

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 178

30 JANUARY 2014

PAGES 21302 TO 21420



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1 [PROCEEDINGS ON 30 JANUARY 2014]
 2 [09:15] CHAIRPERSON: The Commission resumes.
 3 Provincial Commissioner, you're still bound by the
 4 affirmation you made.
 5 MIRRIAM NOSAZISO ZUKISWA MBOMBO:
 6 Affirms.
 7 CHAIRPERSON: Mr Semenya.
 8 EXAMINATION BY MR SEMENYA SC (CONTD.):
 9 General, in our desire to manage time the Chairperson
 10 administered the oath yesterday when you started. You
 11 remember that?
 12 CHAIRPERSON: I didn't administer the
 13 oath. She refused to take the oath. She made an
 14 affirmation.
 15 MR SEMENYA SC: I know, Chair, but it's
 16 precisely the language issue we're talking. She was
 17 unaware that an affirmation and an oath are different,
 18 because affirmation, and she said "I affirm." Can you
 19 clarify that position for us, General?
 20 GENERAL MBOMBO: That is correct, Mr
 21 Chair. At that time I did not understand. I was trying to
 22 acclimatise myself, trying to acquaint myself with what is
 23 happening.
 24 MR SEMENYA SC: So you would have given
 25 your evidence, the evidence you gave yesterday, do you

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1 swear that evidence to be the truth, nothing else but the
 2 truth –
 3 CHAIRPERSON: Maybe I must administer the
 4 oath to her then. In other words are you saying that you
 5 didn't understand my attempt to explain to you the
 6 difference between an oath and an affirmation, and when you
 7 elected to affirm you made the election without fully
 8 understanding the election you were making, and are you
 9 prepared to take an oath?
 10 GENERAL MBOMBO: That is correct, Mr
 11 Chair, I'm prepared to take the oath.
 12 CHAIRPERSON: Would you please stand? Do
 13 you swear that the evidence you'll give before this
 14 Commission will be the truth, the whole truth, and nothing
 15 but the truth? Please raise your right hand and say, "I
 16 swear, so help me God."
 17 MIRRIAM NOSAZISO ZUKISWA MBOMBO: So help
 18 me God.
 19 CHAIRPERSON: Thank you, you may be
 20 seated. I take it the evidence that you gave yesterday
 21 under the affirmation you now confirm under oath. Is that
 22 correct?
 23 GENERAL MBOMBO: That is so, Mr Chair.
 24 MR SEMENYA SC: Thank you, Chair.
 25 General, yesterday we were at paragraph 12 of your

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1 statement, GGG5, where you had left for Potchefstroom after
 2 giving your instructions to General Mpembe. Do you recall
 3 that?
 4 GENERAL MBOMBO: That is so, Mr Chair.
 5 MR SEMENYA SC: Why did you go to
 6 Potchefstroom? Do you want to tell us?
 7 GENERAL MBOMBO: Mr Chair, I had other
 8 work to do in Potchefstroom at my office. I also knew that
 9 if I left General Mpembe as the senior officer available
 10 there, I left a trustworthy person and who knows what must
 11 be done.
 12 MR SEMENYA SC: You continue to say later
 13 during the course of that day you then received a call from
 14 General Mpembe advising you that members of the SAPS have
 15 been attacked.
 16 GENERAL MBOMBO: That is so, Mr Chair.
 17 MR SEMENYA SC: And he told you that one
 18 was severely injured, two have been murdered, and two of
 19 the strikers had been shot dead.
 20 GENERAL MBOMBO: That is correct.
 21 MR SEMENYA SC: You say in your statement
 22 that those of the strikers who were shot dead were
 23 apparently shot dead by members of SAPS. Did he explain
 24 why he conveyed it that it was apparently by members of
 25 SAPS?

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1 GENERAL MBOMBO: He said there was a
 2 possibility that they were shot by the police, but he was
 3 not sure.
 4 MR SEMENYA SC: And said one person has
 5 died, apparently as a result of being stabbed.
 6 GENERAL MBOMBO: That is what he said, Mr
 7 Chair.
 8 MR SEMENYA SC: You then immediately
 9 returned to Marikana and you were fully briefed by Mpembe
 10 regarding the circumstances that led to those injuries, as
 11 well as the killings of members of SAPS.
 12 GENERAL MBOMBO: That is correct.
 13 MR SEMENYA SC: What were the
 14 circumstances according to General Mpembe?
 15 GENERAL MBOMBO: General Mpembe said
 16 according to the instruction I had given him, trusting him,
 17 he went to this place where these people were with the
 18 intention of negotiating with them so that they would hand
 19 over the weapons they had to him, enabling him to disperse
 20 them. In those discussions with them it appeared that they
 21 were not prepared to hand over their weapons. They said
 22 they wanted to meet others at a certain place they were
 23 going to. He told me that he tried to explain to them that
 24 they were not allowed to carry weapons in public, but they
 25 insisted on carrying the weapons. He tried to explain to

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1 them how the law works and that they were not allowed to go
2 as a group to gather without permission to do so, and
3 whilst he was appealing to them they just left.
4 He then thought of devising plans and means to
5 follow them with the police that were with him. Whilst
6 they were walking behind them he said he heard a sound of a
7 teargas and thereafter he heard a sound of a stun grenade.
8 He then saw these people turning around, going in the
9 direction of the police. These sounds he heard after he'd
10 given the police instructions to try and block these people
11 using the Nyalas, preventing them from going towards an
12 informal settlement that was nearby. After those sounds
13 the people stormed the police. That is when they turned
14 head-on and there was this pandemonium according to him.
15 Three police officers were attacked and two from the
16 protesters.
17 He said police were attacked, firearms were taken
18 from them. One R5 was taken and a shotgun and two pistols.
19 He tried to prevent the police, stop the police to be with,
20 on his side to try and prevent this chaos that was
21 happening, or this riot that was taking place, until he
22 phoned me; that is when I told him they should stop the
23 operation.
24 MR SEMENYA SC: You're receiving this
25 call from General Mpembe whilst you were where?

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1 GENERAL MBOMBO: That's when I was on my
2 way to Potchefstroom. This explanation I've given you, Mr
3 Chair, is what he told me after I'd returned to Lonmin.
4 MR SEMENYA SC: When you were telling
5 General Mpembe to withdraw from the scene, you hadn't
6 arrived back in Marikana that time?
7 GENERAL MBOMBO: I was on the way when he
8 phoned me and he told me that there were people injured. I
9 told him if that is the case they should stop the
10 operation, I'm on my way, I'm coming.
11 MR SEMENYA SC: You then conveyed that
12 information to the National Commissioner?
13 GENERAL MBOMBO: That is correct, Mr
14 Chair.
15 MR SEMENYA SC: And that was by
16 telephone?
17 GENERAL MBOMBO: By telephone, yes.
18 MR SEMENYA SC: What was the emotional
19 condition of General Mpembe when you arrived and he was
20 giving you this report?
21 GENERAL MBOMBO: After I'd arrived at
22 Lonmin and he was giving us this report he appeared calm,
23 because the explanation, he gave a comprehensive and a
24 satisfactory explanation without any assistance from
25 anyone.

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1 MR SEMENYA SC: And his emotional
2 condition appeared how to you when he was relaying the
3 incident to you over the phone?
4 GENERAL MBOMBO: When I was listening to
5 him on the phone I could sense that tempers were high.
6 That is why I said, "Right now go back to the JOC."
7 MR SEMENYA SC: Okay, and you say in
8 paragraph 14 of your GGG5 statement that as a result of the
9 escalation of violence there and that incident, you
10 instructed the JOC to formulate a comprehensive plan to
11 deal with that situation.
12 GENERAL MBOMBO: That is correct, Mr
13 Chair.
14 MR SEMENYA SC: Who do you tell that to?
15 GENERAL MBOMBO: General Mpembe,
16 Brigadier Calitz, and others were giving us this report.
17 The National Commissioner had already arrived. I was
18 giving this explanation to General Mpembe together with the
19 people surrounding him, who were his colleagues.
20 MR SEMENYA SC: Did you not think of
21 withdrawing General Mpembe, given what had just transpired
22 there?
23 GENERAL MBOMBO: I thought about that, Mr
24 Chair, and I discussed it with him and we were together
25 with other generals. He said he was in good spirits. He

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1 was also [inaudible] our psychologist and sociologist.
2 CHAIRPERSON: I'm sorry. Mr Interpreter,
3 you turned your microphone on halfway in the sentence that
4 you were interpreting, so the first few words you said
5 wouldn't have been recorded.
6 MR GOIRANA: As the Chair pleases.
7 Ma'am, can you repeat?
8 GENERAL MBOMBO: He told me that he did
9 not feel bad, he had already started to attend sessions
10 with our sociologist and social workers who were already at
11 Lonmin at the time. He also said if he was not feeling any
12 good about continuing with the job he would tell me.
13 MR SEMENYA SC: Did he refer to
14 sociologist or psychologist?
15 GENERAL MBOMBO: Psychologists.
16 MR SEMENYA SC: Okay, and the plan that
17 you were asking that they draw was one that you said must
18 be able to prevent further loss of life, injury to people
19 and damage to the property.
20 GENERAL MBOMBO: That is correct, Mr
21 Chair.
22 MR SEMENYA SC: And you conveyed that the
23 plan was to achieve the dispersal, disarming and arresting
24 of those strikers?
25 GENERAL MBOMBO: That is so, Mr Chair.

<p style="text-align: right;">Page 21310</p> <p>1 MR SEMENYA SC: Okay, and it is at 18:00, 2 you tell us against paragraph 15, the Monday of the 13th of 3 August 2012 when the National Commissioner arrives together 4 with Provincial Commissioner Gauteng. 5 GENERAL MBOMBO: That is correct, Mr 6 Chair. It was around that time, I'm not sure whether it 7 was already past 6, but around that time. 8 MR SEMENYA SC: And they received a 9 briefing by the JOC commander about the situation that is 10 obtaining there in Marikana, is that right? 11 GENERAL MBOMBO: Yes, Mr Chair, Brigadier 12 Calitz gave us a report. 13 MR SEMENYA SC: And the National 14 Commissioner together with yourselves as a delegation, you 15 went to meet the Lonmin management. 16 GENERAL MBOMBO: That is so, Mr Chair. 17 MR SEMENYA SC: It was during that 18 meeting with the mine management that the National 19 Commissioner was briefed about the animosity between AMCU 20 and NUM? 21 GENERAL MBOMBO: Yes, Mr Chair. 22 MR SEMENYA SC: What was the broad thrust 23 of that briefing? 24 GENERAL MBOMBO: The Lonmin emphasised on 25 strikers are not known to the management, they are again</p>	<p style="text-align: right;">Page 21312</p> <p>1 sorry, from that meeting you then went back to the JOC, did 2 you not? 3 GENERAL MBOMBO: Yes, that is so. 4 MR SEMENYA SC: What happens when you get 5 back to the JOC? 6 GENERAL MBOMBO: Again we got a briefing. 7 General Mpmembe and Brigadier Calitz were assisting each 8 other in that briefing. There were then talks about what 9 should be done to get a way forward. The National 10 Commissioner said since there were indications or it was 11 clear that our firearms, certain of our firearms as well as 12 firearms from the security personnel were taken, we should 13 find a way to get information in order to retrieve those 14 firearms. We agreed that our intelligence should work hard 15 on this. We also discussed a way of fighting with this 16 problem we should continue negotiating with the strikers, 17 that they should please lay down their weapons and 18 disperse. We then agreed with each other about whatever 19 was going to be done, it must be clear that the prevailing 20 situation was not a situation that had to be ignored and 21 not worked on urgently. That is why a plan had to be 22 devised, a plan which would then help in solving this 23 situation. It should be worked on carefully and with all 24 the professionalism it deserves. 25 MR SEMENYA SC: At this time there was</p>
<p style="text-align: right;">Page 21311</p> <p>1 using a faceless person. They also explained the problem 2 between AMCU and NUM which concerned the recruitment of 3 members, as I explained yesterday. 4 MR SEMENYA SC: And you continue to say 5 that SAPS management then suggested that the video footage 6 and other pictures available should be viewed with the 7 intention of identifying who those strikers were that were 8 involved in this violence. Is that right? 9 [09:34] GENERAL MBOMBO: That is correct, Mr 10 Chair. The National Commissioner asked that General Mpmembe 11 at that stage already had photos taken from the footage of 12 the place where he was. 13 MR SEMENYA SC: And what was the attitude 14 of Lonmin management then? 15 GENERAL MBOMBO: The Lonmin people were 16 asked to identify their employees from the photos. They 17 agreed to do that. Mpmembe was instructed to meet certain 18 people who were supposed to do that task. 19 MR SEMENYA SC: And it was at the end of 20 that meeting that both you and Lonmin agreed that you must 21 find a peaceful way of resolving the impasse? 22 GENERAL MBOMBO: That is correct, Mr 23 Chair. 24 MR SEMENYA SC: The morning of the 25 Tuesday, that is now 14 August 2012 – or from that meeting,</p>	<p style="text-align: right;">Page 21313</p> <p>1 Colonel Scott in the JOC? 2 GENERAL MBOMBO: He could have been 3 there, that is now Colonel Scott, but I did not know him at 4 that time. 5 MR SEMENYA SC: Did you see him, or you 6 say he could have been there? 7 GENERAL MBOMBO: He could have been 8 there, but I did not know him. I can't say he was there or 9 not. I'm not sure if he was there or not because I did not 10 know him. 11 MR SEMENYA SC: Okay, the following 12 morning, that is now Tuesday the 14th of August 2012, on 13 your way to a meeting in Pretoria you go past the JOC in 14 Marikana and you are briefed about the situation that a 15 body has been found next to the koppie where the strikers 16 were gathering. 17 GENERAL MBOMBO: That is correct, Mr 18 Chair. 19 MR SEMENYA SC: Who gives you this 20 briefing? 21 GENERAL MBOMBO: I got the briefing from 22 Generals Mpmembe, Annandale, and Naidoo. 23 CHAIRPERSON: What time did you get this 24 briefing? 25 GENERAL MBOMBO: I arrived in the</p>

<p style="text-align: right;">Page 21314</p> <p>1 morning, if I'm not mistaken it could have been before 8. 2 CHAIRPERSON: That couldn't be right 3 because the evidence is that the person concerned was only 4 killed in the afternoon and the information was received by 5 the police after being seen by helicopter in the course of 6 the afternoon and they then went to the scene where the 7 body was and removed it. So you couldn't have been told 8 that in the morning. 9 GENERAL MBOMBO: That is correct, Mr 10 Chair, the briefing I got that morning was not about a 11 person found dead on the koppie. It was a briefing about 12 what had been done by the police from the last time I saw 13 them the previous day until that morning. I have corrected 14 this paragraph, Mr Chair, in my amplified statement. 15 CHAIRPERSON: [Microphone off, inaudible] 16 in your revised statement? [Microphone off, inaudible] I 17 couldn't find it. It may be somewhere there, but that's 18 why I'm asking you. 19 MR SEMENYA SC: General, to refresh your 20 memory, it was in consultation when I was precognising you, 21 preparing your evidence to come here that you realised the 22 difference. 23 GENERAL MBOMBO: That's correct. 24 CHAIRPERSON: It's not in the new 25 statements and a minute ago when Adv Semenya read you the</p>	<p style="text-align: right;">Page 21316</p> <p>1 establish where exactly was this corpse, and I also saw the 2 body where it was lying. That is when I requested that the 3 police should negotiate with the protesters so that these 4 people, scene people should work on this body lying there. 5 We then went back to the JOC in Lonmin. 6 MR SEMENYA SC: Okay, do you know whether 7 they were able to retrieve the body? 8 GENERAL MBOMBO: I was told, Mr Chair, 9 that they were allowed to. 10 MR SEMENYA SC: Can I ask that we look at 11 entry in the occurrence book, exhibit FFF25. 12 CHAIRPERSON: That is behind tab 7 in 13 your file, which makes it easy for us. 14 MR SEMENYA SC: Indeed, Chair. Entry 15 113, the OB records that at 16:10 a report is made in a 16 number 7089912-6, Constable Maluleka reports that, "I 17 received information from chopper 1 that the instruction 18 from General Mbombo that dead body at the Wonderkop koppie 19 must not be attended until the operation is over," and 20 Constable Maluleka signs that. Did you make that report to 21 JOC? 22 GENERAL MBOMBO: Even this part, Mr 23 Chair, I would like to rectify. I did not put it that way. 24 My report to JOC was this; "We can see this body where it's 25 lying. We can see the vehicles trying to work on the</p>
<p style="text-align: right;">Page 21315</p> <p>1 paragraph 17 as we have it in your first statement, you 2 confirm it was correct. 3 GENERAL MBOMBO: I was correcting about 4 the briefing I got that morning. It was not a briefing 5 about a person that was found dead on the koppie. 6 CHAIRPERSON: Anyway, you said something 7 different before, but it was a mistake which you've now 8 corrected. Let's proceed. 9 MR SEMENYA SC: Anyway General, let's try 10 to recall the facts as best you can. When do you receive 11 the information regarding the person who was killed at the 12 koppie? 13 GENERAL MBOMBO: It was already after 2. 14 MR SEMENYA SC: Where were you at the 15 time? 16 GENERAL MBOMBO: I was at the JOC in 17 Lonmin. 18 MR SEMENYA SC: What are you told about 19 that? 20 GENERAL MBOMBO: Mr Chair, Dennis Adriaio 21 told me that he got it from a media house that there was a 22 body of a person lying near the koppie. The police were 23 already there at that time. General Annandale said that 24 scene people should be called. I then took the opportunity 25 to go with the chopper people, helicopter people, trying to</p>	<p style="text-align: right;">Page 21317</p> <p>1 scene. Let there be talks with Brigadier Calitz, who was 2 involved with the negotiations, that he discuss with the 3 protesters that the cars be allowed to work on this body." 4 This conversation was over the radio with the person who 5 was with the pilot of the chopper, he was giving this 6 message over. 7 MR SEMENYA SC: Okay, and that was on 8 Tuesday? 9 GENERAL MBOMBO: Yes. 10 MR SEMENYA SC: The following day you are 11 on your way now to Midrand to attend the meeting of the 12 National Management Forum. 13 GENERAL MBOMBO: Not the following day, 14 Mr Chair. 15 MR SEMENYA SC: Sorry, it was – 16 GENERAL MBOMBO: It was still on Tuesday, 17 because the meeting I was going to attend was supposed to 18 start on Tuesday. I then went to that meeting after the 19 scene had been worked on. 20 MR SEMENYA SC: Okay, what happens then 21 the following day? 22 GENERAL MBOMBO: On Wednesday I was a 23 meeting in Midrand, a meeting of the officers in charge of 24 the police in the country. In the morning after I'd met 25 the National Commissioner I gave her a short report that I</p>

