes which happened between the two different unions
 11 between the Wonderkop hostel on the Saturday, as well as
 12 the conflict between mine security and the protesters which
 13 happened on the Sunday. So negative actions happened
 14 towards the east of the koppie and that's why the police
 15 positioned themselves in the neutral area to prevent
 16 protesters moving in that direction again.
 17 Continuing then with the 16th of August – we'll
 18 just wait for the presentation to come up. Right, it's
 19 slide 130. Six o'clock in the morning the JOC COM meeting
 20 met. The command structure as well as all the operational
 21 commanders were in attendance at the JOC meeting.
 22 Information was presented that morning that many of the
 23 protesters had dangerous weapons with them, still in their
 24 possession, that they were armed, planning to go to koppie
 25 1 and that they were not planning to lay down their

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1 weapons. This information was given through by the crime
 2 intelligence representative in the JOC COM. It was also
 3 reported by crime intelligence that the situation on the
 4 ground was tense.
 5 Slide 131, the operational deployments for the
 6 day. The operational commands were brief with regard to a
 7 stage 2 deployment, to continue with negotiations and
 8 monitoring but with the pre-positioning of the crowd
 9 management assets and the presence of the reserve force as
 10 a show of force.
 11 The stage 2 deployment, as you can see, is an
 12 elevation from the stage 1 deployment from the Tuesday and
 13 the Wednesday.
 14 MR MAHLANGU: You say –
 15 LT-COL SCOTT: The stage 2 deployment is
 16 an elevation from the stage 1 deployment from the Tuesday
 17 and the Wednesday. 630 members of the police were deployed
 18 on the day shift that day and 88 members were deployed for
 19 night shift that night. The next slide, slide 132.
 20 General Annandale who was addressing, who was chairing the
 21 meeting, addressed the meeting on the progress made with
 22 the mines management and the unions regarding the
 23 establishment of a common goal and a way forward for a
 24 peaceful resolution to the current situation. What the
 25 General alluded to as well was that during the negotiation