<p style="text-align: right;">Page 21318</p> <p>1 had heard from General Mpembe what the situation was, what 2 was happening – 3 MR SEMENYA SC: Can I ask we step back a 4 little, General. The Tuesday still, as you say in the 5 amplified statement, and might I invite you to go to 6 paragraph 61 of that statement? There, there is reference 7 already on the Tuesday of at the meeting you would have had 8 with the Lonmin people. Remember that? 9 GENERAL MBOMBO: That is correct, Mr 10 Chair. 11 MR SEMENYA SC: Can you tell us about 12 that meeting? 13 GENERAL MBOMBO: After I received a short 14 report from, or explanation from General Annandale, Mpembe 15 and Naidoo about what they were busy doing, trying to 16 attend to this problem that we had, I was interested in 17 knowing what Lonmin was doing from their side. I then 18 asked Mr Sinclair to please get me into contact with one of 19 the managers of Lonmin. I did not ask for a full meeting, 20 but I remember they came, there were three or four. I told 21 them what I was interested in talking to them about, namely 22 what they were doing from their side. 23 MR SEMENYA SC: Who were you talking to? 24 GENERAL MBOMBO: Mr Mokwena was present, 25 as well as Mr Kwadi, and Sinclair. Kgotle could also have</p>	<p style="text-align: right;">Page 21320</p> <p>1 CHAIRPERSON: Thank you. 2 MR SEMENYA SC: In that meeting you 3 mention the working together with the Lonmin people. Is 4 that right? 5 GENERAL MBOMBO: That is correct, Mr 6 Chair, that was assisting each other with information. 7 MR SEMENYA SC: What type of assistance 8 were you referring to there? 9 GENERAL MBOMBO: The Lonmin people have 10 got security that has intelligence. We would then also get 11 information from them. That information would then become 12 helpful to us as our people were busy planning. 13 MR SEMENYA SC: Okay, there is mention 14 made of Cyril Ramaphosa in that conversation. 15 GENERAL MBOMBO: That is correct, Mr 16 Chair. 17 MR SEMENYA SC: How did that come about? 18 Can you explain it to us? 19 GENERAL MBOMBO: The discussion I had 20 with Mr Mokwena I told him that when I was talking to the 21 Minister of Police, he told me that he had been phoned by 22 someone and that that person had a concern about what was 23 happening at Lonmin. After I said that, it is Mr Mokwena 24 who asked could that be Cyril Ramaphosa and I said yes, it 25 is Cyril.</p>
<p style="text-align: right;">Page 21319</p> <p>1 been there. 2 MR SEMENYA SC: You have had an 3 opportunity to listen to the audio that was recorded of 4 that meeting, did you not, General? 5 [09:54] GENERAL MBOMBO: Yes, I had an 6 opportunity of listening to it, but I did not hear certain 7 parts of it. 8 MR SEMENYA SC: Were you aware that the 9 meeting was being recorded? 10 GENERAL MBOMBO: I did not know, Mr 11 Chair. 12 MR SEMENYA SC: Can we call up exhibit 13 JJJ192? 14 CHAIRPERSON: That is behind tab 3 in the 15 file that you gave us. 16 MR SEMENYA SC: Indeed, Chair. 17 CHAIRPERSON: I beg your pardon, 4, yes, 18 quite right. I'm sorry, it's behind tab 4. May I enquire 19 what time roughly did this conversation that's here 20 recorded take place? 21 GENERAL MBOMBO: Mr Chair, I must have 22 spoken to the Lonmin people after 8 because I arrived there 23 before 8, then I spoke to the other people first. I'm not 24 sure - I spoke to the Generals - I'm not sure, but it must 25 have been after 8.</p>	<p style="text-align: right;">Page 21321</p> <p>1 MR SEMENYA SC: The transcript reads on 2 page 10, if we can just bring that on the screen, as 3 follows – 4 CHAIRPERSON: Sorry, before we look at 5 the screen, can I just ask you this question; you mentioned 6 a conversation that you had with the National Commissioner 7 and also mentioned a conversation that you had with the 8 Minister, that is what's said here on page 10 to which Mr 9 Semenya has just referred you. The conversation you had 10 with the Minister, when did that take place? 11 GENERAL MBOMBO: It was on the 12th, Mr 12 Chair. 13 CHAIRPERSON: On the Sunday? 14 GENERAL MBOMBO: At night. Sunday night. 15 CHAIRPERSON: Alright, thank you. 16 MR SEMENYA SC: Okay, maybe let us round 17 that subject up. How did the conversation with the 18 Minister arise? 19 GENERAL MBOMBO: Mr Chair, the Minister 20 phoned me, saying that he got a report from Cyril, asking 21 whether he knew about what was happening at Marikana. He 22 said he heard, he saw, and Cyril said this appears to be a 23 problem, he should please look carefully at it. He also 24 asked me what was I doing about this problem and I told him 25 that I heard already about it and something was being done</p>

<p style="text-align: right;">Page 21322</p> <p>1 about it and he also asked that we should attend to it.</p> <p>2 MR SEMENYA SC: Okay, in your meeting</p> <p>3 with the Lonmin people, as reflected in the transcript, I</p> <p>4 was going to point your attention to page 10, maybe if we</p> <p>5 start from page 9 –</p> <p>6 CHAIRPERSON: I take it it's the foot of</p> <p>7 page 9 that you want, isn't it?</p> <p>8 MR SEMENYA SC: That's right.</p> <p>9 CHAIRPERSON: Probably lines 29 and 30.</p> <p>10 Is that right, Mr Semenya?</p> <p>11 MR SEMENYA SC: That is correct, Chair.</p> <p>12 There the transcript reads as follows. "SAPS</p> <p>13 Commissioner," that would have been reference to you,</p> <p>14 General, correct?</p> <p>15 GENERAL MBOMBO: That is so, Mr Chair.</p> <p>16 MR SEMENYA SC: "But when I was speaking</p> <p>17 to Minister Mthethu" – it reads, it should read Mthethwa –</p> <p>18 "he mentioned a name to me that is also calling him that is</p> <p>19 pressurising him. Unfortunately it is politically high,"</p> <p>20 and Mr Mokwena then says, "It is Cyril." You continue to</p> <p>21 say, "Cyril Ramaphosa, yes. Now remember, now when I was</p> <p>22 talking to the National Commissioner last night," you say,</p> <p>23 "she says to me 'Look, General, who are the shareholders</p> <p>24 here?' So I said I do not know the shareholders, but I</p> <p>25 know that when I spoke to the Minister he mentioned Cyril.</p>	<p style="text-align: right;">Page 21324</p> <p>1 MR SEMENYA SC: What political office did</p> <p>2 you know him to hold at the time?</p> <p>3 GENERAL MBOMBO: I did not know at that</p> <p>4 time in what office or politics he was in.</p> <p>5 MR SEMENYA SC: Can I ask that we look at</p> <p>6 that transcript again, but at page 6 of the transcript?</p> <p>7 CHAIRPERSON: Are you moving away from</p> <p>8 this point, Mr Semenya, or are you still with it?</p> <p>9 MR SEMENYA SC: I was going to move away,</p> <p>10 Chair.</p> <p>11 CHAIRPERSON: Before you move away, I'd</p> <p>12 like to ask a question. At the top of line 10, or perhaps</p> <p>13 we must start at the foot of page 9, what you said was,</p> <p>14 "When I was speaking to Minister Mthethwa he mentioned a</p> <p>15 name to me that's also calling him, that is pressurising</p> <p>16 him. Unfortunately it's a political high" – why did you</p> <p>17 use the word "unfortunately"?</p> <p>18 GENERAL MBOMBO: I mentioned that word,</p> <p>19 Mr Chair, because I did not want to divulge his name. I</p> <p>20 did not even know what office he was holding at that stage</p> <p>21 in politics.</p> <p>22 CHAIRPERSON: Is that why you used the</p> <p>23 word "unfortunately"? I don't understand what was</p> <p>24 unfortunate about that.</p> <p>25 GENERAL MBOMBO: There was nothing</p>
<p style="text-align: right;">Page 21323</p> <p>1 And then she says, 'Now I got it.' You know why she says</p> <p>2 she got it? Remember Cyril was in the Appeal Committee of</p> <p>3 Malema, remember?" You see that reference?</p> <p>4 GENERAL MBOMBO: Yes.</p> <p>5 MR SEMENYA SC: You use the word</p> <p>6 "pressuring me." What were you meaning by –</p> <p>7 CHAIRPERSON: No, no, "pressuring me,"</p> <p>8 "pressuring him."</p> <p>9 MR SEMENYA SC: Pressurising the</p> <p>10 Minister, that is.</p> <p>11 GENERAL MBOMBO: Mr Chair, this word</p> <p>12 "pressuring" that I've used, according to me and the way I</p> <p>13 work it's a word that I use loosely, very loosely,</p> <p>14 especially when a person or a citizen of South Africa</p> <p>15 phones, hoping to be helped, or expecting other people to</p> <p>16 be assisted. It is not a word that I think was used by the</p> <p>17 Minister. I do not think that the Minister used this word</p> <p>18 to me. This is a word that is mostly used by me concerning</p> <p>19 people's problems that they want assistance with.</p> <p>20 MR SEMENYA SC: And you refer to Cyril</p> <p>21 Ramaphosa as a politically high – as the transcript</p> <p>22 reflects, and it was interrupted there, I suspect. What</p> <p>23 did you mean by that?</p> <p>24 GENERAL MBOMBO: I meant that when he was</p> <p>25 mentioned I knew that he was in high position in politics.</p>	<p style="text-align: right;">Page 21325</p> <p>1 unfortunate about it, Mr Chair, but I used that word</p> <p>2 because I did not want to divulge his name. What was meant</p> <p>3 by that word was unfortunately I'm not going to call him or</p> <p>4 her by name.</p> <p>5 CHAIRPERSON: Thank you.</p> <p>6 MR SEMENYA SC: At page 6 of the</p> <p>7 transcript, just around line 19, just to put you in</p> <p>8 context, this is a conversation about whether or not the</p> <p>9 police should intervene and what intervention must be –</p> <p>10 CHAIRPERSON: I'm sorry, forgive me; what</p> <p>11 line are we at? You may have told us, which I didn't hear,</p> <p>12 but if you –</p> <p>13 MR SEMENYA SC: 1-9, Chair. 19.</p> <p>14 CHAIRPERSON: Line 19, thank you.</p> <p>15 MR SEMENYA SC: Yes. There you say, "The</p> <p>16 emotions are high. Emotions are very high," so you confirm</p> <p>17 what Mr Mokwena is saying. "Whatever instruction you will</p> <p>18 have given, but because of the emotion," Mr Mokwena then</p> <p>19 says, "They would have forgotten about the instruction,</p> <p>20 yes." General, you then continue to say, "They will have</p> <p>21 forgotten about the instruction and I do not want a</p> <p>22 situation where 20 people will be dead. This is not what</p> <p>23 we are here for. What we are here for is to maintain and</p> <p>24 make sure that there is peace between us and between the</p> <p>25 people and the company. So I said even now they were</p>

<p style="text-align: right;">Page 21326</p> <p>1 telling me now to say 'But General, if they show us 2 firearms and they give us firearms,' I said take the 3 firearms, but those that will have illegal firearms, we'll 4 have to arrest them, but those that have got legal 5 firearms, tell them I need your licence and your firearm 6 because we have to do ballistic testing. But you do not do 7 anything. We will come back and arrest them. If this 8 firearm is ballistically tested and it is found to have 9 been [inaudible] so I said let us go in peace now, but let 10 us tell them, because we have got our negotiators now let 11 us tell them that we are coming here, we want you to 12 surrender your firearms. We also want you to leave here 13 and we give you this time, and if they refuse we leave 14 them. We do not touch them, we leave them, because it is 15 an assignment. I want to give them an assignment for 16 tonight to think that." Reference to 20 people, what were 17 you referring to there, General? 18 GENERAL MBOMBO: As Lonmin people asked 19 us to make arrests, saying that the people who had been 20 killed up until then were killed by people who were amongst 21 the strikers, so I was telling them that making arrests at 22 that stage would not help us, although we were going to 23 effect arrests in due course. I said for the moment we 24 need to find a way to talk to the strikers so that there is 25 peace between us and them, because if we start effecting</p>	<p style="text-align: right;">Page 21328</p> <p>1 Somewhere there's somebody that has got a law here that is 2 very clear that needs to be complied with by them because 3 they are still employees of Lonmin, so I think I'm trying 4 to say, Barnard, let us put in our system right." What 5 were you referring to there? What system were you saying 6 you must put right? 7 GENERAL MBOMBO: According to the law, Mr 8 Chair, when people are protesting they do that being 9 protected by certain laws of the country, laws which they 10 should also comply with. Also by law I thought that Lonmin 11 company was supposed to be regulated by certain laws that 12 control their employees. So what I was explaining here is 13 many things have happened now, these people have to comply 14 with the law and we have to see to it that they comply with 15 the law, but I was expecting the mine to clearly define 16 their laws and to explain to us how they work with their 17 employees. 18 MR SEMENYA SC: Then the transcript 19 continues to read, "Okay, and that let us communicate what 20 needs to be communicated to them, because you do not have 21 to shy away from that. It does not matter how it will 22 anger them and whatever. That is the policy of the 23 company, they know, but once again also we are ready for 24 tomorrow. If it angers them in any way tomorrow we 25 [inaudible] and obviously ourselves, we are prepared to</p>
<p style="text-align: right;">Page 21327</p> <p>1 arrests now as Lonmin wishes, there might be damage again. 2 That is why I'm mentioning 20, or talking about 20 people. 3 That is something we do not wish to happen. 4 MR SEMENYA SC: At the foot of page 10, 5 after mentioning Mr Malema, Mokwena then says, 6 "Nationalised," you continue to say, "Nationalised and all 7 of that. So it has got a serious political connotation 8 that we need to take into account, but which we need to 9 find a way of defusing, hence I just told these guys that 10 we need to act such that we kill this thing." What were 11 you meaning by that? 12 GENERAL MBOMBO: My intention here was 13 that Lonmin should know that the problems that they're 14 having, it's a problem concerning workers' issues and which 15 needed to be addressed in that fashion. 16 [10:14] When I said "Kill this thing" I meant we should 17 hold it there, work on it whilst it is still a workers' 18 problem and also involving the safety of the people there. 19 MR SEMENYA SC: Okay, can I draw your 20 attention to page 13 – no, page 7 rather, from line 20. 21 Maybe if we started a little earlier, from line 11 Mr 22 Mokwena says, "They have won." You continue to say, "They 23 have won the battle, but once again they cannot" – it reads 24 "won the battle, they cannot think that they have won the 25 battle through us, and [it's inaudible there] the company.</p>	<p style="text-align: right;">Page 21329</p> <p>1 move in a different direction." What are you referring to 2 there, General? 3 GENERAL MBOMBO: It would be, Mr Chair, 4 if Lonmin said to us according to their regulations they 5 can do this and that to try and address this problem that 6 we had and to address the issues of the workers according 7 to their laws of the company, I was trying to say to them 8 if they wanted to go to the koppie to talk to their 9 employees about their regulations, the company regulations, 10 or listen to the workers' grievances, because we were also 11 present on the koppie, we were talking to the workers, we 12 were going to protect them as well. I was also thinking 13 during those talks when they are talking to their workers 14 if there was disagreement we would then be there to protect 15 them and apply the law. 16 MR SEMENYA SC: And then Mr Mokwena talks 17 about dropping of some, I'll say pamphlets rather, with a 18 chopper at the koppie. You remember that? 19 GENERAL MBOMBO: That is so, Mr Chair. 20 MR SEMENYA SC: Just give us context, 21 what is happening around the conversation? 22 GENERAL MBOMBO: He told me that he would 23 prepare papers that would inform the workers to return to 24 work. Those would then be given to the workers wherever 25 they were. I was not against that.</p>

<p style="text-align: right;">Page 21330</p> <p>1 MR SEMENYA SC: And can I have us look at 2 page 13 of that exhibit from line 12? There you're having 3 a conversation with Mr Sinclair. You see that? 4 GENERAL MBOMBO: Yes, Mr Chair. 5 MR SEMENYA SC: And it says, 6 "Commissioner interrupted with telephone call, aside 7 conversation follows. Mr Mokwena, we will sort it out. 8 Oh, you have seen that. Graham," it says, "I've got my 9 attorney, we are working very closely with the attorneys, 10 very close. We have now [it's inaudible] they are very 11 [and it's inaudible] okay, so why I'm saying to this 12 [inaudible] they need to get their strategies right. We 13 have deployed 140 people across [inaudible] SAP to go and 14 interact with our security as the operations [inaudible] we 15 have got now the horse units we want to deploy as well for 16 visible policing. If this comes out now, what you guys are 17 saying, we can get that out and then let her go and get on 18 with that briefing." You see the transcript there? 19 GENERAL MBOMBO: Yes, Mr Chair. 20 MR SEMENYA SC: Can you give us an 21 understanding what is the conversation really about there? 22 GENERAL MBOMBO: Mr Chair, I'm not sure 23 what Mr Graham was trying to say here because as far as I 24 know our deployment was different from theirs and when he 25 was talking about the horses I did not pay attention that</p>	<p style="text-align: right;">Page 21332</p> <p>1 cannot go to work, or those who do go to work whilst others 2 are not, they might be concerned that they are working for 3 others or doing the work of people who are not at work, and 4 the company is quiet, it does not explain to them what is 5 happening. That is why I was saying according to their 6 regulations they must try and talk so that people must 7 understand what is being done about them at that time. 8 Even those that are not at work who are striking, they were 9 supposed to be told what the attitude of the company is 10 about them legally. It mustn't be seen as if nobody cares, 11 even if they are sitting there forever. As I say in the 12 paragraph, nobody worries, nobody cares. What I'm talking 13 about a plan that gels, I was talking about this 14 information that will be in the papers. I felt that it was 15 better if it was delivered in the early morning of the next 16 day because I did not know what would be contained in those 17 papers, how would the strikers react to it, and we would 18 not be having enough workforce, enough police officers that 19 time of the night to do the work, so I wanted them to give 20 us time to get prepared in case the workers are not happy 21 with what is contained in the papers and they do something 22 about it. 23 MR SEMENYA SC: Chair, I'm still going to 24 be a little while on this – 25 CHAIRPERSON: You think it appropriate we</p>
<p style="text-align: right;">Page 21331</p> <p>1 much because I thought those horses belong to the mine. So 2 I took it he was talking about how they had deployed their 3 workers. 4 MR SEMENYA SC: The deployment of 140 5 people, what was that reference to? 6 GENERAL MBOMBO: It was not clear to me 7 to who he was referring to, that is why I took it that he 8 was referring to his staff. 9 MR SEMENYA SC: It continues to say from 10 line 29, "I think it is very right what Graham is saying 11 because, you know, we need to show our employees, all of 12 them, in a balance that we are still in control." Mr 13 Mokwena says yes, and then you continue, "Because these 14 that are working the lawyers are asking themselves 15 questions, what now, what is happening, so if you decide to 16 stay away from work nobody worries, nobody cares, nobody 17 says nothing. So I think, but also I think the plan gels 18 nicely. I support the idea that they must not be given the 19 notice tonight, rather in the early hours of tomorrow so 20 that it works together with our plan." What were you 21 referring to? What is the conversation about there, 22 General? 23 GENERAL MBOMBO: What I was trying to 24 explain, Mr Chair, was that firstly Lonmin people had to 25 understand that their people who could not go to work, who</p>	<p style="text-align: right;">Page 21333</p> <p>1 take the tea adjournment now? 2 MR SEMENYA SC: I would, Chair. 3 CHAIRPERSON: I agree. We'll adjourn. 4 [COMMISSION ADJOURNS COMMISSION RESUMES] 5 [10:58] CHAIRPERSON: Before we proceed I think I 6 should announce that the, I was approached during the 7 adjournment by the secretary of the Commission who informs 8 me that arrangements are being made for English 9 translations of some of the evidence – no, of all the 10 evidence that's been given in Afrikaans which are on the 11 transcript of the proceedings of the Commission only in the 12 Afrikaans text. English translations are being prepared. 13 Service providers have been employed and the transcripts of 14 the translations will be put on the website as and when 15 they become available. I thought it important that I 16 should announce that for the benefit of those who would 17 welcome English translations of Afrikaans evidence. 18 Provincial Commissioner, you're still under oath. 19 MIRRIAM NOSAZISO ZUKISWA MBOMBO: s.u.o. 20 CHAIRPERSON: Mr Semenya. 21 EXAMINATION BY MR SEMENYA SC (CONTD.): 22 Thank you, Chair. General, we were still on the transcript 23 and I want to point you to page 14, just about line 9 24 there. 25 COMMISSIONER HEMRAJ: Mr Semenya, that</p>

<p style="text-align: right;">Page 21334</p> <p>1 date at the top of the transcript, 16th August, is that 2 indicative of anything at all? 3 CHAIRPERSON: Perhaps Mr Van As can tell 4 us. I take it that's the date the transcription was made. 5 Is that correct? The transcript comes from Lonmin, as I 6 understand. 7 MR VAN AS: Mr Commissioner, are you 8 referring to the 16th of August date? 9 CHAIRPERSON: Yes. This we understand is 10 a transcript of a conversation that took place on the 11 evening of the 14th. Commissioner Hemraj wants to know what 12 the date 16-08 means. I take it that's the date the 13 transcription was made. Is that correct? 14 MR VAN AS: Mr Chairman, I doubt if it's 15 the date the transcription was made. It might be the date 16 that it was downloaded onto some or other system. I'll 17 take instructions and revert to you. 18 CHAIRPERSON: Thank you. 19 MR SEMENYA SC: General, you see on page 20 14, line 9 says, the transcript, Graham, "I will work with 21 your planners on that." What did you understand him to be 22 saying there? 23 GENERAL MBOMBO: Mr Chair, I understood 24 him to be saying he would help our planners, give them 25 information so that we can plan adequately as someone who</p>	<p style="text-align: right;">Page 21336</p> <p>1 aware of the presence of our horses there, so I thought he 2 was referring to their own horses. 3 MR SEMENYA SC: It continues to read, 4 "But we're bringing them back now because I want all of 5 them to move, all of them at once to that area, so after 6 that I think they will once again group them into 7 different, or" – then says Mr Sinclair, "Calitz is on top 8 of that with me, Ma'am." What was he referring to there? 9 GENERAL MBOMBO: Again I'm not sure what 10 he meant by Calitz and him being on top of it because 11 Calitz was operational commander who awaited instructions 12 from General Mpenbe. 13 MR SEMENYA SC: At page 15 the transcript 14 says from line 1, Mr Mokwena says that, "I mean I do not 15 like what I see here. This is not a place I want to be 16 associated with. Imagine how many employees feel," then 17 it's inaudible. It's inaudible what you say next. Mr 18 Mokwena, inaudible but continues, "It is not what they 19 want. People just want to come to work, get their 20 salaries, go back home, so I mean I completely agree with 21 you. We cannot afford to have this here for the whole week 22 and wait, and you know, these are government resources. We 23 say it clear, and how do you justify that?" The transcript 24 continues as you saying, General, "That is what I was 25 saying, you know. The other key challenge is that all of</p>
<p style="text-align: right;">Page 21335</p> <p>1 knew the place. 2 MR SEMENYA SC: And then you say yes, it 3 continues, Graham, "Remember, I just want to add, your guys 4 have been sitting out here now for 26, 28 hours already. 5 It will also let them, because they, you know when the guys 6 are sitting they do not get into a good mood. They back 7 the issue from yesterday. Now they are sitting and they 8 are seeing. This will just kick start that we are moving 9 correctly. So it is to make sure that we are also giving 10 the moral support to the guys that have come in to help us, 11 okay," and you are recorded to have said, "No, they are 12 going to. We already deployed them now because this, 13 because now they have to call them back for this operation. 14 We deployed them to the key areas." Graham, "Yes, we 15 deployed 110." What was Mr Sinclair referring to there? 16 GENERAL MBOMBO: I'm not sure, Mr Chair, 17 but I thought by 110 he was referring to their security 18 personnel that they had deployed because our officers were 19 deployed by General Mpenbe and Brigadier Calitz. 20 MR SEMENYA SC: And the transcript 21 continues, "Yes," you say, and then Graham, "And we're 22 going to deploy the horses," and there is reference to the 23 horses again there. Which horses are these? 24 GENERAL MBOMBO: At that time, Mr Chair, 25 I thought the mine had its own horses. I was not even</p>	<p style="text-align: right;">Page 21337</p> <p>1 these members that are here, I have to pay them. So how 2 much I'm going to cough out for all these days, I mean I 3 have to, I have given them now up until the weekend, if we 4 cannot sort this thing, but my hope is that by tomorrow the 5 latest, or" – were financial considerations a factor, 6 General? 7 GENERAL MBOMBO: In any operation, Mr 8 Chair, one looks at all the things that have to be used in 9 that operation – 10 CHAIRPERSON: I think you must repeat 11 from the beginning of the sentence because your microphone 12 wasn't turned on when you began translating the answer. 13 GENERAL MBOMBO: In all operations, Mr 14 Chair, one has to look into all the things, equipment that 15 has to be used in that operation. Money is one of those 16 important aspects. The other thing, Mr Chair, as a person 17 who is in charge of the province I am in charge of all the 18 equipment that is used to fight crime. There are also 19 government regulations that apply to me to safeguard and 20 understand the way I do the job. I was trying to explain 21 this that we should understand a lot of money is being 22 spent on this job, so we had to work together and quickly, 23 but do not jeopardise the success of what we were doing. 24 MR SEMENYA SC: On page 16 from line 11 25 you are recorded to say that "I wanted us to look at it.</p>

<p style="text-align: right;">Page 21338</p> <p>1 We resolve this here, it has to be resolved across the 2 board of Lonmin Mine and I was thinking because when we 3 were talking here last night I was thinking that some of 4 these Anglo Gold Mines," and if I can continue with that 5 thought, General, by taking you to page 17 from line 13, 6 the transcript reads, "It is going, yes, no exactly. No, 7 it is true. So I was just saying it is important that we 8 now really be very, you know, upfront in terms of what 9 needs to happen and what needs to be done, and so that it 10 does not catch us again unaware like this, and so on, but I 11 think we will stop." What in those two excerpts were you 12 conveying, General?</p> <p>13 GENERAL MBOMBO: I was trying, Mr Chair, 14 to explain that this problem that we are encountering at 15 Lonmin, we should try and control it in a reasonable short 16 time because it could have an effect of spilling over to 17 other mines, something that would give us a problem in 18 solving it. So my wish was to try and sort this problem 19 speedily and peacefully and in the right way.</p> <p>20 MR SEMENYA SC: Before we go off this 21 exhibit JJJ192, can I invite us to look, General, at page 2 22 of that transcript from line 10?</p> <p>23 GENERAL MBOMBO: Page?</p> <p>24 MR SEMENYA SC: 2. There Mr Mokwena, 25 "Yes, I think, okay, a couple of positions. One is, I mean</p>	<p style="text-align: right;">Page 21340</p> <p>1 going to play for you." You said, General, they did not 2 play you that recording. Then it continues, "One of them 3 made a clear statement on television last night, that is 4 why I phoned you. I said well, I'm not a trained 5 intelligence officer, but you know these statements say 6 actually they have been to the mountain, they have spoken 7 to the people and they are issuing statements that they 8 have made and they have presented demands to management of 9 12 500." What did you understand Mr Mokwena to be saying 10 there?</p> <p>11 GENERAL MBOMBO: I understood him, Mr 12 Chair, to be saying this problem was between the workers 13 and AMCU, that is why he said they made certain statements 14 on television and that they were talking on the koppie.</p> <p>15 MR SEMENYA SC: Right, and can I point 16 your attention to page 4 of the transcript from line 5 17 where it says Lonmin. Do you know who that would be 18 reference to, General, "Lonmin"?</p> <p>19 GENERAL MBOMBO: I'm not sure, Mr Chair.</p> <p>20 MR SEMENYA SC: The transcript reads, 21 "And by the way, with AMCU we do not have any collective 22 bargaining arrangements." Then Mr Mokwena, "We do not have 23 anything, so we avoid legitimising illegal behaviour. That 24 is our position. We will not make any decision, 25 Commissioner, without asking your counsel and advice so</p>
<p style="text-align: right;">Page 21339</p> <p>1 it is our intention, also just like it is your intention 2 [inaudible – scratching sound] our priority is we want 3 people arrested, okay. It is very clear AMCU is behind it, 4 very clear. In actual fact we have a recording that we are 5 going to play for you." Did they play any recording for 6 you, General?</p> <p>7 GENERAL MBOMBO: I did not get that 8 recording, Mr Chair.</p> <p>9 MR SEMENYA SC: It continues to read, 10 "One of them made a clear statement on television last 11 night, that is why I phoned you. I said well, I'm not a 12 trained intelligence officer, but you know these statements 13 say actually they have been to the mountain, they have 14 spoken to the people and they are issuing statements that 15 they have made and they have presented demands to 16 management of 12 500." What did you understand Mr Mokwena 17 to be conveying to you here?</p> <p>18 GENERAL MBOMBO: Can you read it again?</p> <p>19 MR SEMENYA SC: The statement continues, 20 if I start it in context for you from line 10 again, "Yes, 21 I think, okay, a couple of positions. One is, I mean it is 22 our intention, also just like it is your intention 23 [inaudible – scratching sound] our priority is we want 24 people arrested, okay. It is very clear AMCU is behind it, 25 very clear. In actual fact we have a recording that we are</p>	<p style="text-align: right;">Page 21341</p> <p>1 that we do not compromise the integrity of police work 2 here, and people who report cases and then the wife and the 3 husband, and when they are sober they go [inaudible] we are 4 not in that situation. Nine people have died. We are not 5 going to start talking to parties suddenly who say yes, but 6 you know these workers say they want money and that is what 7 AMCU are saying. So now it means they are taking over, 8 they are the leaders of that group." You say, "Okay." Mr 9 Mokwena says, "So we have a recording here." What is he 10 referring to there, General? Do you know?</p> <p>11 GENERAL MBOMBO: I do not know what he 12 meant by the recording because I did not receive that 13 recording, but when he was saying to me they do not want to 14 take decisions without getting our advice, that would have 15 pointed me that, because the employer is not told by the 16 police when to talk to his employees. So they could have 17 spoken to us for us, our advice, if they wanted to go to 18 the koppie, concerning their security. That is where our 19 advice would have ended.</p> <p>20 [11:18] MR SEMENYA SC: It continues to say 21 Lonmin and to say you don't know who that is reference to. 22 In fact one of them explicitly said Mr Mokwena, "Lonmin 23 will remain ungovernable." Do you know what you understood 24 that to mean?</p> <p>25 GENERAL MBOMBO: I understood him to be</p>

<p style="text-align: right;">Page 21342</p> <p>1 saying the strikers or the people who were working with the 2 strikers were intent on making Lonmin uncontrollable or 3 ungovernable. 4 MR SEMENYA SC: And just around line 26 5 says, the transcript, Mr Mokwena, then the community is 6 going to follow suit. Now if this is what - an inaudible 7 scratching sound, that is serious intimidation, that is 8 serious threat, what was he referring to there? 9 GENERAL MBOMBO: I understood him to be 10 saying if the strikers remain on the koppie together with 11 the people they were working with this may influence the 12 community and this may also lead to threats being made. 13 MR SEMENYA SC: And, General, let's go 14 back to your statement, exhibit GGG5. 15 CHAIRPERSON: The transcript, Mr Semenya? 16 MR SEMENYA SC: I have, Chair. 17 CHAIRPERSON: I just wonder what then the 18 witness wishes to say about the next comment that's 19 recorded as having been made by her. At the foot of page 20 4, line 29, "actually that is", what she's recorded here 21 when he said "actually that is" inaudible "it is a direct" 22 inaudible "get that telephone and download it and then go 23 and arrest them." What did you mean by that? 24 GENERAL MBOMBO: Mr Chair, but the 25 transcript that Mr Mokwena was talking about is saying it</p>	<p style="text-align: right;">Page 21344</p> <p>1 CHAIRPERSON: No, no, no the witness said 2 it was in the evening. The witness originally talked about 3 the morning, but then I understood her evidence to be, 4 because I asked her specifically, and she was it was 8 5 o'clock in the evening after she'd spoken to - Maybe I'm 6 wrong. General, sorry, Provincial Commissioner, did I 7 understand you correctly, this conversation which has been 8 transcribed, did that take place on the evening of the 14th? 9 GENERAL MBOMBO: That is not correct, Mr 10 Chair, because in the evening I'd already left Lonmin that 11 is why actually I was saying I'm not sure about the time 12 but it was after 8:00. 13 CHAIRPERSON: After 8:00pm? 14 GENERAL MBOMBO: 8:00am. 15 CHAIRPERSON: 8:00am? 16 GENERAL MBOMBO: 8 in the morning. 17 CHAIRPERSON: So was it in the early 18 morning of the 14th? 19 GENERAL MBOMBO: As I said, Mr Chair, I'm 20 not sure about the time but it was in the morning of the 21 14th. 22 CHAIRPERSON: Thank you. So the 23 transcript if the piece of evidence stands it must be 24 correct to bring it into accordance with she's now said and 25 clearly it was a conversation between you and Lonmin and</p>
<p style="text-align: right;">Page 21343</p> <p>1 contained reports made by AMCU people which could help us 2 establish who were responsible for the chaos in Lonmin. I 3 was saying if we can get that and download it and find out 4 who the ringleaders are in this case if necessary we're 5 going to arrest them if there was a chance for that. 6 CHAIRPERSON: Thank you. 7 MR SEMENYA SC: And, General, let us go 8 back to GGG5, we were about to deal with paragraph 18 when 9 we digressed, but before we do that - 10 CHAIRPERSON: Before we move on, I don't 11 know how this can be sorted out, but at the top of the 12 computer screen when we were shown the transcripts of the 13 conversation between the witness and representatives of 14 Lonmin I see the following the appears, JJJ192 transcript 15 of meeting between the National Commissioner and Lonmin on 16 the afternoon of 14 August 2012. Now there are two 17 mistakes there and I don't know who's responsible for that 18 legend at the top but it must be changed because it's a 19 transcript of a meeting between the Provincial Commissioner 20 and Lonmin on the evening of the 14th of August. I don't 21 know who's responsible for the legend but it must clearly 22 be sorted out. Mr Budlender, do you know who - 23 MR BUDLENDER: I don't, Chair, but that 24 should plainly be corrected. According to the witness it 25 was on the morning of the 14th of August -</p>	<p style="text-align: right;">Page 21345</p> <p>1 not the National Commissioner, so there's not a problem 2 about that. I must confess I did understand you to say 3 something different, but I must have been mistaken. 4 MR SEMENYA SC: General, I recall you 5 saying that you went to this meeting because you arrived 6 early and you were seeing some people before you went for 7 the meeting, that is on Tuesday. 8 GENERAL MBOMBO: I'm not sure. Can you 9 explain the question? 10 MR SEMENYA SC: I seem to have heard your 11 evidence earlier when you were asked when this meeting took 12 place to say that you are uncertain but had gone to speak 13 to your people first before you went to this meeting and 14 you believed it was after 8:00. 15 GENERAL MBOMBO: I said so, Mr Chair. 16 MR SEMENYA SC: I was attempting to have 17 us tidy the sequence of these events, can I take you back 18 to Monday the 13th? Do you recall that day speaking to 19 Colonel Vermaak? 20 GENERAL MBOMBO: That is correct, Mr 21 Chair. 22 MR SEMENYA SC: What were the 23 circumstances? 24 GENERAL MBOMBO: He phoned me after I had 25 spoken to General Mpmembe when I was on the way, turning</p>

<p style="text-align: right;">Page 21346</p> <p>1 around from Potchefstroom going to Lonmin. He told me that 2 he was removing General Mpembe from the place of the 3 confrontation because General Mpembe appeared to be in a 4 condition that could put those people there in a difficult 5 situation which can be dangerous. I told him that I'd 6 already spoken to General Mpembe and I told General Mpembe 7 that all of you people who are there where this 8 confrontation happened should go back to the JOC and he 9 told me that he was also preparing to go together with 10 them.</p> <p>11 MR SEMENYA SC: I wish to point you to 12 the statement of Colonel Vermaak where in it he says that 13 he communicated the threats on the life of General Mpembe 14 to you. What's your response?</p> <p>15 GENERAL MBOMBO: When Colonel Vermaak 16 spoke to me he did not appear to be telling me about any 17 threats on the life of General Mpembe but of the condition 18 of General Mpembe. And I even thought that he could be 19 telling the truth about it. I never got to know about any 20 threats on General Mpembe's life until late the Monday 21 afternoon.</p> <p>22 MR SEMENYA SC: All right talking about 23 the events of the 15th and in an attempt to get some 24 chronology going there can I invite you, General, to look 25 at exhibit KKK4? That would be number 17 of your bundle</p>	<p style="text-align: right;">Page 21348</p> <p>1 MR SEMENYA SC: What was that about? 2 GENERAL MBOMBO: I told him it seems that 3 view of his about policing something, I indicated to him 4 that I was supporting it.</p> <p>5 MR SEMENYA SC: Was there any mention 6 made of a press briefing in any of these conversations? 7 GENERAL MBOMBO: I had not said anything 8 at that time about a press briefing. I was just supporting 9 what he was saying to me.</p> <p>10 MR SEMENYA SC: And okay your statement 11 at GGG5 on page 7. Before we leave KKK4 there is also a 12 telephone conversation you have with Captain Adriaio around 13 23:28:07, do you see that? 14 GENERAL MBOMBO: Yes.</p> <p>15 MR SEMENYA SC: What was that one about? 16 GENERAL MBOMBO: That is when I learnt 17 from him that he was told that we could go ahead and make a 18 press briefing. I told him to arrange as someone who was 19 at the scene.</p> <p>20 MR SEMENYA SC: What was the press 21 briefing going to be about? 22 GENERAL MBOMBO: We thought about me and 23 him of talking, he suggested I discuss that with my 24 colleagues as well that it was important for the citizens 25 of this country to know, as they were seeing on the</p>
<p style="text-align: right;">Page 21347</p> <p>1 there, General.</p> <p>2 CHAIRPERSON: You said KKK4 is it? KKK4? 3 MR SEMENYA SC: Indeed, Chair. I want 4 the conversation you have, it indicate the telephone call 5 you have with Captain Adriaio on the 15th at 11:41. 6 CHAIRPERSON: 11:41? 7 MR SEMENYA SC: That's correct, Chair. 8 CHAIRPERSON: That's on the third page of 9 the exhibit near the foot of the page? 10 MR SEMENYA SC: Yes. At around the 11 morning, as the transcript tells us, 11:41, 45 you had a 12 call with Captain Adriaio, what was that about? 13 GENERAL MBOMBO: Someone was on the 14 koppie that is now Captain Adriaio, we phoned each other 15 from time to time. When I had time I would also phone. It 16 was explained to me that the media is still there and that 17 they were also still there working together with the media. 18 On this second call, the one you're concentrating on, we 19 also heard reports to this effect. He said he was not sure 20 whether he could say what the police were doing. I then 21 told him that we'll talk later on that.</p> <p>22 MR SEMENYA SC: And the following page 23 there is yet another call you have with Captain Adriaio, 24 this is now around 17:14:02. 25 GENERAL MBOMBO: Yes.</p>	<p style="text-align: right;">Page 21349</p> <p>1 television this problem that is happening at Marikana, to 2 know what the police were doing in order to try and save 3 people's lives there. Because they have been hearing from 4 the reports from the media that certain people had been 5 killed there. It was also important for us to promise them 6 that we had the situation under control in the right way. 7 [11:38] MR SEMENYA SC: Okay, if we then proceed 8 as I said on page 7 and before we deal, you then, you are 9 having this conversation with Adriaio from Midrand? 10 GENERAL MBOMBO: That is correct, Mr 11 Chair.</p> <p>12 MR SEMENYA SC: You had arrived the day 13 before to attend the National Management Forum? 14 GENERAL MBOMBO: That is correct. 15 MR SEMENYA SC: You have a discussion 16 with National Commissioner in the morning of that day? 17 GENERAL MBOMBO: That is so. 18 MR SEMENYA SC: What do you say to her? 19 GENERAL MBOMBO: I gave her a report 20 about what was happening that morning according to what I 21 was also told by General Mpembe and General Annandale. 22 MR SEMENYA SC: That is what you address 23 in your amplified statement, paragraph 55, can you go and 24 look at it? 25 CHAIRPERSON: The, LLL1?</p>