<p style="text-align: right;">Page 1226</p> <p>1 process the previous day, the AMCU President promised to 2 provide feedback to the SAPS management on the way forward 3 and that the police deployment would therefore be in 4 accordance with that outcome. The AMCU President gave his 5 assurance that his members would lay down their weapons by 6 nine o'clock that morning. It was, however, agreed that a 7 contingency plan had to be put in place if the call to lay 8 down arms failed. Considering the information received 9 from the crime intelligence brief, it was considered that 10 police needed to be more vigilant that day as well.</p> <p>11 I'm moving to slide 133. The police's deployment 12 would be done in line with stage 2 of the operational 13 strategy, which was a show of force and the pre-positioning 14 of the assets. Right, a full deployment would be done in 15 accordance with the strategy of stage 2 and that would mean 16 that the barbed wire trailers would be pre-positioned but 17 the Nyalas would not deploy the barbed wire.</p> <p>18 The briefing continued that should the situation 19 escalate, the tenseness and the aggression, that stage 3 20 would be implemented, that a briefing would first be held 21 prior to a stage 3 deployment happening. The briefing 22 would ensure that all operational commanders understood the 23 plan and that the plan could be revised according to the 24 situation on the ground at that time. General Annandale 25 again emphasised that the police's strategy would be to</p>	<p style="text-align: right;">Page 1228</p> <p>1 table as well as the teams remained depicted as they were 2 given on the briefing that morning. So we'll go through 3 the tables now. This is going to be the stage 2 deployment 4 and the briefing which was given to the operational 5 commanders at the JOC COM that morning.</p> <p>6 Slide 136 – and the way the tables are set out, 7 as well as for operational briefings, is as you see them on 8 screen or in your presentations. We have two columns and 9 if I can run down the left-hand column we have, starting 10 with the team call sign, we then move to the task of that 11 specific team, the date/time group of when he will be 12 operating, operational, the action area or his mission area 13 where he will be deployed, the commander's details – we 14 normally add the cell phone numbers of the commanders as 15 well but for the purposes of viewing here we've taken out 16 the cell phone numbers – the personnel who would be 17 accompanying that commander, the personal equipment which 18 would be in the possession of each member, the resources 19 which would be considered team equipment or vehicles, the 20 signals which is the radio communications and then comments 21 from the command group as to further instructions on what 22 that team is expected to carry out.</p> <p>23 We start with the first team on that day, the 24 designation was the command and the negotiation team and 25 that was specifically, the call sign was papa 1 or P1.</p>
<p style="text-align: right;">Page 1227</p> <p>1 seek a non-tactical resolution by entering into dialogue 2 again with the protesters through negotiations that day in 3 the stage 2 deployment.</p> <p>4 I can just recap the stages of the operational 5 strategy. Stage 1, as we know, was the dialogue with a 6 monitoring presence of public order policing. Stage 2 was 7 a show of force and the proactive positioning for possible 8 escalation for a tactical option. Stage 3 would be that 9 tactical option to resolve the situation. Stage 4 would be 10 to process the scene as well as the arrested persons. 11 Stage 5 would be intelligence driven operations in order to 12 follow upon information gained as to the whereabouts of 13 suspects as well as evidence which needs to be seized. 14 Stage 6 would have been a cordon and search of the hostels 15 to remove dangerous weapons, to bring stability to the 16 area.</p> <p>17 Right, moving to slide 135 and just to denote 18 that the tables that will follow slide 135 are compiled for 19 the Commission's briefing and were not displayed at the 20 briefing that morning of the 16th, due to the unknown 21 numbers of personnel. Personnel would arrive each day and 22 given the JOC COM briefing, we would need to assess what 23 assets the police had on hand. Therefore an incomplete 24 table would have only been able to be presented at that 25 stage. So however, the taskings that are depicted in the</p>	<p style="text-align: right;">Page 1229</p> <p>1 Their task was to engage in dialogue with the 2 representatives of the protesters to seek a peaceful 3 resolution to the situation. The planned deployment, they 4 needed to be in mission area by 10 o'clock that morning, to 5 be removing at 17:00, at 19:00, seven o'clock that night.</p> <p>6 Their area of mission was the neutral area.</p> <p>7 [16:09] In that vehicle with that call sign papa 1 was 8 Brigadier Calitz and the personnel specifically in his team 9 with him, under his command directly were the negotiators 10 and at that stage it was Lieutenant-Colonel Macintosh. 11 With him was the interpreter from the Lonmin mine. Their 12 equipment they needed to have with them was the police 13 radio for communications and a megaphone for negotiation 14 purposes. Their resources, their way of transport was with 15 the Nyala provided by the monitoring group which was 16 Colonel Mere's group and as for all the signals throughout 17 the time period there, it was channel 47 was in use.</p> <p>18 Specific to the tasking was that they needed, the 19 request remained for that negotiation – to have protesters 20 voluntarily lay down their arms, to disperse of own accord, 21 not to return to the gathering area armed but to meet with 22 their unions to resolve the wage issues.</p> <p>23 CHAIRPERSON: Before you proceed, I just 24 want to ask you a question. I know you're not under oath 25 but I'm sure that won't affect the veracity of your answer.</p>

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1 You are presenting, effectively, a part of the police case.
 2 Now will I be correct in saying that the witnesses who will
 3 testify with direct knowledge of this part of your report,
 4 the points you've just dealt with, will be Brigadier Calitz
 5 and Lieutenant-Colonel Macintosh?
 6 LT-COL SCOTT: That's right, sir.
 7 CHAIRPERSON: And then in respect of the
 8 next one, the monitoring group, the witness who will
 9 testify –
 10 LT-COL SCOTT: Mere.
 11 CHAIRPERSON: Mere. If you could -
 12 because this part of the case is very important – if it's
 13 possible for you to indicate when you deal with each
 14 segment, which witness will be able to deal with it because
 15 you obviously are just giving hearsay, I take it, yourself
 16 and if someone tries to cross-examine you on it they'll
 17 probably just – it would probably waste a fair amount of
 18 time. So we want to know is the person or who are the
 19 persons to be cross-examined in respect of each of these
 20 segments of information that you'll be giving us. If you
 21 can give us that I'd be grateful.
 22 LT-COL SCOTT: Okay, thank you. Chair,
 23 in response, when we do look at the commander's details,
 24 each specific grouping that had a different task that day,
 25 the commander is mentioned. So I'm not sure if they're all