<p style="text-align: right;">Page 21350</p> <p>1 MR SEMENYA SC: Indeed, Chair, and there 2 you say, "During the morning of Wednesday, 15 August 2012 3 you enquired from General Mpembe whether they are ready to 4 implement your decision and he advised you that there are 5 prospects of involving the unions and the standoff might be 6 resolved without the use of force," is that right? 7 GENERAL MBOMBO: Yes, that is so. 8 MR SEMENYA SC: You then agreed that the 9 option of a voluntary surrender of weapons was preferable 10 and that it must be given a chance, correct? 11 GENERAL MBOMBO: That is correct. 12 MR SEMENYA SC: You made it plain though 13 that if the promise does not come to pass the strikers 14 would have to be disarmed, right? 15 GENERAL MBOMBO: That is correct. 16 MR SEMENYA SC: But you continue to say 17 you left the implementation of the decision to disarm the 18 strikers and how that disarming would be done to the 19 commanders. 20 GENERAL MBOMBO: That is correct, Mr 21 Chairperson. 22 MR SEMENYA SC: And you say that you 23 relied on the collective experience to carry out the 24 operation given the experience and also the extending 25 operating procedures.</p>	<p style="text-align: right;">Page 21352</p> <p>1 MR SEMENYA SC: Okay, now General, you 2 then attended the National Management Forum, it continues 3 with its business and we have since obtained some extracts 4 of that minute. Can I invite you to look at item number 5 5 on your index there? 6 CHAIRPERSON: That's Exhibit JJJ177? 7 MR SEMENYA SC: Indeed, Chair. 8 CHAIRPERSON: You did indicate to us 9 yesterday, Mr Semenya, that you were going to give us item 10 5A which we, I think marked in anticipation LLL2. It 11 wasn't given to us but I see Mr Pretorius has got something 12 in his hand, I suppose he is going to deal with that now? 13 MR SEMENYA SC: It is on your desk, 14 Chair, we've put it this morning. It is in the bundle. 15 CHAIRPERSON: Oh, I see these pages are 16 now being inserted in the bundle, it wasn't there last 17 night, alright, thank you. 18 MR SEMENYA SC: If you look at that 19 transcript it reads, item 7, "Extraordinary session." It 20 then deals with those who are in attendance there being the 21 National Commissioner, all Provincial Commissioner, 22 Divisional Commissioner of ORS, Deputy-National 23 Commissioner, Operational Services and acting Divisional 24 Commissioner Criminal Intelligence, I think that is, CI, 25 but what I want to draw your attention to is the recording</p>
<p style="text-align: right;">Page 21351</p> <p>1 GENERAL MBOMBO: That is so, Mr 2 Chairperson. 3 MR SEMENYA SC: Okay, in paragraph 18 you 4 continue to say that you received a phone call from Major- 5 General Mpembe and in it he was advising you that there is 6 an agreement between AMCU and the police that the following 7 day nine o'clock the strikers will be laying down their 8 weapons to dispersing peacefully. 9 GENERAL MBOMBO: Before General Mpembe 10 told me about this nine o'clock agreement, Mr Chair, he 11 phoned me and told me that as they were expected to look 12 for people who can help them in this matter, they managed 13 to get hold of the President of AMCU, Mr Mathunjwa, as well 14 as the NUM President, Mr Zokwana. Whilst I was talking to 15 him about this, what is contained in this paragraph he was 16 telling me that they are starting those negotiations 17 together with the people I just mentioned as well as the 18 Lonmin people. The decision that was taken by Mr Mathunjwa 19 that the workers would lay down their weapons at nine 20 o'clock the next morning, I got to know about that later 21 after I was done with the meeting. 22 MR SEMENYA SC: Now you of course deal 23 with that in paragraph 45 of LLL1, that is your amplified 24 statement. Is that right? 25 GENERAL MBOMBO: Yes.</p>	<p style="text-align: right;">Page 21353</p> <p>1 that the National Commissioners opened the meeting and 2 requested that the Provincial Commissioner Northwest, 3 Lieutenant-General Mbombo, to brief the attendees on issues 4 of the labour unrest in Lonmin Mining, Marikana, Northwest 5 and it records, "After deliberations the meeting endorsed 6 the proposal to disarm the protesting masses and further 7 indicated that additional resources must be made available 8 upon neat identification by the Provincial Commissioner 9 Northwest." Can you enlighten us, what were the 10 circumstances leading to this meeting? 11 GENERAL MBOMBO: When I was briefing the 12 National Commissioner early on Wednesday, the 15th, I told 13 her that from I heard from Mpembe and Annandale, we were 14 having problems there, that the equipment we had asked for 15 didn't all arrive, the equipment we requested, as well as 16 police officers. She then said I should make this report 17 in front of General Masemola herself and General Mawela so 18 that we could get assistance in this matter. When the big 19 meeting was over the National Commissioner requested the 20 Provincial Commissioners to remain as well as Generals 21 Mawela and Masemola so that I could give a report. She 22 said she wanted the Provincial Commissioners to know that 23 they had to help us with the recourses that were needed. I 24 was then asked to give a report in that meeting. 25 I explained the situation we were facing at</p>

<p style="text-align: right;">Page 21354</p> <p>1 Lonmin, starting where it started, slowly, taking them 2 through until the time when I got reports from General 3 Mpmembe about that day, that since we had met there General 4 Mpmembe managed to get AMCU and NUM people and they've got 5 involved in the negotiations. They further told me that 6 both presidents of these unions agreed to go and talk to 7 the workers but separately. I gave the report to that 8 effect, that I was awaiting the results of these 9 negotiations. I said it looked promising but I said if we 10 do not get the help that we are expecting, what we were 11 expecting was for them to talk to the workers to hand over 12 their weapons, encourage the workers to get involved in the 13 negotiations about this issue. I mentioned that if we do 14 not get a positive resolution to this problem, because what 15 was happening there, going on there at Lonmin, had started 16 to make the people in the area feel threatened, besides the 17 fact that there were people who were already killed. 18 There were further problems of people not being 19 able to go to work because of being scared. Others 20 according to a report I've got from General Mpmembe were 21 even receiving threats. I then said if we do not get the 22 positive expected response, that is now the handing over of 23 the weapons, because at that time that was one of the 24 important things to us, we would then have to use our 25 position as police officers in order to get those weapons.</p>	<p style="text-align: right;">Page 21356</p> <p>1 GENERAL MBOMBO: That is correct. 2 MR SEMENYA SC: You call it an ad hoc 3 meeting after some of the NMF members had been excused by 4 the National Commissioner, you tell us? 5 GENERAL MBOMBO: That is correct, that is 6 how the National Commissioner called it. 7 MR SEMENYA SC: I want to point you now 8 to Exhibit LLL2, 5.2. 9 MR BUDLENDER SC: Chair, I would like to 10 say something about this document. This is an extract from 11 the minutes of the following meeting of the National 12 Management Forum in October 2012 and we have no objection 13 at all to the admission of the document, it will be helpful 14 to get an understanding of what happened, but there is a 15 matter which I need to raise with the Commission. 16 [11:57] We requested the South African Police Service to 17 provide us with a copy of this document and two related 18 documents, two emails which were sent out with the draft 19 minutes, and six days ago we received the following answer 20 from the Police Service, the documents are classified and 21 are only available for inspection. We were refused copies 22 of the documents and as a result I had to go to the SAPS 23 office here in Centurion, I had to read it there, I had to 24 copy everything in longhand, the logic of that escaped me 25 at the time, it still escapes me, but I believe the</p>
<p style="text-align: right;">Page 21355</p> <p>1 I made it clear that we would proceed to disperse the 2 workers, disarm them as it was planned. 3 MR SEMENYA SC: General, the minute 4 records that meeting to be endorsing. What is that a 5 reference to, what does that mean? 6 GENERAL MBOMBO: I'm not sure about this 7 word, Mr Chair, but in the way that I put this issue I 8 explained that it is important that if we do not get a 9 resolution here we will have to use our police manners. 10 All the people that were present in that meeting, 11 especially the National Commissioner, the Minister of 12 Police, - excuse me, the National Commissioner, General 13 Mawela, and General Masemola. 14 MR SEMENYA SC: Just for completeness, 15 who is General Mawela and who is General Masemola? 16 GENERAL MBOMBO: General Masemola at that 17 time was the deputy of the Police nationally. General 18 Mawela was the leader of the ORF nationally. They agreed 19 with me, with my opinion. 20 MR SEMENYA SC: You deal with these 21 matters on paragraph 44 of Exhibit LLL1, correct General? 22 GENERAL MBOMBO: That is so, Mr Chair. 23 MR SEMENYA SC: In there you tell us that 24 that meeting was not the meeting of the National Management 25 Forum.</p>	<p style="text-align: right;">Page 21357</p> <p>1 Commission should be given an explanation by the Police 2 Service of on what basis the evidence leaders are refused a 3 copy of a document because it is said to be classified, and 4 six days later the SAPS itself introduces it as an exhibit 5 in the Commission. I find that frankly inexplicable in the 6 light of the cooperation which has been promised and I 7 would like the Commission to ask for an explanation of 8 that. 9 CHAIRPERSON: Mr Semenya, are you able to 10 give an explanation or do you need time to take 11 instructions and will you deal with the matter later? 12 MR SEMENYA SC: Chair, I wasn't aware of 13 what Mr Budlender is talking about now, it hasn't been 14 raised with me. 15 CHAIRPERSON: Were you not informed of 16 the response that he got in writing to the request that was 17 addressed to the SAPS legal team for these documents? 18 MR SEMENYA SC: I was also not aware, I 19 was not also present at that session where Mr Budlender 20 was. I'm just saying it for the record as well – 21 CHAIRPERSON: What I said may create the 22 impression that I'm questioning your word, it is not my 23 intention at all. I accept entirely what you tell us. 24 MR SEMENYA SC: Yes, Chair, I'm just, 25 just for the record as well, that it mustn't be reported as</p>

<p style="text-align: right;">Page 21358</p> <p>1 if the cooperation, as Mr Budlender was saying, which has 2 been up to that point good by the SAPS legal team, why it 3 has changed, but I will ask Mr Mathibedi who would have 4 been in that meeting, what the circumstances are and we 5 will give that report back to the Commission. 6 CHAIRPERSON: So in other words you can't 7 give the answer now, but you will do so once you've 8 obtained instructions? 9 MR SEMENYA SC: Indeed, Chair. 10 CHAIRPERSON: Thank you. 11 MR BUDLENDER SC: Chair, may I just say 12 as I said on the previous occasion, this is not a complaint 13 about lack of cooperation from the SAPS legal team. We 14 asked for the documents and they replied that this was the 15 answer from their clients, but it is not at all a complaint 16 about the legal team. I do however suggest respectfully 17 that the clients ought to give an explanation of their 18 conduct. 19 CHAIRPERSON: - declassified, if the 20 document was to be classified it is now being put before us 21 without more. Has it been declassified and if so, by whom 22 and on what basis was it originally classified? These are 23 all matters that you'll be able to deal with after you've 24 taken instructions. 25 MR SEMENYA SC: I will, Chair. General,</p>	<p style="text-align: right;">Page 21360</p> <p>1 adopt," do you see that? 2 GENERAL MBOMBO: I can see that. 3 MR SEMENYA SC: "And the forum members 4 agreed." 5 GENERAL MBOMBO: I can see that. 6 MR SEMENYA SC: "And that the National 7 Commissioner concluded that the minutes should be adopted 8 up to page 19, the extraordinary session will adopt up to 9 page 20." 10 GENERAL MBOMBO: I can see that. 11 MR SEMENYA SC: Okay. 12 CHAIRPERSON: What does that mean, the 13 last phrase, "the extraordinary session will adopt up to 14 page 20?" 15 GENERAL MBOMBO: Mr Chair, I was not at 16 that meeting but I think they meant that 19 and 20 is the 17 meeting that we had when the other people were not there, 18 at this meeting. 19 CHAIRPERSON: Yes, it appears as if the 20 minutes though are adopted, the minutes of the 21 extraordinary session were adopted, is that right, or am I 22 misreading it? 23 GENERAL MBOMBO: Chair, I don't remember 24 being there, I'm not sure if this was adopted there, except 25 these people sitting in a meeting on their own, like we've</p>
<p style="text-align: right;">Page 21359</p> <p>1 let's go back to Exhibit LLL25.2, that is the meeting of 9 2 and 10 October of the National Management Forum which have 3 been the meeting following the one you attended. 4 GENERAL MBOMBO: Yes. 5 MR SEMENYA SC: Did you attend this 6 meeting of October? 7 GENERAL MBOMBO: If I remember correctly 8 I was not at that meeting on the Thursday. 9 MR SEMENYA SC: Well, the evidence 10 leaders will confirm via the minute of that meeting you are 11 not shown to have been in attendance there. 12 MR BUDLENDER SC: That is correct, Chairperson. 13 MR SEMENYA SC: On Exhibit LLL25.2 14 appears at the top of that page item 1.3, "Adoption of 15 previous minutes," do you see that? 16 GENERAL MBOMBO: Yes, Mr Chair. 17 MR SEMENYA SC: And the next page at the 18 top, it is written there, "Lieutenant-General 19 [doctor/advocate] Libya suggested that page 20 of the NMF 20 minutes be detached from the minutes as they did not form 21 part of the NMF," do you see that? 22 GENERAL MBOMBO: That is so, Mr Chair 23 MR SEMENYA SC: "And the National 24 Commissioner enquired if the minutes should be adopted up 25 to page 19 and those who were part of the session will</p>	<p style="text-align: right;">Page 21361</p> <p>1 done before. 2 MR SEMENYA SC: I read that to mean that 3 the extraordinary session will adopt that minute up to the 4 point where they were there, but would this be a convenient 5 stage, Chair, for the usual comfort – 6 CHAIRPERSON: Do you want a comfort 7 break? 8 MR SEMENYA SC: Yes. 9 CHAIRPERSON: Yes, we are sitting longer 10 hours, court hours, so it is appropriate to take comfort 11 breaks to make sure the extra periods that we sit in do not 12 cause undue discomfort to those participating. We'll take 13 a comfort break. 14 [COMMISSION ADJOURNS COMMISSION RESUMES] 15 [12:31] CHAIRPERSON: The Commission resumes. 16 Provincial Commissioner, you're still under oath. 17 MIRRIAM NOSAZISO ZUKISWA MBOMBO: s.u.o. 18 CHAIRPERSON: Mr Semenya. 19 EXAMINATION BY MR SEMENYA SC (CONTD.): 20 General, you told us about the briefing you gave to the 21 extraordinary session and that that is that if the strikers 22 do not come good to their undertaking, promise or whatever, 23 of laying down their weapons, the decision you had made was 24 that they would have to be disarmed. 25 GENERAL MBOMBO: That is correct, Mr</p>

<p style="text-align: right;">Page 21362</p> <p>1 Chair.</p> <p>2 MR SEMENYA SC: When do you make the</p> <p>3 decision that the strikers ought to be disarmed?</p> <p>4 GENERAL MBOMBO: Mr Chair, in the days</p> <p>5 before since the strike started at Marikana 10 people had</p> <p>6 already been killed. The 10th person was killed when the</p> <p>7 police were already there. As I said earlier on we had,</p> <p>8 because of the threats that made life difficult for the</p> <p>9 community in the area, and the fact that one of them was</p> <p>10 injured whilst we were there, we did not know what to</p> <p>11 expect, what will happen, whether someone else would be</p> <p>12 injured in the presence of the police, or even killed,</p> <p>13 someone else killed. The police function is to maintain</p> <p>14 order, protect people as well as their property. It was</p> <p>15 therefore important for us to use the powers that the</p> <p>16 Constitution of this country allows us to, ensure the</p> <p>17 safety of the citizens of this country, as the Constitution</p> <p>18 says. I then saw it fit as the commander of the police in</p> <p>19 the area to tell the police that the main thing that I</p> <p>20 wanted, that I wish for in whatever they were doing was</p> <p>21 that the weapons be taken away from the strikers because</p> <p>22 the weapons were the main issue, the main thing that caused</p> <p>23 fear amongst the people. It was also suspected that the</p> <p>24 weapons were used in killing the people that were already</p> <p>25 killed.</p>	<p style="text-align: right;">Page 21364</p> <p>1 MR SEMENYA SC: You deal with this in</p> <p>2 paragraph 54 of your amplified statement, exhibit LLL1,</p> <p>3 General. Is that right?</p> <p>4 CHAIRPERSON: Have you moved away from</p> <p>5 the National Management Forum meeting, or rather the ad hoc</p> <p>6 meeting after the National Management Forum meeting? Have</p> <p>7 you moved away from that?</p> <p>8 MR SEMENYA SC: I have, Chair.</p> <p>9 CHAIRPERSON: Now when you addressed the</p> <p>10 ad hoc meeting, I take it you did address the ad hoc</p> <p>11 meeting, you spoke at the ad hoc meeting. Is that right?</p> <p>12 GENERAL MBOMBO: Yes, Mr Chair.</p> <p>13 CHAIRPERSON: For how long did you speak?</p> <p>14 How long did your address last?</p> <p>15 GENERAL MBOMBO: My address could not</p> <p>16 have taken 10 or 15 minutes because the whole meeting did</p> <p>17 not even take an hour.</p> <p>18 CHAIRPERSON: Did a number of the other</p> <p>19 persons present speak as well?</p> <p>20 GENERAL MBOMBO: That is correct, Mr</p> <p>21 Chair, General Mawela, and General Masemola, and the</p> <p>22 Commissioner of the Police, as well as other Provincial</p> <p>23 Commissioners who had to assist me with the equipment that</p> <p>24 was needed. They assured the National Commissioner that</p> <p>25 they would assist.</p>
<p style="text-align: right;">Page 21363</p> <p>1 Our function, Mr Chair, is to save lives and</p> <p>2 protect the property of the people. People should be free</p> <p>3 to go to their workplaces. They should be free to go about</p> <p>4 their business. The situation there was intimidation of</p> <p>5 people, the whole community. That is the reason, Mr Chair.</p> <p>6 MR SEMENYA SC: In terms of days, what</p> <p>7 day did you take that decision?</p> <p>8 GENERAL MBOMBO: On Monday night, Mr</p> <p>9 Chair, when we got a report from General Mpembe and</p> <p>10 Brigadier Calitz about what had happened that Monday, when</p> <p>11 we had met the National Commissioner and the people who</p> <p>12 were accompanying her, we had discussions to the effect</p> <p>13 that this problem had to be attended to quickly. On</p> <p>14 Tuesday the 14th after I'd been told about the views of the</p> <p>15 generals and the police that were there, assisting each</p> <p>16 other about a plan to curb the violence that was there, I</p> <p>17 said to them, "If this plan of yours allows us to disarm</p> <p>18 these people, take their weapons away from them, I wish</p> <p>19 that you tried that if tomorrow the 15th there is nothing</p> <p>20 that comes out of it." I said that not knowing that there</p> <p>21 was someone already killed on the koppie. That is how I</p> <p>22 then heard about this person that was killed, and when I</p> <p>23 heard about this person killed I said, "We really have to</p> <p>24 disarm these people, disperse them. If there is a way, you</p> <p>25 people shall see how to do it."</p>	<p style="text-align: right;">Page 21365</p> <p>1 CHAIRPERSON: Thank you.</p> <p>2 MR SEMENYA SC: In paragraph 54 of</p> <p>3 exhibit LLL1 you say that for completeness you need to</p> <p>4 state that the decision to disperse, disarm and arrest - in</p> <p>5 parenthesis DDA tactic - the strikers was made by yourself</p> <p>6 already on Tuesday the 14th and you communicated that</p> <p>7 decision to General Mpembe, General Naidoo, and General</p> <p>8 Annandale in the afternoon of that day. Is that right?</p> <p>9 GENERAL MBOMBO: That is correct, Mr</p> <p>10 Chair.</p> <p>11 MR SEMENYA SC: You say you envisaged</p> <p>12 that that tactical option would take place the Wednesday</p> <p>13 15th, but you were not prescriptive about how that is to</p> <p>14 happen.</p> <p>15 GENERAL MBOMBO: That is correct.</p> <p>16 MR SEMENYA SC: You left it to the</p> <p>17 operational people to determine the how and the when aspect</p> <p>18 of implementing that decision.</p> <p>19 GENERAL MBOMBO: That is so, Mr Chair.</p> <p>20 MR SEMENYA SC: You continue to say the</p> <p>21 morning of that Wednesday you enquired from General Mpembe</p> <p>22 whether they are ready to implement the decision and he</p> <p>23 advised that there are prospects of involving the unions</p> <p>24 and the standoff might be resolved without the use of</p> <p>25 force. That's what you testified to earlier.</p>

<p style="text-align: right;">Page 21366</p> <p>1 GENERAL MBOMBO: That is so, Mr Chair.</p> <p>2 MR SEMENYA SC: You agreed to that</p> <p>3 proposal?</p> <p>4 GENERAL MBOMBO: That is correct.</p> <p>5 MR SEMENYA SC: In your statement exhibit</p> <p>6 GGG5 you deal with the events of the 16th. You had already</p> <p>7 told us that you discussed the evening before with Captain</p> <p>8 Adriaio relevant to a press briefing -</p> <p>9 GENERAL MBOMBO: That is so.</p> <p>10 MR SEMENYA SC: - that was to happen the</p> <p>11 following day at 9 o'clock.</p> <p>12 GENERAL MBOMBO: That is correct.</p> <p>13 MR SEMENYA SC: You then hold that media</p> <p>14 briefing at 9:30. Why is that?</p> <p>15 GENERAL MBOMBO: Dennis told me that some</p> <p>16 of the journalists were on the way, others were getting</p> <p>17 lost.</p> <p>18 MR SEMENYA SC: And that was the reason</p> <p>19 for the delay?</p> <p>20 GENERAL MBOMBO: That is correct.</p> <p>21 MR SEMENYA SC: And you then gave the</p> <p>22 briefing and announced what was going to happen. Is that</p> <p>23 right?</p> <p>24 GENERAL MBOMBO: That is correct.</p> <p>25 MR SEMENYA SC: And that is what we have</p>	<p style="text-align: right;">Page 21368</p> <p>1 was promising the police that by 9 o'clock the next morning</p> <p>2 the strikers would lay down their weapons. Mr Mpmembe</p> <p>3 assured me that the way Mr Mathunjwa put this he promised</p> <p>4 that it appeared as if this was going to happen. As a</p> <p>5 result of Mr Mathunjwa's promise I also became hopeful that</p> <p>6 the AMCU president will help us, and because we also had</p> <p>7 spoken to Dennis that we should at least talk to the</p> <p>8 community, tell the community what the police were doing</p> <p>9 about the problems in Lonmin. I realised that when we</p> <p>10 talked to the journalists, the media, telling them that we</p> <p>11 as the police are present here to protect life, property,</p> <p>12 and to maintain peace and order, and tell the community</p> <p>13 that even those small groups of strikers that had already</p> <p>14 been arrested were, they were going to appear in court that</p> <p>15 morning. And the other thing, I was happy, happy about Mr</p> <p>16 Mathunjwa's promise, realising that we indeed had people</p> <p>17 who were prepared to help us, wanted the community to know</p> <p>18 that there were people out there who were assisting us, who</p> <p>19 had an interest in this matter.</p> <p>20 [12:51] But I also wanted people to know that all the</p> <p>21 help we were expecting to get, including Mr Mathunjwa's</p> <p>22 help, does not assist us in getting the weapons from the</p> <p>23 strikers. We as the police service would then use the</p> <p>24 powers that we get from the Constitution of this country</p> <p>25 and other legislation governing us as well as the strikers.</p>
<p style="text-align: right;">Page 21367</p> <p>1 as exhibit HHH40, your media briefing.</p> <p>2 CHAIRPERSON: That's behind tab 9 in the</p> <p>3 file you've given us.</p> <p>4 MR SEMENYA SC: Indeed, Chair. Do you</p> <p>5 have it?</p> <p>6 GENERAL MBOMBO: Yes, I have.</p> <p>7 MR SEMENYA SC: In your briefing you also</p> <p>8 say that matters are coming to a head that day. You</p> <p>9 remember that?</p> <p>10 GENERAL MBOMBO: Could you repeat that?</p> <p>11 MR SEMENYA SC: That this strike and the</p> <p>12 carrying of arms, you are going to bring it to a halt, a</p> <p>13 stop, on that day.</p> <p>14 GENERAL MBOMBO: That was my wish, Mr</p> <p>15 Chair, that's correct.</p> <p>16 MR SEMENYA SC: You actually say so on</p> <p>17 the video recording of the briefing, right?</p> <p>18 GENERAL MBOMBO: That is so, Mr Chair.</p> <p>19 MR SEMENYA SC: Why was it that you were</p> <p>20 now resolute that they would – the strikers, that is – be</p> <p>21 disarmed that day?</p> <p>22 GENERAL MBOMBO: Mr Chair, after I was</p> <p>23 done with the meeting the night of the 15th I spoke to</p> <p>24 General Mpmembe over the telephone. He told me that they</p> <p>25 had received a response from Mr Mathunjwa saying that he</p>	<p style="text-align: right;">Page 21369</p> <p>1 The Constitution amongst others states that the strikers</p> <p>2 have got the right to strike, but not carrying weapons. I</p> <p>3 was trying to tell the community that we would work with</p> <p>4 diligence in order to try and get the weapons; they should</p> <p>5 have patience, although they were scared.</p> <p>6 MR SEMENYA SC: Yes, you were of the firm</p> <p>7 view that this will not go into the Friday, the Saturday,</p> <p>8 the Sunday, etcetera - Saturday, Sunday, etcetera, but it</p> <p>9 had to happen on that particular day, right? The Thursday.</p> <p>10 GENERAL MBOMBO: That is correct, Mr</p> <p>11 Chair, according to the transcript.</p> <p>12 MR SEMENYA SC: And you tell us as to the</p> <p>13 how and when on Thursday you left that to the commanders to</p> <p>14 do.</p> <p>15 GENERAL MBOMBO: When I said on that day</p> <p>16 we had to get the weapons away from the strikers, I was</p> <p>17 convinced that Mr Mathunjwa would assist us, but I knew</p> <p>18 that if that does not happen, the police that were there</p> <p>19 would know when it was the opportune time to do what they</p> <p>20 had to do. So I left it up to them.</p> <p>21 MR SEMENYA SC: In HHH40, exhibit HHH40,</p> <p>22 on page 7 from line 13 it is recorded, you saying, "As the</p> <p>23 police therefore we have deployed these various means in</p> <p>24 order to make sure that today we end this violence." You</p> <p>25 see that?</p>

<p style="text-align: right;">Page 21370</p> <p>1 GENERAL MBOMBO: Yes, I see it.</p> <p>2 MR SEMENYA SC: Questions have been asked</p> <p>3 of other witnesses why this operation could not be delayed</p> <p>4 and implemented days after. What's your reaction to that?</p> <p>5 GENERAL MBOMBO: As I'm talking about</p> <p>6 violence here, main thing that was of concern to me was for</p> <p>7 the strikers to lay down their weapons because it is the</p> <p>8 weapons that concerns the community at large. If they had</p> <p>9 done that they would still continue if they had not</p> <p>10 received any response from their employer.</p> <p>11 MR SEMENYA SC: Continued to do what?</p> <p>12 GENERAL MBOMBO: Continue striking, with</p> <p>13 us policing them and having no weapons, with them having no</p> <p>14 weapons. That was important to me and we had to attend to</p> <p>15 it because it worried the community. But again it was my</p> <p>16 wish that we would do that peacefully.</p> <p>17 MR SEMENYA SC: Your decision to hold the</p> <p>18 press conference for 9 o'clock the morning of Thursday, and</p> <p>19 the fact that a possibility was that the strikers would lay</p> <p>20 down their weapons at 9 o'clock, which time coincided with</p> <p>21 your planning for the press briefing, how did you expect</p> <p>22 that to work together?</p> <p>23 GENERAL MBOMBO: When we were done, or</p> <p>24 finalised the issue of the time of the media briefing –</p> <p>25 MR SEMENYA SC: When was that?</p>	<p style="text-align: right;">Page 21372</p> <p>1 you're still under oath. Mr Semenya.</p> <p>2 MR VAN AS: Sorry, Mr Chairman, before my</p> <p>3 learned friend continues with the evidence in chief you</p> <p>4 made a request to us to get the date on that transcript.</p> <p>5 Apparently that's the date that it was downloaded onto the</p> <p>6 Lonmin hard drive.</p> <p>7 CHAIRPERSON: Your guess as to what it</p> <p>8 was –</p> <p>9 MR VAN AS: Is correct.</p> <p>10 CHAIRPERSON: - is correct.</p> <p>11 MR VAN AS: Thank you, Mr Chairman.</p> <p>12 CHAIRPERSON: Congratulations. Mr</p> <p>13 Semenya.</p> <p>14 MR SEMENYA SC: General, can I have us</p> <p>15 look at exhibit JJJ88? It's a video clip and if we can go</p> <p>16 one minute into that clip.</p> <p>17 [VIDEO SHOWN]</p> <p>18 CHAIRPERSON: This is exhibit JJJ88 and</p> <p>19 we said we're beginning at 53 seconds.</p> <p>20 [VIDEO SHOWN]</p> <p>21 MR SEMENYA SC: Do you remember that,</p> <p>22 General?</p> <p>23 GENERAL MBOMBO: It is so, Mr</p> <p>24 Chairperson.</p> <p>25 MR SEMENYA SC: It appears that you had</p>
<p style="text-align: right;">Page 21371</p> <p>1 GENERAL MBOMBO: It was at night on the</p> <p>2 15th. I had not spoken to General Mpembe at that time about</p> <p>3 the issue of 9 o'clock concerning Mr Mathunjwa. Now when I</p> <p>4 heard later about this 9 o'clock I thought of us delaying</p> <p>5 this thing, waiting a bit. I was then told about</p> <p>6 journalists who were coming from far, different places, and</p> <p>7 that this might hamper their work, but I then thought of</p> <p>8 using this opportunity maybe and explain that this promise</p> <p>9 that we had received might be helpful to us, and that the</p> <p>10 people who would be listening to this press conference</p> <p>11 would know that there are efforts being taken to solve this</p> <p>12 problem.</p> <p>13 MR SEMENYA SC: Would this be a</p> <p>14 convenient stage, Chair?</p> <p>15 CHAIRPERSON: We'll now take the lunch</p> <p>16 adjournment. I think we must try – it isn't always easy to</p> <p>17 achieve, but we must try to reassemble at quarter to 2.</p> <p>18 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>19 [13:51] CHAIRPERSON: The Commission resumes.</p> <p>20 I've been asked to remind all present that there is a sign</p> <p>21 outside that says no food or drink other than water is</p> <p>22 allowed in the chamber, the rule imposed by the Council.</p> <p>23 It's important that we adhere to it, so I remind everyone</p> <p>24 concerned that there is that and in fact it's on a notice</p> <p>25 just outside the door there. Provisional Commissioner,</p>	<p style="text-align: right;">Page 21373</p> <p>1 really come to the end of your tether, you were not seeing</p> <p>2 any other way of resolving the matter going forward.</p> <p>3 GENERAL MBOMBO: It is correct, Mr</p> <p>4 Chairperson, that if any other means had been anything that</p> <p>5 has been tried were not successful in terms our job,</p> <p>6 employment we had no alternative but to do what police work</p> <p>7 involves. I was then convinced that if there was no other</p> <p>8 means of solving this thing we had to act as police.</p> <p>9 MR SEMENYA SC: What other means were you</p> <p>10 referring to that did not provide a solution?</p> <p>11 GENERAL MBOMBO: Our negotiations with</p> <p>12 which we were busy for the whole week and the promise made</p> <p>13 by Mr Mathunjwa which we believed, this was not successful</p> <p>14 in the manner in which we had hoped. I saw no reason why</p> <p>15 we should delay acting in terms of our call as police.</p> <p>16 MR SEMENYA SC: And in the statement</p> <p>17 GGG5, paragraph 19.2 you say that after the briefing you</p> <p>18 are then told that Mr Mathunjwa did not pitch up at the</p> <p>19 koppie and that the strikers had not laid their arms down.</p> <p>20 GENERAL MBOMBO: Correct, Mr Chairperson.</p> <p>21 General Mpembe reported to me in that way.</p> <p>22 MR SEMENYA SC: You do some attempts to</p> <p>23 get hold of Mr Mathunjwa?</p> <p>24 GENERAL MBOMBO: Yes –</p> <p>25 MR SEMENYA SC: How did you do that?</p>

<p style="text-align: right;">Page 21374</p> <p>1 GENERAL MBOMBO: I asked if anyone, 2 General Mpembe and General Annandale, if anyone of them had 3 his telephone so that we could contact him. General 4 Annandale had his telephone number, he did in fact phone 5 him. He did not pick his phone. In my telephone I had Mr 6 Mokwena's number. I asked Mr Mokwena, enquiring as to 7 whether they had not seen him. I was told that he 8 somewhere there in their offices. They went to give him 9 his telephone, Mr Mokwena's telephone, indeed I spoke to 10 him over Mr Mokwena's phone asking him that I had been told 11 the decision had been made that at 9 o'clock he would be at 12 the koppie and I'm inquiring where he was. He said to me, 13 Mr Chairperson, that he was at Lonmin and that he had 14 arrived there at 7:00 in the morning. He was there to meet 15 the management at Lonmin and that the management was not 16 prepared to meet him at the time. He gave that as the 17 reason that delayed him, Chairperson. I repeated, I said 18 to him he must please keep to his promise. He asked me 19 where I was talking from, I told him I was in the JOC. He 20 said he would be coming to me, that was the end of the 21 call, the telephone call. 22 MR SEMENYA SC: And shortly thereafter he 23 came to the JOC, Mr Mathunjwa that is. 24 GENERAL MBOMBO: Correct, Chairperson. 25 MR SEMENYA SC: And he meet with you and</p>	<p style="text-align: right;">Page 21376</p> <p>1 wanted him to do as he had promised. 2 MR SEMENYA SC: You also spoke to the 3 Bishop Seoka, do you remember that? 4 GENERAL MBOMBO: I do remember late on 5 that day, Mr Chairperson. 6 MR SEMENYA SC: He also, amongst others, 7 says you were rude to him. 8 GENERAL MBOMBO: I understand that yes, 9 Mr Chairperson, but at the time that he arrived, the time 10 he arrived at the JOC he disturbed whilst certain 11 information was being given to me in connection with the 12 operation that was being conducted by the police there. If 13 I appeared to him to be rude the possibility is that, Mr 14 Chairperson, that he had focused his mind on the way in 15 which he saw things. My interest was to be told everything 16 that was being explained to me at the time. Mr 17 Chairperson, I have not been brought up that way to act 18 rude or to act with disrespect, particularly to people in 19 the ministry. If he felt bad as though I was acting rude 20 to him, as though I've not been brought up correctly, I am 21 asking, I'm pleading for him, I'm apologising. 22 MR SEMENYA SC: You deal with that in 23 paragraph 60 of exhibit LLL1 don't you, General? 24 GENERAL MBOMBO: Correct, Chairperson. 25 MR SEMENYA SC: You were in the JOC</p>
<p style="text-align: right;">Page 21375</p> <p>1 General Annandale just outside the JOC. 2 GENERAL MBOMBO: That's correct, 3 Chairperson, he arrived there finding me standing with 4 General Mpembe and General Annandale. 5 MR SEMENYA SC: Amongst other things he 6 then asks for transport to go to the koppie? 7 GENERAL MBOMBO: After talking to him, 8 after I had spoken to him, reminding him and asking him 9 that he should go there in terms of his promise and then he 10 gave reasons as to what delayed him. I asked him to stick 11 to his appointment. He then agreed that he was going there 12 and then he requested for transport. I then asked General 13 Annandale to make arrangements for transport. As far as I 14 know transport had been arranged, Mr Chairperson but I was 15 later told that he had driven in his own vehicle. 16 MR SEMENYA SC: Okay, Mr Mathunjwa's 17 evidence is that – describes you as very agitated and 18 uncooperative, I'm paraphrasing. 19 GENERAL MBOMBO: Chairperson, he could 20 have seen me that way, but the truth is – but when I spoke 21 to him it was as though I'm not talking to him, as though 22 I'm pleading. Because he had said himself that he was 23 going to do this thing. That I appeared rude to him, Mr 24 Chairperson, that was not my intention. If that is what he 25 understood from me, Mr Chairperson, I apologise, but I just</p>	<p style="text-align: right;">Page 21377</p> <p>1 meeting at 13:30 the Thursday, correct? 2 GENERAL MBOMBO: Correct, Chairperson. 3 MR SEMENYA SC: And you say in paragraph 4 19.4 of GGG5 that after you received a briefing that the 5 strikers at the koppie have not put their weapons down. 6 You gave an instruction that the strikers must be dispersed 7 and disarmed and arrested. Is that right? 8 GENERAL MBOMBO: Correct, Chairperson. 9 This was after I had some discussion with General Mpembe. 10 MR SEMENYA SC: Okay. And after that you 11 left the JOC and proceeded where? 12 GENERAL MBOMBO: After giving those 13 instructions as a result of the report of what was 14 happening made to me by General Mpembe – I remember that 15 Lieutenant Baloyi, the person who was injured during the 16 Monday's confrontation I had not had the chance of seeing 17 him. I then left, Chairperson, proceeded to the Rustenburg 18 hospital to go and see him. 19 MR SEMENYA SC: There is some criticism 20 that having ordered these three to happen you then decided 21 to leave. 22 GENERAL MBOMBO: Chairperson, having 23 instructed General Mpembe and those who were surrounding 24 him the explanation that we had to go and do police work, 25 though it looks as though the instruction was given by me</p>