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1 on the witness list.
 2 CHAIRPERSON: Well, Mr Semenya will deal
 3 with that in due course but it may be that if he doesn't
 4 call someone who's listed here and someone wants to cross-
 5 examine him, we may have to exercise our powers to call
 6 witnesses ourselves. But basically Mr Semenya is in charge
 7 of the police case and I'm sure he'll do what he considers
 8 necessary.
 9 MR SEMENYA SC: We have these witnesses
 10 on our list of witnesses but so too, when the Colonel gives
 11 his own evidence, because he drafted the plan he will be
 12 speaking that this was part of the plan.
 13 CHAIRPERSON: Yes. No, I understand. He
 14 will obviously testify about those of which he has personal
 15 knowledge. I was concerned with the aspects of which he
 16 doesn't have personal knowledge but I think you've
 17 satisfactorily explained what your attitude is. Thank you.
 18 LT-COL SCOTT: Slide 137. The
 19 designation here is the monitoring group and the call sign
 20 of that group, specifically the commander, was papa 10.
 21 Their task was to monitor the atmosphere around the
 22 gathering crowd and provide feedback to the JOC. Again the
 23 day time group is similar to the commander and the action
 24 area is similar to the commander. The commander there was
 25 Lieutenant-Colonel Mere and he had 45 POP members and two

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1 information officers from the public order policing with
 2 him. The personal equipment that they would need to take
 3 with them was the public order policing equipment for crowd
 4 control as well as the video cameras for the information
 5 officers. Colonel Mere had five Nyalas at his disposal.
 6 The comment there is, the information officers were to
 7 capture as much strategic information as possible for
 8 planning or further evidence purposes. The monitoring
 9 group was not to present themselves as a challenging force
 10 or to stray on foot towards the gathering, to avoid making
 11 themselves targets for the protesters.
 12 Slide 138. The team call sign there was tango
 13 India 1 or TI1 and this was the neutral area response team.
 14 Their task, under the command of Captain Lust was to
 15 protect the police members, members of the media and other
 16 persons in and around the neutral area when a threat
 17 against life was imminent. The personal equipment – they
 18 were 76 TRT members and their commander Captain Lust again.
 19 The equipment, personal equipment, was ballistic protective
 20 gear, their uniform overalls as well as their assault
 21 rifles – and this is standard issued equipment for the TRT
 22 members. They were to deploy either on foot or in soft
 23 skin vehicles as they did not drive in the Nyala armoured
 24 vehicles. The comments for them, for their tasking, was to
 25 remain about 100 metres behind the POP monitoring and

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1 negotiation group. They needed to secure the rear and the
 2 northern flank of the neutral area with a show of force
 3 should threat become evident. They would need to respond
 4 to attacks on the public order policing line, on command of
 5 the operational commander or when the safety of the POP
 6 members or others have been compromised to the extent where
 7 their lives may be lost in the absence of a tactical
 8 response.
 9 Moving on to slide 139. The designation here is
 10 the defensive measure team and these were the public order
 11 policing members with the armoured vehicles with barbed
 12 wire. The team's call sign there was Charlie 4, that was
 13 the call sign of Colonel Makubela. Their task was to
 14 deploy the Nyalas with the barbed wire trailers into the
 15 positions as a proactive placement for a defensive measure
 16 to protect the neutral area against threat from the
 17 protesters. Colonel Makubela had 53 public order policing
 18 members with him, with six Nyalas with barbed wire. And
 19 the comments for this specific group was that the Nyalas
 20 needed to be pre-positioned and an estimated 80 metres
 21 apart from the south to the north, starting at the power
 22 station. The Nyala line was to be just in front of the
 23 monitoring and negotiation Nyala line, to enclose them as a
 24 defensive measure. The most northern Nyala was to angle
 25 slightly towards the west to assist in protecting a

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1 possible advance towards the informal settlement by an
 2 organised armed protester group. Now in the stage 2, the
 3 role of the Nyalas, if they should deploy their barbed wire
 4 in a stage 2 it would be as a contingency action and done
 5 on command of the operational commander.
 6 Slide 140 and this is the immediate reaction area
 7 1. If we recall the orientation map, it was where the
 8 green blocks were below the power station and – the team
 9 call sign there for the commander was Charlie 5. Their
 10 task was a rapid response capability in case of surprise
 11 attack on the police and the media in the neutral area.
 12 Their action area where they were to be holding was the
 13 holding area on the road south of the power station. Again
 14 the commander’s details, it was Lieutenant-Colonel Gaffley.
 15 He had with him 20 special task force members and 25
 16 national intervention unit members. The personal equipment
 17 that they wore, similar to the TRT standard issue, it was
 18 their ballistic protective gear, their uniform overalls and
 19 assault rifles. The resources there was the special task
 20 force Casspir as well as the Scorpion and the national
 21 intervention unit had five soft skin vehicles. The
 22 Scorpion was to be armed to provide a visual deterrent or
 23 posture and again the special task force and the national
 24 intervention unit would only respond to situations where
 25 lives were imminently threatened, to assist or protect the

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1 police forces in the neutral area only on command of the
 2 operational commander. And their response would come from
 3 the south, considering that it is possible that the
 4 response from the northern immediate response team could be
 5 blocked.
 6 Slide 141, the designation there was immediate
 7 reaction area 2. The commander there was Lieutenant-
 8 Colonel Modiba and his call sign was Charlie 6 and he had
 9 the same tasking as the members at immediate response area
 10 1 and that was to respond in case of a surprise attack onto
 11 the police or media personnel at the neutral area. The
 12 area for holding was on a footpath or road north of the
 13 gathering area, adjacent to the informal settlement.
 14 Colonel Modiba had 74 NIU members with him and had 17 soft
 15 skin vehicles and their tasking, as I say, again was the
 16 same as the immediate reaction area 1, to respond on
 17 instruction of the operational commander to assist in the
 18 protection of lives within the neutral area. They were
 19 placed to the north in case the response members from the
 20 south, the route from the south became inaccessible due to
 21 protester blockades. And that was what made the difference
 22 between stage 2 specifically and stage 1, was the creation
 23 of the immediate reaction areas to bring certain tactical
 24 forces closer to the neutral area. A stage 2 deployment
 25 would only be implemented when the situation on the ground

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1 was becoming more intense.
 2 Now, as with the stage 1 deployment, there were
 3 two forward holding areas. Forward holding area 1, the
 4 call sign there was Charlie 2 and that was for Major-
 5 General Naidoo. His task was to maintain a forward holding
 6 area for reserve tactical forces and support elements
 7 within the close proximity of the neutral area.
 8 [16:29] The holding area was positioned at the crossroads
 9 at the BMR smelter to the east, about 1.6 kilometres away
 10 from the koppies. On that Thursday morning General Naidoo
 11 had under his control 21 TRT members, 32 dog unit members,
 12 or we refer to them as K9. 14 mounted unit members,
 13 members that deploy on horseback, eight public order
 14 policing members and then to deal with the processing of
 15 suspects or scenes, there were detectives, four local
 16 criminal record centre members, the medical personnel and
 17 fire fighters 5 and 2. My comments now was, General Naidoo
 18 was to release the reserve tactical forces on command of
 19 the JOC to the neutral area to assist the operational
 20 commander's contingent. General Naidoo was to release the
 21 support forces as required for the handling of medical
 22 casualties or fire again on command of the JOC and the JOC
 23 would consider the safety for the support members at the
 24 scene, when giving that instruction.
 25 Continuing to slide 143, the LCRC and the