<p style="text-align: right;">Page 21378</p> <p>1 to General Annandale, this is because he was chairing the 2 meeting. I knew, Mr Chairperson, that I was not part of 3 that meeting during that time and I work there, Mr 4 Chairperson, with people that are vastly experienced and 5 knowledgeable to do the job that we were involved in doing 6 at the time. I did not leave just because of being 7 irresponsible, I left there knowing that I'd left people 8 who knew what to do and people who had been dealing with 9 this problem from the beginning.</p> <p>10 MR SEMENYA SC: Mr Mathunjwa's evidence 11 is that you were leaving to attend the torch bearing 12 ceremony of the African National Congress.</p> <p>13 GENERAL MBOMBO: Chairperson, that is a 14 blue lie. I have not been involved in any torch bearing 15 ceremony of the African National Congress thought I knew at 16 the time that there was an occasion of that sort in the 17 province.</p> <p>18 [14:10] MR SEMENYA SC: Can I invite you to look 19 at exhibit EE? It is item 6 on file there. You will see 20 against paragraph 3 that the minute records you opening the 21 meeting, that you are involved in meetings with the 22 leadership of AMCU, namely, Mr Mathunjwa to resolve the 23 situation for the whole morning. You referred to the nine 24 o'clock where the strikers ought to have put their weapons 25 down and that Mr Mathunjwa has failed to provide feedback</p>	<p style="text-align: right;">Page 21380</p> <p>1 that paragraph there is a reference to the fact that Mayor- 2 General Annandale said he wanted the operation to commence 3 at 3:30, 15:30. Was that said in your presence?</p> <p>4 GENERAL MBOMBO: At that time I had left, 5 Mr Chairperson.</p> <p>6 CHAIRPERSON: I see, because I see you 7 did come back at 15:20, because the people who had known 8 that the operation was only going to commence at 15:30, you 9 can't be criticised for going off in the meanwhile to the 10 hospital and coming back as you were back in time for the 11 commencement of the operation. That is in fairness to you. 12 Did you know what time the operation was going to commence?</p> <p>13 GENERAL MBOMBO: Chairperson, I did not 14 know the time, although I came back at 15:20, when I came 15 back I did not know the time. That was the explanation 16 that was being given to me by General Annandale.</p> <p>17 CHAIRPERSON: The point is that you came 18 back before the operation commenced, so any criticism that 19 you went away while the operation was going to carry on 20 isn't correct because you were back before the operation 21 started, isn't that so?</p> <p>22 GENERAL MBOMBO: That's correct, 23 Chairperson.</p> <p>24 MR SEMENYA SC: On your arrival from the 25 hospital you go back to the JOC?</p>
<p style="text-align: right;">Page 21379</p> <p>1 as was agreed, do you see that?</p> <p>2 GENERAL MBOMBO: I see it, Chairperson.</p> <p>3 MR SEMENYA SC: If you go to page 3 of 4 the document under the heading, "Closing remarks," the 5 second paragraph to that minute talks about you indicating 6 that you had already communicated with the National 7 Commissioner, informing her of the current situation and 8 that there was a deadlock reached with negotiations and 9 that you were going to be instructing the execution of 10 phase 3 of the operational plan with the National 11 Commissioner saying, she will advise the minister 12 accordingly. Was that at the end of the meeting as the 13 minutes reflect?</p> <p>14 GENERAL MBOMBO: Chairperson, you know it 15 is not so. Let me also, I want to correct that paragraph. 16 I said this but this was after talking to Mr Annandale 17 about the instruction. Possibly what confused the people 18 who were recording was, before I said this, that I was 19 going to leave, but that I have told the National 20 Commissioner. I said I think, I believe that the National 21 Commissioner will give, is giving information of feedback 22 to the minister.</p> <p>23 MR SEMENYA SC: Then back from saying – 24 CHAIRPERSON: Sorry, can I just ask a 25 question flowing from that? I see that immediately after</p>	<p style="text-align: right;">Page 21381</p> <p>1 GENERAL MBOMBO: Correct, Chairperson. 2 MR SEMENYA SC: Do you remain in the JOC 3 throughout the period or what?</p> <p>4 GENERAL MBOMBO: I went back to the JOC 5 and I went inside the JOC during the time that General 6 Annandale was giving me this explanation. I was in the 7 vicinity of the JOC, around the JOC Chairperson, during the 8 whole operation.</p> <p>9 MR SEMENYA SC: Were you listening at any 10 point to the radio communication that was happening there 11 inside the JOC?</p> <p>12 GENERAL MBOMBO: When the discussion 13 started, commenced on the radio I was inside, this was 14 during the explanation given to me by General Annandale 15 towards the end of that explanation, it was, some of the 16 things that Calitz was saying were audible, one could hear 17 them and up to the time where they were just about to 18 commence it was still audible. There was a time, Mr 19 Chairperson, when I had gone to the ladies and when I came 20 back, when I came back General Annandale mentioned that it 21 wasn't very clear on the radio anymore as to what was being 22 said. He mentioned that they hear pieces there and then it 23 is not audible and then here pieces there. This was whilst 24 I was outside.</p> <p>25 MR SEMENYA SC: The transcript of some of</p>

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1 the communication has a reference to bodies laying down,
 2 did you hear any of that?
 3 GENERAL MBOMBO: That I did not hear, Mr
 4 Chairperson.
 5 MR SEMENYA SC: You then say in your
 6 statement, JJJ5, against paragraph 20, that later in that
 7 afternoon you received a report from the JOC of the
 8 unfortunate shooting incident which was unfolding and where
 9 certain fatalities occurred. Who did you receive this
 10 report from?
 11 GENERAL MBOMBO: General Annandale came
 12 to me, Mr Chairperson, holding a telephone as though he was
 13 talking on the phone. He said to me he is talking to
 14 General Naidoo on the phone, that it was General Naidoo who
 15 was reporting to him that, that there was confrontation
 16 with the police on the koppie and that during this
 17 confrontation certain people got injured and that there are
 18 fatalities. He mentioned that there was a second koppie.
 19 When we enquired as to the number of people there he did
 20 not have those particulars, the complete particulars at the
 21 time.
 22 MR SEMENYA SC: You then informed the
 23 National Commissioner about that and gave a report to her?
 24 GENERAL MBOMBO: I immediately phoned the
 25 National Commissioner, Chairperson, and reported to her

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1 that this tragic incident had occurred, but said to her
 2 that you did not have complete figures as to how many
 3 people were injured and how many were deceased and how many
 4 people were arrested. I said to her that we would report
 5 to her as we get more information.
 6 MR SEMENYA SC: In paragraph 21 of JJJ5
 7 you tell us that Lieutenant-General Mawela arrived and you
 8 both with the chopper visited the scene to assess the
 9 extent of the incident there.
 10 GENERAL MBOMBO: Correct, Chairperson,
 11 yes. I was shocked, the talk of the second koppie I didn't
 12 know where it comes from. When Mawela arrived there
 13 because he was in a chopper I took the advantage of going
 14 to see. I wanted to see the koppie that was now being
 15 mentioned. Above that we wanted to see what, where this
 16 whole problem was.
 17 MR SEMENYA SC: You then get to koppie 3
 18 as we know it now?
 19 GENERAL MBOMBO: Correct, Chairperson.
 20 MR SEMENYA SC: There you meet with
 21 Brigadier Calitz?
 22 GENERAL MBOMBO: Correct, Chairperson.
 23 MR SEMENYA SC: He informs you and
 24 General Mawela that the Crime Scene experts have taken over
 25 the scene, that the strikers are arrested and those injured

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1 are being attended to.
 2 GENERAL MBOMBO: He said so, Mr
 3 Chairperson, yes, and we then said to him, let him make
 4 sure that the IPID that had been informed is notified in
 5 order to come and take over the scene. We also saw there
 6 that the people responsible for the scene were there and
 7 those that were assisting, those that who were injured were
 8 present. We then decided to leave, Mr Chairperson, before
 9 we got any contamination of the scene. There were senior
 10 officers present, they were in charge, it was General
 11 Calitz and on the other side General Naidoo. Brigadier
 12 Calitz, I'm sorry. It is Brigadier Calitz and General
 13 Naidoo.
 14 MR SEMENYA SC: It is later that evening
 15 that the National Commissioner and Lieutenant-General
 16 Masemola arrived there at the JOC and they –
 17 GENERAL MBOMBO: Correct, Chairperson –
 18 MR SEMENYA SC: - also got a briefing?
 19 GENERAL MBOMBO: That's correct.
 20 MR SEMENYA SC: Who in the JOC gave the
 21 National Commissioner this briefing?
 22 GENERAL MBOMBO: At the time of the
 23 arrival of the National Commissioner, Chairperson, that
 24 information was still being gathered. It was being
 25 collected through the use of telephones and radios. The

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1 person who was writing and listening to the radio was
 2 Brigadier Pretorius who was collecting this information,
 3 being assisted in gathering this information by General
 4 Annandale. We waited with General Naidoo and Calitz for
 5 the arrival of the IPID personnel before they could come
 6 back to come and give us information. We were helped to a
 7 great extent in that information by General Naidoo.
 8 Brigadier Calitz also arrived but quite late and also other
 9 commanders who were present there, Mr Chairperson, whose
 10 names I do not remember well now.
 11 MR SEMENYA SC: The Exhibit KKK4 is a
 12 transcript of telephone calls. It indicates you to have
 13 spoken to the National Commissioner as well.
 14 GENERAL MBOMBO: It is correct,
 15 Chairperson.
 16 MR SEMENYA SC: One of these occasions is
 17 around 14:27.
 18 GENERAL MBOMBO: Around 14:27?
 19 MR SEMENYA SC: 14:26, if you find that
 20 entry there?
 21 GENERAL MBOMBO: Okay, 14:36?
 22 MR SEMENYA SC: At 14:36?
 23 GENERAL MBOMBO: 14:27.
 24 MR SEMENYA SC: You will see it is a call
 25 which is made by General Phiyega at 14:26:59 to you, do you

<p style="text-align: right;">Page 21386</p> <p>1 see that one?</p> <p>2 GENERAL MBOMBO: 14:26:59? Okay, yes, I</p> <p>3 see it.</p> <p>4 MR SEMENYA SC: Do you remember what the</p> <p>5 conversation was between you and the National Commissioner</p> <p>6 there?</p> <p>7 GENERAL MBOMBO: I don't remember very</p> <p>8 clearly here but every time she phoned me, every time she</p> <p>9 phoned me was enquiring about what is the position now.</p> <p>10 MR SEMENYA SC: And the transcript –</p> <p>11 CHAIRPERSON: I'm sorry, have I missed</p> <p>12 something? According to this list the phone call of 14:26</p> <p>13 is from Brigadier Tsiloane to Captain Monyane of the NIU,</p> <p>14 is that right? That's the one that got the mark against</p> <p>15 it, cell phone call, Brigadier Tsiloane to Captain Monyane</p> <p>16 of the NIU, that's the one that's got the blue marker</p> <p>17 against it on the screen and that's recorded at 14:26. Now</p> <p>18 what call are we busy with?</p> <p>19 MR SEMENYA SC: Chair, Mr Budlender can</p> <p>20 help us understand this.</p> <p>21 CHAIRPERSON: Alright, even Mr Budlender</p> <p>22 can help us.</p> <p>23 MR BUDLENDER SC: Only partially, Chair.</p> <p>24 This is not the correct list, the KKK4 is supposed to be</p> <p>25 the list of all the calls in which General Mbombo was</p>	<p style="text-align: right;">Page 21388</p> <p>1 MR BUDLENDER SC: Just under nine</p> <p>2 minutes, Chair.</p> <p>3 CHAIRPERSON: Just indeed, thank you.</p> <p>4 MR SEMENYA SC: There is also an</p> <p>5 indication that you would have sent an SMS message to</p> <p>6 General Phiyega against the timeline there, 16:02:19. Do</p> <p>7 you see that?</p> <p>8 GENERAL MBOMBO: 16?</p> <p>9 MR SEMENYA SC: 16:02 –</p> <p>10 GENERAL MBOMBO: - 02:19, yes.</p> <p>11 MR SEMENYA SC: 19.</p> <p>12 GENERAL MBOMBO: I see, Chairperson.</p> <p>13 MR SEMENYA SC: Do you recall what you</p> <p>14 were saying to her there?</p> <p>15 GENERAL MBOMBO: I don't remember so</p> <p>16 well, Chairperson, but this was all about reporting.</p> <p>17 MR SEMENYA SC: So too is a telephone</p> <p>18 call against time 16:32:48. Do you see that?</p> <p>19 GENERAL MBOMBO: I see, Chairperson.</p> <p>20 MR SEMENYA SC: Another one 16:32:49.</p> <p>21 GENERAL MBOMBO: I think the one at</p> <p>22 16:32 –</p> <p>23 MR SEMENYA SC: It may very well be the</p> <p>24 same call, as I –</p> <p>25 GENERAL MBOMBO: Yes, that is the same</p>
<p style="text-align: right;">Page 21387</p> <p>1 involved, either making or receiving. This is a larger</p> <p>2 list which has everybody and not everybody, if you know</p> <p>3 what I mean? So I'm afraid this is not the right list, but</p> <p>4 the right list that was used was the one where Mr Semenya</p> <p>5 was asking questions before lunch which was General</p> <p>6 Mbombo's list, so I'm not sure where this comes from. This</p> <p>7 is all inclusive and doesn't seem to have everything in</p> <p>8 fact, but I think the commissioners may have the right one,</p> <p>9 I hope you have the right one on your hardcopy?</p> <p>10 MR SEMENYA SC: Decoded, Mr Budlender</p> <p>11 says it is not a SAPS mistake.</p> <p>12 CHAIRPERSON: It is not a classified</p> <p>13 document.</p> <p>14 MR SEMENYA SC: Okay, General, -</p> <p>15 [14:30] CHAIRPERSON: What we have here is a</p> <p>16 document that has already been provided; at 14:26:59</p> <p>17 there's what's described as an MOC, which is a mobile</p> <p>18 originating call made by General Phiyega to Lieutenant</p> <p>19 General Mbombo and there's a column that's got 530, I don't</p> <p>20 know what that means, but - that's the duration of the</p> <p>21 call, 530 seconds, or whatever.</p> <p>22 MR BUDLENDER SC: That's the duration in</p> <p>23 seconds, Chairperson.</p> <p>24 CHAIRPERSON: Yes, so if someone can do</p> <p>25 the arithmetic they can tell me how many minutes that was.</p>	<p style="text-align: right;">Page 21389</p> <p>1 call.</p> <p>2 MR SEMENYA SC: There is the one for</p> <p>3 16:34:44.</p> <p>4 GENERAL MBOMBO: I see that one,</p> <p>5 Chairperson.</p> <p>6 MR SEMENYA SC: Do you recall what you</p> <p>7 were saying to the National Commissioner and what she was</p> <p>8 saying to you?</p> <p>9 GENERAL MBOMBO: One of these calls, Mr</p> <p>10 Chairperson, this is where I was trying to say to her about</p> <p>11 the numbers that we kept on receiving from time to time,</p> <p>12 but before we were, we were still not certain, sure,</p> <p>13 because on the phone for the first time she enquired that I</p> <p>14 should keep on telling how many people were injured and how</p> <p>15 many are deceased.</p> <p>16 MR SEMENYA SC: Okay, as you continue you</p> <p>17 deal in paragraph 23 of GGG5 about the events at Roots, as</p> <p>18 it's commonly referred to.</p> <p>19 GENERAL MBOMBO: Correct, Chairperson.</p> <p>20 MR SEMENYA SC: How did that happen?</p> <p>21 GENERAL MBOMBO: On the 17th of August</p> <p>22 after this tragic incident the National Commissioner of the</p> <p>23 Police made an explanation to the whole world, using the</p> <p>24 media. After that explanation, Chairperson, we had</p> <p>25 discussions together wherein we were asked to explain to</p>