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1 detectives would be released for the handling of crime
 2 scenes, the evidence of suspects on command again of the
 3 JOC considering the safety of these members and the
 4 preservation of the crime scene thereafter. The forward
 5 holding area 1 would maintain a reserve force from POP and
 6 TRT to deploy tactical members within the force continuum
 7 to incidents which would be away from the neutral area,
 8 wayward incidents. Also the visible policing capability
 9 which was represented also through the mounted police to
 10 stabilise the environment, should there be a tactical
 11 action employed as a defensive measure during stage 2. The
 12 K9 capability was to be utilised to search difficult or
 13 vast areas for weapons which had been hidden or abandoned
 14 by the protesters should a tactical option again be
 15 exercised.
 16 Moving onto slide 144, the designation here was
 17 forward holding area 2, similar to forward holding area 1
 18 but it was to the west of the gathering. The briefing at
 19 the JOC on that morning, Colonel Pitsi was the commander of
 20 forward holding area 2 and his call sign was Charlie 3.
 21 Again I needed to remain, their task was to
 22 maintain a forward holding area for reserve tactical forces
 23 within the close proximity of the gathering. Under Colonel
 24 Pitsi's command at forward holding area 2 were 57 TRT
 25 members, six dog unit members and 70 public order policing

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1 members. The vehicles that were utilised by the group were
 2 four Nyalas, one Casper and those are five armoured
 3 vehicles and then there were 20 soft skins vehicles. Their
 4 specific comments were to deploy a reserve tactical force
 5 again on command of the JOC to a neutral area to assist the
 6 operational commander's contingent in that neutral area.
 7 That forward holding area 2 would also be responsible for
 8 the defence and the initial protection of vulnerable
 9 targets to the west of the protestors gathering. They too
 10 had the capability to deploy public order policing and
 11 tactical response team members to wayward incidents.
 12 Moving onto slide 145, the air response team, we would
 13 normally work through an air force representative
 14 positioned with us at the JOC. On this day however the
 15 Oryx helicopter from the air force was retained in Pretoria
 16 on standby for us. Their call sign if they came in would
 17 be Oryx and the way we would speak to them would be through
 18 the air band radio communicating with the air force
 19 representative through the police helicopters. Their task
 20 specifically was the rapid response team to incidents
 21 specifically wayward from the gathering where a tactical
 22 intervention was required to stabilise life-threatening
 23 situations or as a show of force to dissuade violent
 24 action. The police commander of the response team on board
 25 that day was Captain Ntoyi and he had 12 NIU members with

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1 him. The comments there, the helicopter will remain in
 2 Pretoria on standby within a 40 minute response time to
 3 Marikana. On an emergency call out, considering it was a
 4 stage deployment, the NIU would provide the tactical
 5 response team to be positioned at the rear staging area
 6 where the helicopter would pick them up for deployment.
 7 Slide 146 was the air command post. This was the
 8 police helicopter Squirrel and its call sign was Chopper 2.
 9 On board was placed Brigadier Fritz as the commander with
 10 the LCRC personnel to take video footage and still footage
 11 as they could. The specific comments to this designation
 12 was that they were to direct the counteraction should the
 13 tactical forces from the immediate response areas be
 14 deployed as part of the solution, to an action by
 15 protestors. Considering the POP members must have
 16 relinquished control then first and withdrawn due to the
 17 threats surpassing the POP capability. They were to
 18 provide information to the JOC on wayward incidents
 19 observed from the air and direct the tactical forces from
 20 the immediate reaction areas to those specific locations,
 21 as well as any reserve forces from the forward holding
 22 areas.
 23 Slide 147, this is the air monitoring team and
 24 this was the police R44 helicopter, call sign Chopper 1,
 25 and Commander's details Lieutenant-Colonel Vermaak. Their

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1 comments as well was to provide real time feedback over the
 2 police radio to the JOC and send cellular photographs from
 3 the air via the GSM network to enhance the situational
 4 awareness on the ground. So the cell phone photos were
 5 given through real time and the still cameras photos were
 6 brought as soon as the helicopter landed for downloading
 7 and viewing by the JOC personnel. The helicopter, being a
 8 cheaper running helicopter than the Squirrel would be
 9 airborne for longer periods and thus would provide sporadic
 10 feedback to the operational commander regarding the
 11 protestor's actions around the neutral area during the day.
 12 If we move to the visual presentation, the maps
 13 that were shown on the day, we can see depicted in red is
 14 the initial informal settlement, the greater squatter camp.
 15 If we move to the centre, we can see ringed in blue, that
 16 is the area that the protestors were gathering. We can see
 17 the red line is the Nyala line for the barbed wires, the
 18 defensive team Colonel Makubela. We can see the blue
 19 police car line which depicts the Nyalas of the monitoring
 20 and negotiation team. Brigadier Calitz and the negotiators
 21 placed in the middle Nyala and that Nyala line for
 22 monitoring under the control of Colonel Mere. Behind that
 23 we can see the blue police figures, that was the TRT and
 24 that was the neutral area response team, that was in
 25 command of Captain Lust. The immediate response area to

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1 the bottom of the picture shown in green, that was where
 2 the special task force and national intervention members
 3 under the command of Colonel Gaffley were positioned. To
 4 the north is immediate response area 2 and to be deployed
 5 there would be Lieutenant-Colonel Modiba with his national
 6 intervention unit members. Forward holding area 1 to the
 7 bottom right hand corner of the picture, major General
 8 Naidoo with the reserve teams.
 9 If we turn over to page 149, what we can see on
 10 screen is a grid blocked satellite picture and this is
 11 specifically for working ground to air. These are the very
 12 pictures, 149 and 150 that were given out to the commanders
 13 that day after their briefing to, after the briefing was
 14 given and this was for coordination purposes. Slide 150,
 15 is a slide which is an aerial picture to include the
 16 wayward incident areas and the grid system utilised is
 17 simply an A to J and a 1 to 8, so that members could show
 18 themselves on a map or point out a specific area from the
 19 helicopter to the ground simply by saying H6.
 20 Slide 151, the slide following this we show you
 21 there interpretation of the operational plan after it was
 22 briefed to the members. It's on screen now, it's slide
 23 152. So from the briefing that was received at the JOC
 24 COM, from 6 to 8 o'clock that morning, we can see the
 25 understanding of the operational commanders and how they