<p style="text-align: right;">Page 21390</p> <p>1 the Minister of Police and the Minister of Minerals, and 2 also to the Premier of the North West Province. We did the 3 explanation. After finishing with that explanation, 4 Chairperson, we were told that our EHW section were tasked 5 that all the police who were present, they should be, to 6 arrange a parade for them, and this was intended to conduct 7 a prayer service. The decision was then made, Mr 8 Chairperson, and the ministers would have been part of that 9 prayer meeting. We went to this parade. 10 During this prayer meeting the National 11 Commissioner of Police was given a chance to talk to the 12 police to encourage the members of the police to attend to 13 these programmes conducted by the EHW social workers, and 14 so on, including the Minister of the Police also spoke to 15 them, encouraging them even about the training. 16 We were then called later, told that the 17 President of the country has arrived, wanted an 18 explanation. We went and made an explanation to the 19 President of the country, Mr Chairperson. Finishing the 20 explanation to the President, he wanted to talk to the 21 press, the media people. In his address, Mr Chairperson, 22 the President explained during his speech that as a result 23 of this happening over there he was going to appoint a 24 commission, a commission that would investigate, which will 25 conduct an investigation about this happening.</p>	<p style="text-align: right;">Page 21392</p> <p>1 progressed. On that day they started making a presentation 2 to me, which was not complete. We had technical 3 difficulties. We then again reminded each other that it 4 was important that we give as much facts and information as 5 possible. This was after we had got services of people 6 that were going to assist us, such as lawyers. 7 My last day of being there, Mr Chairperson, I was 8 with the Commissioner, the National Commissioner of the 9 police. She had also come to ascertain what progress has 10 been made. 11 MR SEMENYA SC: Normally after an event 12 like this there would be, as the Standing Order 262 tell 13 us, a debriefing, correct? 14 GENERAL MBOMBO: That's correct, Chair. 15 MR SEMENYA SC: The evidence is that no 16 such debriefing happened. Are you able to explain why that 17 is the case? 18 GENERAL MBOMBO: That's correct, we did 19 not do it. 20 MR MAHLANGU: I'm going to ask the 21 General to please explain again. 22 GENERAL MBOMBO: We did not do the 23 debriefing because of the reason that, because on that day, 24 on the 17th, that night, on that day General Mpenbe was to 25 have a meeting with all the commanders. They were meeting</p>
<p style="text-align: right;">Page 21391</p> <p>1 It was after that, that the Commissioner, the 2 National Commissioner of Police, she said to me as there is 3 going to be a commission of inquiry as mentioned by the 4 President of the country, she said to me it would then be 5 necessary that we start gathering sufficient information 6 which would be of help in giving an explanation to that 7 commission to be appointed. I took that advice, 8 Chairperson, and there and then I handed over to General 9 Naidoo. I gave unto General Naidoo the order to write a 10 letter inviting all the members of the police that were 11 part of the operation. I said this should be done at a 12 place that would be sufficient to accommodate all. It was 13 how, this was as a result of him finding a place at 14 Potchefstroom. 15 MR SEMENYA SC: Were you at Roots 16 throughout its sittings? 17 GENERAL MBOMBO: Not, no, Chairperson. I 18 went there on the first day. I welcomed the members of the 19 police there. I explained to them the purpose of this 20 meeting. I also encouraged them, Mr Chairperson, to fully 21 give out information – facts, to give out the facts as full 22 as possible. 23 Again after, thereafter I went again, if I'm not 24 making a mistake, I'm not very certain, I think it was the 25 third day. I wanted to find out how far they had</p>	<p style="text-align: right;">Page 21393</p> <p>1 in order to arrange a plan as to when they meet for the 2 debriefing. After it was mentioned that the commission has 3 been appointed General Mpenbe came to me. He said to me 4 now that there's going to be a commission do we still have 5 to proceed with the debriefing. My response to him was - I 6 was in the presence of Naidoo and Annandale – I said to him 7 the commission that has been appointed would be the 8 commission to investigate fully, in fact I said, Mr 9 Chairperson, the commission is going to be able to make an 10 objective analysis of what has happened. 11 MR SEMENYA SC: Paragraph 24 of GGG5, at 12 Roots you do advise that the videos, pictures, documents 13 and other graphic material available should be put together 14 in order to prepare a version of the SAPS. Is that right? 15 GENERAL MBOMBO: Correct, Chairperson. 16 MR SEMENYA SC: You have compiled, as you 17 earlier testified, the amplified affidavit, which is LLL1. 18 I will not deal with the curriculum vitae, your CV. It is 19 well documented there. From paragraph 8 of that affidavit 20 you deal with your operational experience - that is well 21 documented, I don't think we need to address it - and your 22 various postings and your various positions you have held. 23 You explain all of those up to paragraph 19 of that 24 statement. Is that correct, General? 25 GENERAL MBOMBO: Correct, Chairperson,</p>

<p style="text-align: right;">Page 21394</p> <p>1 yes.</p> <p>2 MR SEMENYA SC: You also deal from</p> <p>3 paragraph 20 with your involvement in Marikana and your</p> <p>4 evidence up to this point has been what you did, and you</p> <p>5 have testified about this as well.</p> <p>6 GENERAL MBOMBO: Correct, Chairperson.</p> <p>7 MR SEMENYA SC: You continue dealing with</p> <p>8 that up until you deal now with the concerns that have been</p> <p>9 raised by the evidence leaders for you to address. Is that</p> <p>10 right?</p> <p>11 GENERAL MBOMBO: Correct, Chairperson.</p> <p>12 MR SEMENYA SC: In paragraph 50, as you</p> <p>13 were testifying, you dealt with the issue of Warrant</p> <p>14 Officer Myburgh, remember?</p> <p>15 GENERAL MBOMBO: Is it 5-0?</p> <p>16 MR SEMENYA SC: Five zero.</p> <p>17 GENERAL MBOMBO: Correct, Chairperson.</p> <p>18 MR SEMENYA SC: There you tell us that</p> <p>19 General Naidoo brought Warrant Officer Myburgh to you and</p> <p>20 to the National Commissioner. Is that right?</p> <p>21 GENERAL MBOMBO: That's correct, Sir.</p> <p>22 MR SEMENYA SC: The report Warrant</p> <p>23 Officer Myburgh makes to you was that as he walked in to</p> <p>24 koppie 3 and past an injured striker who sat leaning</p> <p>25 against a rock, and that after he had passed the injured</p>	<p style="text-align: right;">Page 21396</p> <p>1 became October.</p> <p>2 MR SEMENYA SC: The National Commissioner</p> <p>3 and yourself decided that a written statement be obtained</p> <p>4 from Warrant Officer Myburgh. Correct?</p> <p>5 GENERAL MBOMBO: That's correct,</p> <p>6 Chairperson.</p> <p>7 MR SEMENYA SC: That it be given to IPID.</p> <p>8 GENERAL MBOMBO: Correct, Sir.</p> <p>9 MR SEMENYA SC: And you got Major General</p> <p>10 Soomani to take that statement from Warrant Officer</p> <p>11 Myburgh.</p> <p>12 GENERAL MBOMBO: Correct, Sir.</p> <p>13 MR SEMENYA SC: After it was completed it</p> <p>14 was then handed over to IPID.</p> <p>15 GENERAL MBOMBO: Correct, Sir.</p> <p>16 MR SEMENYA SC: And you bear no knowledge</p> <p>17 of what has become of that matter.</p> <p>18 GENERAL MBOMBO: At the moment I do not</p> <p>19 know.</p> <p>20 MR SEMENYA SC: In paragraph 57 of LLL1</p> <p>21 you discuss the question of the cordon and search there.</p> <p>22 GENERAL MBOMBO: That is correct, Mr</p> <p>23 Chair.</p> <p>24 MR SEMENYA SC: You say you authorised</p> <p>25 the cordon and search of 15 to 16 August before you left</p>
<p style="text-align: right;">Page 21395</p> <p>1 striker he heard a gunshot behind him and when he turned to</p> <p>2 look he saw an NIU member put his firearm in the holster</p> <p>3 and he asked the member what he was doing and the member</p> <p>4 gave a response to the effect that, and I quote, "These</p> <p>5 people deserve to die." Do you remember that report?</p> <p>6 [14:50] GENERAL MBOMBO: That's how he reported</p> <p>7 to us, Mr Chairperson.</p> <p>8 MR SEMENYA SC: You tell us that the</p> <p>9 information was immensely distressing to both you and the</p> <p>10 National Commissioner.</p> <p>11 GENERAL MBOMBO: Very much, Mr</p> <p>12 Chairperson.</p> <p>13 MR SEMENYA SC: Asked Warrant Officer</p> <p>14 Myburgh whether he knows the name of the NIU member,</p> <p>15 whether he is able to identify that member, whether he</p> <p>16 reported this matter to anyone of the commanders on the</p> <p>17 day, whether he recorded the information in his pocketbook,</p> <p>18 whether he reported that matter to the JOC, and you say to</p> <p>19 most of these questions the answer was in the negative.</p> <p>20 The only information which was relatively helpful was that</p> <p>21 in September he had reported the matter to "a white man</p> <p>22 working at the air wing." Do you see that?</p> <p>23 GENERAL MBOMBO: It is so, Mr</p> <p>24 Chairperson, but that September, the September I mention</p> <p>25 here was towards the end of September, just before it</p>	<p style="text-align: right;">Page 21397</p> <p>1 for the National Management Forum meeting.</p> <p>2 GENERAL MBOMBO: That is so, Mr Chair.</p> <p>3 MR SEMENYA SC: And it was when it was</p> <p>4 contemplated that the strikers would be dispersed and</p> <p>5 disarmed on the 15th.</p> <p>6 GENERAL MBOMBO: That is correct, Mr</p> <p>7 Chairperson.</p> <p>8 MR SEMENYA SC: When that didn't happen</p> <p>9 you gave authorisation for the cordon and search for 16 and</p> <p>10 17th. Is that right?</p> <p>11 GENERAL MBOMBO: That is correct.</p> <p>12 MR SEMENYA SC: In anticipation of a</p> <p>13 follow-up operation to what would have happened on the 16th.</p> <p>14 GENERAL MBOMBO: That is so.</p> <p>15 MR SEMENYA SC: The view being to recover</p> <p>16 weapons that the police may not have recovered during the</p> <p>17 surrender of weapons or the dispersal and disarmament</p> <p>18 operation. Is that correct?</p> <p>19 GENERAL MBOMBO: Yes, Sir.</p> <p>20 MR SEMENYA SC: In paragraph 63 of the</p> <p>21 statement you address, you say you're aware that one of the</p> <p>22 deceased person's –</p> <p>23 GENERAL MBOMBO: 63?</p> <p>24 MR SEMENYA SC: - cause of death was –</p> <p>25 GENERAL MBOMBO: Sorry, Chairperson, in</p>

<p style="text-align: right;">Page 21398</p> <p>1 paragraph what?</p> <p>2 MR SEMENYA SC: 6-3. The real last</p> <p>3 paragraph of LLL1.</p> <p>4 GENERAL MBOMBO: Oh, okay, I've got it.</p> <p>5 MR SEMENYA SC: You refer to the</p> <p>6 individual whose cause of death was the pellet wounds,</p> <p>7 correct?</p> <p>8 GENERAL MBOMBO: Yes, that's what I was</p> <p>9 told.</p> <p>10 MR SEMENYA SC: And you say there that</p> <p>11 you can state in clear terms that no birdshot ammunition is</p> <p>12 issued to members of the service in your province.</p> <p>13 GENERAL MBOMBO: That is what I said, Mr</p> <p>14 Chair.</p> <p>15 MR SEMENYA SC: Are there still these</p> <p>16 type of birdshot ammunition in the province as far as the</p> <p>17 SAPS is concerned?</p> <p>18 GENERAL MBOMBO: They are still there, Mr</p> <p>19 Chair because from the year 2006 when they were</p> <p>20 discontinued from use in the operations they were taken</p> <p>21 away from all the places where they had been stored or kept</p> <p>22 even in the stations. They were then stored in two</p> <p>23 different places, at the Potchefstroom Public Order</p> <p>24 offices, and Rustenburg in their safes. In terms of</p> <p>25 instructions that were given at the time, Chairperson, the</p>	<p style="text-align: right;">Page 21400</p> <p>1 that you have in your folder as LLL3 and wherever I refer</p> <p>2 in the transcript to KKK4, that should be understood and</p> <p>3 read to be LLL3.</p> <p>4 CHAIRPERSON: You're in a sense applying</p> <p>5 for amendment of the record. Amendment granted. We need a</p> <p>6 LLL3, don't we? So we've got to be clear what it is and so</p> <p>7 on. Anyway, that's a housekeeping matter; you can attend</p> <p>8 to it tomorrow, unless something turns on it between now</p> <p>9 and the time we adjourn.</p> <p>10 MR SEMENYA SC: General, I invite you to</p> <p>11 look at item 11, which is exhibit HHH68. This is now the</p> <p>12 letter written to you dated 12 December 2012, clearly after</p> <p>13 the events of Marikana. Do you have that document?</p> <p>14 GENERAL MBOMBO: That's correct, Mr</p> <p>15 Chairperson.</p> <p>16 MR SEMENYA SC: I wish to point your</p> <p>17 attention to paragraph 11. This is a letter written to you</p> <p>18 by Lieutenant Colonel Vermaak. Is that right?</p> <p>19 GENERAL MBOMBO: Correct, Chair.</p> <p>20 MR SEMENYA SC: In it he raises several</p> <p>21 issues, which I would invite your comment on. He says,</p> <p>22 "During the unrest at Lonmin, Amplats and Impala, the</p> <p>23 following shortcomings were identified. 11.1, members</p> <p>24 don't have commanders with experience in charge at unrest</p> <p>25 scenes." Do you know particularly what unrest scenes he's</p>
<p style="text-align: right;">Page 21399</p> <p>1 use of this was totally discontinued in any operation.</p> <p>2 They were only to be used when the police went for</p> <p>3 training. There was a way in which they were managed. It</p> <p>4 was also clear that when the police were going to do their</p> <p>5 job, how they get their firearms and the ammunition.</p> <p>6 MR SEMENYA SC: Chair, would this be a</p> <p>7 convenient stage for –</p> <p>8 CHAIRPERSON: Yes, I think it would.</p> <p>9 We'll take the tea adjournment now.</p> <p>10 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>11 [15:18] CHAIRPERSON: The Commission resumes.</p> <p>12 Provincial Commissioner, you're still under oath.</p> <p>13 MIRRIAM NOSAZISO ZUKISWA MBOMBO: s.u.o.</p> <p>14 CHAIRPERSON: Mr Semenya.</p> <p>15 EXAMINATION BY MR SEMENYA SC (CONTD.):</p> <p>16 Thank you, Chair. Chair, for the record, it appears that</p> <p>17 the exhibit KKK4 and the one we have are not the same and</p> <p>18 that it might –</p> <p>19 CHAIRPERSON: That has become apparent</p> <p>20 for some time, hasn't it?</p> <p>21 MR SEMENYA SC: Yes.</p> <p>22 CHAIRPERSON: Have you got it sorted out</p> <p>23 in some way?</p> <p>24 MR SEMENYA SC: Yes, we are proposing</p> <p>25 that we have, the one that we were referring to, the one</p>	<p style="text-align: right;">Page 21401</p> <p>1 referring to there?</p> <p>2 GENERAL MBOMBO: I am not sure, Mr</p> <p>3 Chairperson.</p> <p>4 MR SEMENYA SC: Is the broad statement</p> <p>5 accurate though that members don't have commanders with</p> <p>6 experience?</p> <p>7 GENERAL MBOMBO: According to me, Mr</p> <p>8 Chairperson, I don't really agree with that statement.</p> <p>9 CHAIRPERSON: As it appears from the</p> <p>10 opening section of para 11 the statement refers to Lonmin,</p> <p>11 Amplats and Impala. Now it may be that 11.1 doesn't refer</p> <p>12 to all three, but only refers to one or two. But I</p> <p>13 understand in view of the lack of clarity it will be</p> <p>14 difficult for the witness to deal with it, but she has</p> <p>15 expressed a general view that she doesn't agree.</p> <p>16 Presumably when Lieutenant Colonel Vermaak comes he can be</p> <p>17 asked for further detail, but for the moment the Provincial</p> <p>18 Commissioner has done the best she can; she says she</p> <p>19 doesn't agree.</p> <p>20 MR SEMENYA SC: In 11.2 says Colonel</p> <p>21 Vermaak, "Commanders don't know or have the legislation</p> <p>22 under what they can act." Do you know what he's talking</p> <p>23 about there?</p> <p>24 GENERAL MBOMBO: I am not sure of what</p> <p>25 he's talking about, Chairperson. According to my knowledge</p>

<p style="text-align: right;">Page 21402</p> <p>1 our commanders, they know their legislation and the laws 2 under which they have to operate. 3 MR SEMENYA SC: He says under paragraph 4 11.3, "Members allow illegal actions at certain areas and 5 the next day they take steps against for example illegal 6 strikes or marches. These actions confuse the public and 7 they neglect their responsibility to protect and serve." 8 Do you know what he's referring to there? 9 GENERAL MBOMBO: Even here, Mr 10 Chairperson, I'm not sure. 11 MR SEMENYA SC: He says there, "Senior 12 officers," under paragraph 11.4, "do plannings without any 13 experience in serious incidents and this cause that the 14 SAPS must afterwards explain their actions." Do you know 15 what he's referring to there? 16 GENERAL MBOMBO: I'm not sure as to whom 17 this is directed, but what I know is the people in the 18 police that are charged with, were experienced in crowd 19 management, know how to plan for that kind of an operation. 20 MR SEMENYA SC: He continues to say, 21 "Marikana and Lonmin is a very good example where senior 22 management was warned before specific actions was taken, 23 but they did not give any attention to the advice." Do you 24 know which senior management he's referring to? 25 GENERAL MBOMBO: I have no idea of this,</p>	<p style="text-align: right;">Page 21404</p> <p>1 between book knowledge and experience on the ground." Do 2 you know what he's talking about there? 3 GENERAL MBOMBO: Chairperson, I have no 4 idea. I have no knowledge that people are trained in our 5 institution and are not properly trained. Possibly what 6 he's saying towards the end of this sentence where he says 7 theoretical knowledge differs from practical experience. 8 MR SEMENYA SC: In 11.7 says he, "In the 9 past video cameras was part of the issued equipment to 10 trained members and every single action and negotiations 11 were recorded for evidence purposes later when needed. POP 12 don't have this capacity anymore. Some of the video 13 footage that was taken during Marikana Lonmin incidents did 14 not have any value. What's your comment there? 15 GENERAL MBOMBO: When he says this I do 16 not really understand what he means, because in all our 17 public order units we have people that are specifically 18 trained to make video footage. 19 MR SEMENYA SC: 11.8, says he, "I never 20 saw any commander anymore with a voice recorder when he 21 negotiates with leaders, for reference purposes 22 afterwards." Now it is correct that the – what's your 23 comment? 24 GENERAL MBOMBO: I don't know if what he 25 wants to convey there is that commanders should have voice</p>
<p style="text-align: right;">Page 21403</p> <p>1 Mr Chairperson. 2 MR SEMENYA SC: What specific actions 3 were taken, what he's referring to there? Do you know? 4 GENERAL MBOMBO: I do not exactly know 5 what he means by these actions. 6 MR SEMENYA SC: And that no advice, no 7 attention was given to the advice. You see that? 8 GENERAL MBOMBO: I see it, Chairperson. 9 MR SEMENYA SC: Do you know what he means 10 by that? 11 GENERAL MBOMBO: I don't know what he 12 means by this. 13 MR SEMENYA SC: Then he says that, "This 14 type of ignorance put the National and Provincial 15 Commissioners in a very difficult situation." He continues 16 against 11.5 to say, "Officers and members do plannings 17 without any knowledge of the Gatherings Act or Standing 18 Order 262." Is that accurate? 19 GENERAL MBOMBO: It cannot be accurate, 20 Chairperson, particularly where we speak of people that are 21 trained in public order. 22 MR SEMENYA SC: He then says in 11.6, 23 "Members are not properly trained at training institutions. 24 Some of the instructors were never exposed to any of the 25 incidents which he must lecture. There is a big difference</p>	<p style="text-align: right;">Page 21405</p> <p>1 recorders when negotiating. But what I know, Mr 2 Chairperson, is that when there's negotiation taking place 3 there's usually footage there. That's why I have a 4 difficulty in understanding what he wants to convey. 5 MR SEMENYA SC: He continues to say, 6 "During all this unrest since February 2012 there was not 7 one member of POP that took still photos from the crowds or 8 leaders that it could assist the investigating officer to 9 identify them afterwards." What's your response? 10 GENERAL MBOMBO: I see what you read, 11 Chairperson, but if this is really happening as he says it 12 should be a weakness such as that, but in terms of the way 13 we work, the laws that regulate these people, this 14 instrument should be there. 15 MR SEMENYA SC: He says, "In the past 16 every POP unit had a still camera for this purpose. At 17 this stage we at the Air Wing took all the photos during 18 incidents and have a database at the unit, and also with 19 myself to assist where possible." Any comment? 20 GENERAL MBOMBO: He's telling the truth 21 there, Chairperson. As far as I know we have cameras with 22 all the units and as far as I know there are people who are 23 capable of using these instruments, and as far as I know 24 those photos that are taken are kept, and the footage. 25 MR SEMENYA SC: Then he says, "The LCRC</p>