<p style="text-align: right;">Page 1242</p> <p>1 have positioned their forces accordingly. It must be 2 stated that the tables that you have seen previously are 3 the ideal plan that was presented. However the operational 4 commander's understandings to that plan is something that 5 would need to be tested with them. Again in stating that 6 the tables that you have seen on your screen previously, 7 are the ideal plan again which have been filled in, the 8 numbers that were actually deployed on that day for the 9 commission's sake.</p> <p>10 Slide 153, the media briefing given by 11 lieutenant-General Mbombo, the provincial Commissioner of 12 North West province, the general initially should have 13 addressed the media at 9 o'clock, she addressed the media 14 at 09:30 in order to wait to see what was happening with 15 the situation of the laying down of arms. In addressing 16 the media, the general gave the following, she addressed 17 the media on an update of the events from the 10th of August 18 to present.</p> <p>19 [16:49] She stipulated that the current gathering was 20 unprotected and illegal as they were gathered outside the 21 prescriptions of the law. That the illegal weapons, the 22 dangerous weapons in the protestor's possession was 23 illegal. That various persons had already lost their lives 24 in relation to this incident, including two policemen, ten 25 persons in all by this time. She explained that the police</p>	<p style="text-align: right;">Page 1244</p> <p>1 MR SCOTT: Slide 156, the sequence of 2 events continues at 10:40. The police helicopter reported 3 a group of women walking around in the informal settlement. 4 Vehicles were sent to investigate and it indicated they had 5 placards which again were indicating that all men in the 6 village had to join the men on the koppie. The police 7 later again approached there group of women on their way to 8 the koppie and they dispersed peacefully around 14:00 that 9 day. Still around 10:40 one of the protestor 10 representatives engaged members in the Nyala through which 11 the main negotiation took place. This is the Nyala with 12 Lieutenant-Colonel Macintosh and Brigadier Calitz to ask 13 why the police were still there. It was explained that the 14 police were there for the safety and security reasons. At 15 this stage, Mr Nokkie or who they knew at that time, Mr 16 Green, emphasised that they did not want the police there. 17 The representative that had come to the Nyala at that stage 18 went back to the group and addressed the protestors, after 19 which it was visual and audibly the dynamics of the 20 protestors changed. The group that was in front started 21 singing songs and tapping and waving their weapons around.</p> <p>22 COMMISSIONER: Colonel Scott, how long 23 will slide 157 take?</p> <p>24 MR SCOTT: I don't think it's that long, 25 Chairperson.</p>
<p style="text-align: right;">Page 1243</p> <p>1 were specifically employed to ensure the stability and 2 safety in the area of Marikana. Continuing on slide 154, 3 she mentioned that in the police's engagement with all the 4 relevant parties, a commitment had been reached that the 5 violence had to end that day, Thursday the 16th of August 6 2012 and weapons had to have been put down by 9 o'clock 7 that morning. The General mentioned that should the 8 commitment not be honoured that day, that the police would 9 need to act within their mandate to ensure that the peace 10 and stability were restored in the area. The official 11 channels were available for the resolution for the 12 protestor's grievances and that the current violent 13 situation could not be tolerated any further. She 14 mentioned that all efforts would be made to end the 15 situation amicably and peacefully as the police's role was 16 to ensure the stability and safety in the area of Marikana.</p> <p>17 Slide 155 will show a quick media briefing [news 18 report being played] Okay unfortunately there is not media 19 footage that was covered with the General actually 20 speaking. I think the events of that day took prominence 21 in the media later that afternoon.</p> <p>22 CHAIRPERSON: I take it we will be given 23 at some stage a transcript of what she said and presumably 24 she will give evidence and tell us what she said, so that 25 she can be cross-examined about it.</p>	<p style="text-align: right;">Page 1245</p> <p>1 COMMISSIONER: Well let's have that slide 2 and then we will adjourn until tomorrow morning.</p> <p>3 MR SCOTT: Okay.</p> <p>4 COMMISSIONER: At 9 o'clock.</p> <p>5 MR SCOTT: Slide 157 just shows the 6 behaviour of the crowd after the representative returned to 7 the crowd and had spoke to them. [video footage being 8 played] We suspect this to be the group that has undergone 9 the rituals as well. How they pack themselves together as 10 they walk and they march. We will see in later footage 11 taken from the helicopter's still photo footage that the 12 group actually moved in formation like that to the last 13 Nyala in the line of the barbed wire team, the defensive 14 team and positioned themselves across the last Nyala, Nyala 15 6. At the time that the video was made the President of 16 AMCU had still not been to the crowd. He had committed to 17 see them at 9 o'clock that morning. What you are seeing on 18 the screen now, the defensive team Nyalas which are 19 positioned and aligned from south to north, positioned in 20 front of the monitoring group which we can see now in 21 picture.</p> <p>22 COMMISSIONER: Well that's the end of 23 that slide. We will now adjourn until 9 o'clock tomorrow 24 morning.</p> <p>25 [INQUIRY ADJOURNED]</p>

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