<p style="text-align: right;">Page 21406</p> <p>1 is not always available to assist with a photographer at 2 all the protests, strikes and marches, and therefore the 3 POP must have capacity to fulfil this role.” 4 GENERAL MBOMBO: It's true that, Mr 5 Chairperson. The LCRC has defined jobs they perform and 6 that is the reason why we endeavour to train the public 7 order people to be able to do this job correctly. 8 MR SEMENYA SC: Against 11.8 he says, 9 “Members with code EC10” - what does that mean? 10 GENERAL MBOMBO: This refers to a drivers 11 licence, a code 10. 12 MR SEMENYA SC: - “were given the Nyalas’ 13 keys during this period and never had any training to 14 operate a Nyala vehicle and that caused a lot of 15 expenditures that was not budgeted for.” 16 GENERAL MBOMBO: I'm not sure of this 17 accusation that he's making here. I am thinking, Sir, if 18 it was true, that has been attended to. 19 MR SEMENYA SC: That has been attended 20 to? Sorry, I don't follow. 21 GENERAL MBOMBO: I'm saying, Mr 22 Chairperson, I am not sure of what he's saying about this 23 accusation here, but if this is true, then it has been 24 corrected, because what he says here is “were given.” 25 MR SEMENYA SC: Sorry, there was a lapse</p>	<p style="text-align: right;">Page 21408</p> <p>1 receive this document? 2 GENERAL MBOMBO: I did, Mr Chairperson. 3 MR SEMENYA SC: And? 4 GENERAL MBOMBO: I gave it to General 5 Mpenbe and asked him to please help, take it, and to deal 6 with this in their meetings with Brigadier Calitz, to talk 7 about this, discuss about this, and if there's any truth in 8 these accusations and see a way of correcting this in order 9 to proceed forward. The response to that was affirmative. 10 MR SEMENYA SC: Can I invite you now to 11 talk us through – 12 CHAIRPERSON: Are you finished with 13 paragraph 11? You say you sent it off to Major General 14 Mpenbe to discuss with Brigadier Calitz. Did you get any 15 report back? Did you enquire as to what the result was, 16 whether there was any substance in any of these allegations 17 and what some of the general unparticularised allegations 18 in fact amounted to? 19 GENERAL MBOMBO: The one that we are busy 20 talking about now, Mr Chairperson, I spoke to General 21 Mpenbe and enquired how far they had progressed with this. 22 He said to me this has been discussed and they even 23 enquired from head office as to how, what is the progress 24 in connection thereto. According to him there was even a 25 meeting held which specifically discussed this letter. My</p>
<p style="text-align: right;">Page 21407</p> <p>1 in translation there. You're saying if the accusation is 2 accurate, what happened? 3 MR MAHLANGU: Yes, I'm sorry, Sir. She 4 said if? 5 GENERAL MBOMBO: I'm saying if the 6 accusation that he's making here is true, that it did 7 happen as he says, that must have been corrected, some work 8 had been done on there to correct it. 9 MR SEMENYA SC: Against 11.9 says he, 10 “The availability of information before incidents does not 11 exist anymore.” Do you know what he's talking about there? 12 “In the past [says he] there was an information office at 13 each unit and they managed their own informers. Some of 14 them were attending courses to handle informers. These 15 members also claim for reward for their informers. They 16 were in possession of all the relevant registers as 17 prescribed by the Standing Order Finance when I was 18 transferred to the Air Wing, North West.” Your comments? 19 GENERAL MBOMBO: Mr Chairperson, it's 20 still the position at present. Our units, the three public 21 order units, they have their own information officers who 22 are supposed to do the job that he makes mention of there. 23 MR SEMENYA SC: Then he offers some 24 advice against paragraph 12, and we will deal with that 25 when we have the evidence of Colonel Vermaak. Did you</p>	<p style="text-align: right;">Page 21409</p> <p>1 response thereto, Mr Chairperson, was let us then reply, 2 respond to Colonel Vermaak. He said to me there was still 3 going to be a conference because the things that were 4 raised in this letter by Colonel Vermaak still have to be 5 raised, he want it in that conference. Unfortunately, Mr 6 Chairperson, up to now it has not been held. There is one 7 starting today. 8 [15:37] CHAIRPERSON: It's a letter written in 9 December 2012, dealing with what the commander of the Air 10 Wing North West regarded as serious deficiencies in the way 11 certain serious public unrest incidents had been handled 12 and we're now in January 2014 and we're not very far down 13 the track at all in investigating whether these points he 14 points are correct or incorrect. Is that a satisfactory 15 position? 16 GENERAL MBOMBO: Chairperson, this was 17 discussed in their meeting, as public order meeting. What 18 I was requesting, what I was asking from him was that it 19 should not only end up with the commanders. That is why he 20 said they would then hold a conference to invite all the 21 members of the police that do this job, because what came 22 out during their discussions, Mr Chairperson, was that this 23 thing should not happen. It's not that they are not 24 supposed to happen, but this is from time to time, and 25 these are individuals involved.</p>

<p style="text-align: right;">Page 21410</p> <p>1 Pertaining to the cameras, as he raises in his 2 letter, we speedily contacted head office and cameras were 3 purchased and the training of a number of police in the 4 taking of photographs, we contacted head office and the 5 police were indeed trained. But I regarded this letter as 6 being important, Mr Chairperson, that it should reach all 7 the police involved in performing these duties. As I say, 8 Mr Chairperson, this sometimes happened with particular 9 people and were not supposed to happen.</p> <p>10 MR SEMENYA SC: Can I point you, General, 11 to your item 6; in the index there you'll see it is 12 reference the statement of – 16, rather, statement of 13 Lieutenant Colonel Merafe, which is exhibit GGG15. Can I 14 invite you to look at paragraph 8 of that statement?</p> <p>15 GENERAL MBOMBO: I see it, Chairperson.</p> <p>16 MR SEMENYA SC: It reads, "Due to the 17 extent of some of these incidents and to ensure that it's 18 being addressed effectively and sufficiently, provincial 19 and national management had to intervene and provide 20 additional resources from within and from other provinces. 21 In addition to the above, several meetings were also held 22 in order to address amongst other the following challenges. 23 9.1, insufficient personnel; 9.2, use of force during 24 uprising; 9.3, training." Do you see that?</p> <p>25 GENERAL MBOMBO: I see it, Chairperson.</p>	<p style="text-align: right;">Page 21412</p> <p>1 there being no intermediary – 2 CHAIRPERSON: I take it you mean 3 intermediate. 4 MR SEMENYA SC: - intermediate measures 5 between the rubber bullet and sharp-point ammunition? 6 GENERAL MBOMBO: Correct, Chairperson. 7 That is why I'm saying it is a matter that's still in the 8 hands of the national office with necessary investigations 9 to find something that would be between the rubber and 10 sharp ammunition.</p> <p>11 MR SEMENYA SC: Can I invite you now that 12 we deal with JJJ178, which is the statement of Mr White. 13 GENERAL MBOMBO: What is the number 14 again? 15 CHAIRPERSON: It's 20 in the, 6 and 20 in 16 the file and it's exhibit JJJ178. 17 GENERAL MBOMBO: Thanks, Chairperson. 18 MR SEMENYA SC: And in particular can we 19 have a look at paragraph 4.2.7 that you'll find on page 29 20 of that document? 21 GENERAL MBOMBO: I see it, Chairperson. 22 MR SEMENYA SC: In the paragraph before 23 Mr White is of the view that perhaps failure to hold the 24 debriefing session may be understandable in the light of 25 IPID investigating, which is an independent unit, but then</p>
<p style="text-align: right;">Page 21411</p> <p>1 MR SEMENYA SC: What's your comment to 2 that which Colonel Merafe is saying there? 3 GENERAL MBOMBO: He's telling the truth, 4 Mr Chairperson. In the meetings that they had as members 5 of the POP they raised these issues. But the truth that 6 has to be told, Chairperson, I want to say as a province, 7 or as members of the police nationally we cannot say that 8 we have reached sufficient numbers of police that are 9 required. We're trying our level best but because of 10 circumstances involving finances and other laws of the 11 government we cannot reach a point where we'll say we now 12 have sufficient members in the police.</p> <p>13 Pertaining to training, Chairperson, as far as I 14 know there is investigations that are being conducted and 15 certain discussions to try and meet these people in the 16 training. But as it is now, all the units know that every 17 week, week to week if the chance is there they go to this 18 local training.</p> <p>19 Pertaining to 9.2, Mr Chairperson, it's a problem 20 that needs to be raised by, it's a problem that needs to be 21 addressed by the national office of the SAPS, because as it 22 is now, the policies guiding us do not allow any use of 23 force except where it comes to a point where you have got 24 no alternative.</p> <p>25 MR SEMENYA SC: Is that reference to</p>	<p style="text-align: right;">Page 21413</p> <p>1 goes to say in paragraph 4.2.7, "However, although no full 2 debriefing was held, the SAPS did convene a nine-day 3 meeting at Potch which did not seek to identify errors or 4 lessons learnt, but was aimed merely at recollecting events 5 and producing the presentation which is now exhibit L by 6 holding a meeting [he says] which did not seek to identify 7 errors or lessons learnt, but simply sought to prepare the 8 police case for the Commission. The SAPS left themselves 9 open to allegations of possible collusion. That is all the 10 more so given that it appears that most of the SAPS 11 statements to the Commission by the senior leadership of 12 the operation post-date the commencement of the 13 Potchefstroom event." Do you see that? 14 GENERAL MBOMBO: I see it, Chairperson. 15 MR SEMENYA SC: What do you say about 16 that criticism? Firstly, would there have been any 17 collusion occurring in Potchefstroom? 18 GENERAL MBOMBO: I don't understand it 19 that way, Mr Chairperson, and I did not find any report 20 that there was something like that. My endeavours and that 21 of the National Commissioner of Police was that we should 22 be able to come to this Commission and speak the truth. 23 Now I do not understand at which part this collusion would 24 be. 25 MR SEMENYA SC: No, are you aware of any</p>

<p style="text-align: right;">Page 21414</p> <p>1 collusion that happened in –</p> <p>2 GENERAL MBOMBO: I am not.</p> <p>3 CHAIRPERSON: I don't know that Mr White</p> <p>4 is saying there was collusion.</p> <p>5 MR SEMENYA SC: No, no, no, Chair, I –</p> <p>6 CHAIRPERSON: The point that he's making</p> <p>7 simply is that because there was this conference at</p> <p>8 Potchefstroom and many of the statements were produced</p> <p>9 thereafter, this leaves the police open to allegations of</p> <p>10 possible collusion. And that must be right. Whether the</p> <p>11 allegations are correct or well-founded is another matter,</p> <p>12 but the point he's making is that by adopting the procedure</p> <p>13 you did, having this full-scale lengthy conference where</p> <p>14 various matters were gone over in great detail, and</p> <p>15 statements, definitive statements only being prepared</p> <p>16 thereafter, that the police left themselves open, as he</p> <p>17 puts it, to an allegation that there was collusion. That</p> <p>18 must be right. As I say, whether the allegation is correct</p> <p>19 or not is another matter, but what he's suggesting, I</p> <p>20 think, is it was unwise of the police to do that because</p> <p>21 they left themselves open to this allegation and that's</p> <p>22 what you've got to comment on, not whether there was in</p> <p>23 fact collusion. That's another matter.</p> <p>24 GENERAL MBOMBO: Chairperson, according</p> <p>25 to me I do not know whether it's true that there could have</p>	<p style="text-align: right;">Page 21416</p> <p>1 was – were you responsible for the involvement of Colonel</p> <p>2 Scott at Roots?</p> <p>3 GENERAL MBOMBO: No, it's not so,</p> <p>4 Chairperson.</p> <p>5 MR SEMENYA SC: Were you involved in the</p> <p>6 decision to choose the role Colonel Scott was playing at</p> <p>7 Roots?</p> <p>8 GENERAL MBOMBO: No, not true,</p> <p>9 Chairperson.</p> <p>10 MR SEMENYA SC: Can we now go to 4.2.18,</p> <p>11 which you'll find at page 35 of that document. There Mr</p> <p>12 White says, "Fourthly, the evidence of the senior officers</p> <p>13 who were involved in the operations of 9 to 16 August</p> <p>14 reveals a distinct unwillingness to engage with the tragic</p> <p>15 consequences of the police action and a failure to</p> <p>16 acknowledge errors or accept responsibility for the deaths</p> <p>17 which occurred. Notably the initial statements," and then</p> <p>18 mentions amongst others your statement, "barely contain a</p> <p>19 reference to the fact that the police had fired live</p> <p>20 ammunition during the operation, killing 34 people."</p> <p>21 What's your response there?</p> <p>22 GENERAL MBOMBO: Chairperson, I don't</p> <p>23 really understand what he means by saying – I will make an</p> <p>24 example with my own statement. How would I be expected to</p> <p>25 make mention of this which happened where I was not</p>
<p style="text-align: right;">Page 21415</p> <p>1 been any collusion, but as he says it is possible that we</p> <p>2 get such criticism.</p> <p>3 MR SEMENYA SC: I'm asking a different</p> <p>4 question, General. Where such may open the SAPS to</p> <p>5 possible collusion occurring, as a matter of fact are you</p> <p>6 conscious or aware of any collusion that happened there?</p> <p>7 I'm asking a separate question.</p> <p>8 GENERAL MBOMBO: Not at all, Mr</p> <p>9 Chairperson. I have no such idea.</p> <p>10 MR SEMENYA SC: Can we now go to</p> <p>11 paragraph 4.2.8.</p> <p>12 CHAIRPERSON: Page?</p> <p>13 MR SEMENYA SC: The same page, 29.</p> <p>14 CHAIRPERSON: Same page.</p> <p>15 MR SEMENYA SC: There Mr White says,</p> <p>16 "Lieutenant Colonel Scott was one of two people tasked at</p> <p>17 Potchefstroom with preparing the police presentation to the</p> <p>18 Commission. If the purpose of the Potchefstroom meeting</p> <p>19 was to prepare an objective analysis of the Marikana</p> <p>20 operation for the Commission, then Lieutenant Colonel Scott</p> <p>21 was an inappropriate choice to produce the presentation</p> <p>22 given there, given that he was the key SAPS member</p> <p>23 responsible for planning the operation on 16 August. It is</p> <p>24 unsurprising that Lieutenant Colonel Scott would cast the</p> <p>25 plan in a positive light." The criticism there is that it</p>	<p style="text-align: right;">Page 21417</p> <p>1 present?</p> <p>2 MR SEMENYA SC: He continues to say,</p> <p>3 "While it is true that some of these officers claim not to</p> <p>4 have been aware of the shootings at the time they occurred,</p> <p>5 it's surprising that they did not give detailed evidence of</p> <p>6 how they learned of the shootings and deaths, why they were</p> <p>7 told of the circumstances of a death and by whom, and what</p> <p>8 steps they had taken to investigate or enquire about the</p> <p>9 cause of death." What's your reaction to that?</p> <p>10 GENERAL MBOMBO: Possibly there would be</p> <p>11 some truth that in my statement I was to mention that</p> <p>12 General Naidoo, what it was that he reported to General</p> <p>13 Annandale, but I was to get it from General Annandale and</p> <p>14 to include it in my statement according to the details</p> <p>15 given to me by Annandale.</p> <p>16 MR SEMENYA SC: Can I invite you now to</p> <p>17 look at paragraph 7.3.3 –</p> <p>18 CHAIRPERSON: Before you move on from</p> <p>19 that paragraph, the last sentence of paragraph 4.2.18 reads</p> <p>20 as follows, "From the initial statements" – and that</p> <p>21 includes yours – "one is left with the unfortunate and</p> <p>22 presumably incorrect impression that the senior leadership</p> <p>23 does not believe that the operation went wrong at all."</p> <p>24 Well, is the impression that the senior leadership, which</p> <p>25 includes you, does not believe the operation went wrong at</p>

<p style="text-align: right;">Page 21418</p> <p>1 all a correct impression or incorrect? 2 GENERAL MBOMBO: Where is that, Mr 3 Chairperson? 4 CHAIRPERSON: The last sentence of 5 paragraph 4.2.18 which you'll find on page 36, about a 6 third of the way down the page. 7 GENERAL MBOMBO: I am there, Chairperson. 8 [15:57] CHAIRPERSON: What's your answer to the 9 question? Is the impression which Mr White says he's left 10 with, is the impression – which he says he got from the 11 initial statements, which include yours – that the senior 12 leadership does not believe that the operation went wrong 13 at all, is that as far as you are concerned in your 14 statement a correct impression? 15 GENERAL MBOMBO: Possibly because he does 16 not find anything in my statement where I say there was a 17 mistake, he could possibly come to this conclusion and make 18 this assessment. 19 CHAIRPERSON: Do you believe that the 20 operation did not go wrong at all? 21 GENERAL MBOMBO: It's not my total belief 22 that it was that way, Mr Chairperson. 23 MR SEMENYA SC: What do you mean by 24 "total belief"? 25 GENERAL MBOMBO: What I'm saying is that</p>	<p style="text-align: right;">Page 21420</p> <p>1 indication, I know it's difficult, I won't hold you to it, 2 but it would help us if you could give us an indication as 3 to how long you think you'll be before you conclude the 4 examination-in-chief. 5 MR SEMENYA SC: Chair, I'll be surprised 6 if that, more than 10 questions still to go. 7 CHAIRPERSON: Thank you very much. Very 8 well, we will adjourn now until 9 o'clock tomorrow morning. 9 [COMMISSION ADJOURNED] 10 . 11 . 12 . 13 . 14 . 15 . 16 . 17 . 18 . 19 . 20 . 21 . 22 . 23 . 24 . 25 .</p>
<p style="text-align: right;">Page 21419</p> <p>1 I'm not saying the whole operation was totally right. 2 MR SEMENYA SC: Tell us more; which 3 elements of it are you saying they may not have gone 4 correctly? 5 GENERAL MBOMBO: If a person looks at, 6 looking at the testimony of the witnesses that have already 7 given evidence here, it becomes clear that there were 8 certain places where we made errors. 9 MR SEMENYA SC: Such as which, General? 10 GENERAL MBOMBO: Firstly the problem that 11 we encountered is that we did not become aware of the fact 12 that we'll have a problem with communication. Secondly 13 that one with reference to the footage. 14 MR SEMENYA SC: Yes, you did not foresee 15 difficulties associated with the communication systems? 16 GENERAL MBOMBO: The people that were 17 involved in the job of planning, Mr Chairperson, although 18 they had few difficulties pertaining to communication, they 19 did get help that this be fixed. They accepted that this 20 had been corrected. 21 MR SEMENYA SC: Chair, I'm at the tail- 22 end of my evidence-in-chief. I see it is 4 o'clock. Could 23 I round up the evidence-in-chief first thing tomorrow 24 morning? 25 CHAIRPERSON: Yes. Can you give me an</p>	

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