

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

**Lukmos**  
communications

30 JANUARY 2014

TRANSCRIPT PAGES 21302 TO 21420

1 **[PROCEEDINGS ON 30 JANUARY 2014]**

2 **[09:15] CHAIRPERSON:** The Commission resumes.

3 Provincial Commissioner, you are 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, Chairperson, but it's  
16 precisely the language issue we are 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 Chairperson. 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

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 Chairperson, I am prepared to take the oath.

12 **CHAIRPERSON:** Would you please stand? Do  
13 you swear that the evidence you will 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 Chairperson.

24 **MR SEMENYA SC:** Thank you, Chairperson.

25 General, yesterday we were at paragraph 12 of your

1 statement, GGG5, where you had left for Potchefstroom after  
2 giving your instructions to General Mpmembe. Do you recall  
3 that?

4 **GENERAL MBOMBO:** That is so, Mr Chairperson.

5 **MR SEMENYA SC:** Why did you go to  
6 Potchefstroom? Do you want to tell us?

7 **GENERAL MBOMBO:** Mr Chairperson, I had other  
8 work to do in Potchefstroom at my office. I also knew that  
9 if I left General Mpmembe 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 Mpmembe advising you that members of the SAPS have  
15 been attacked.

16 **GENERAL MBOMBO:** That is so, Mr Chairperson.

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?

1 **GENERAL MBOMBO:** He said there was a  
2 possibility that the police shot them, but he was  
3 not sure.

4 **MR SEMENYA SC:** And said one person has  
5 died, apparently because of being stabbed.

6 **GENERAL MBOMBO:** That is what he said, Mr  
7 Chairperson.

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

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 would  
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 are receiving this  
25 call from General Mpembe whilst you were where?

1 **GENERAL MBOMBO:** That's when I was on my  
2 way to Potchefstroom. This explanation I have given you, Mr  
3 Chairperson, is what he told me after I'd returned to Lonmin.

4 **MR SEMENYA SC:** When you were telling  
5 General Mpenbe 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 am on my way, I am coming.

11 **MR SEMENYA SC:** You then conveyed that  
12 information to the National Commissioner?

13 **GENERAL MBOMBO:** That is correct, Mr  
14 Chairperson.

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 Mpenbe when you arrived and he was  
20 giving you this report?

21 **GENERAL MBOMBO:** After I had 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.

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 Chairperson.

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 Chairperson, and I discussed it with him and we were together  
25 with other generals. He said he was in good spirits. He

1 was also **[inaudible]** our psychologist and sociologist.

2 **CHAIRPERSON:** I am 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 would not have been recorded.

6 **MR GQIRANA:** As the Chairperson 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 Chairperson.

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 Chairperson.

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 Chairperson. It was around that time, I am 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 Chairperson, 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 Chairperson.

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 Chairperson.

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

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 Chairperson. The National Commissioner asked that General Mpembe  
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. Mpembe 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 Chairperson.

24 **MR SEMENYA SC:** The morning of the  
25 Tuesday, that is now 14 August 2012 – or from that meeting,

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 Mpenbe 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

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 am 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 14<sup>th</sup> 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 hill where the strikers  
16 were gathering.

17 **GENERAL MBOMBO:** That is correct, Mr  
18 Chairperson.

19 **MR SEMENYA SC:** Who gives you this  
20 briefing?

21 **GENERAL MBOMBO:** I got the briefing from  
22 Generals Mpembe, Annandale, and Naidoo.

23 **CHAIRPERSON:** What time did you get this  
24 briefing?

25 **GENERAL MBOMBO:** I arrived in the

1 morning, if I am not mistaken it could have been before 8.

2 **CHAIRPERSON:** That could not 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 could not have been told

8 that in the morning.

9 **GENERAL MBOMBO:** That is correct, Mr

10 Chairperson, the briefing I got that morning was not about a

11 person found dead on the hill. 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 Chairperson, in my amplified statement.

15 **CHAIRPERSON:** [*Microphone off, inaudible*]

16 in your revised statement? [*Microphone off, inaudible*] I

17 could not find it. It may be somewhere there, but that's

18 why I am asking you.

19 **MR SEMENYA SC:** General, to refresh your

20 memory, it was in consultation when I was consulting you,

21 preparing your evidence to come here that you realised the

22 difference.

23 **GENERAL MBOMBO:** That is correct.

24 **CHAIRPERSON:** It is not in the new

25 statements and a minute ago when Adv. Semenya read you the

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 hill.

6 **CHAIRPERSON:** Anyway, you said something

7 different before, but it was a mistake which you have now

8 corrected. Let us proceed.

9 **MR SEMENYA SC:** Anyway General, let us 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 hill?

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 Chairperson, Dennis Adriano

21 told me that he got it from a media house that there was a

22 body of a person lying near the hill. 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

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 Chairperson,  
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, Chairperson. 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 hill  
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 Chairperson, 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

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 Chairperson.

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

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 Chairperson.

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

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 Chairperson.

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, Chairperson.

17 **CHAIRPERSON:** I beg your pardon, 4, yes,

18 quite right. I am sorry, it is behind tab 4. May I enquire

19 what time roughly did this conversation that is here

20 recorded take place?

21 **GENERAL MBOMBO:** Mr Chairperson, 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 am not

24 sure - I spoke to the Generals - I am not sure, but it must

25 have been after 8.

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 Chairperson, 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 Chairperson.

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.

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, which is what is 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 Chairperson.

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 Chairperson, 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

1 about it and he asked that we should attend to it.

2 **MR SEMENYA SC:** Okay, in your meeting

3 with the Lonmin people, as reflected in the transcript, I

4 was going to point your attention to page 10, maybe if we

5 start from page 9 –

6 **CHAIRPERSON:** I take it it is the foot of

7 page 9 that you want, isn't it?

8 **MR SEMENYA SC:** That is right.

9 **CHAIRPERSON:** Probably lines 29 and 30.

10 Is that right, Mr Semenya?

11 **MR SEMENYA SC:** That is correct, Chairperson.

12 There the transcript reads as follows. "SAPS

13 Commissioner," that would have been reference to you,

14 General, correct?

15 **GENERAL MBOMBO:** That is so, Mr Chairperson.

16 **MR SEMENYA SC:** "But when I was speaking

17 to Minister Mthethwa" – it reads, it should read Mthethwa –

18 "he mentioned a name to me that is also calling him that is

19 pressurising him. Unfortunately it is politically high,"

20 and Mr Mokwena then says, "It is Cyril." You continue to

21 say, "Cyril Ramaphosa, yes. Now remember, now when I was

22 talking to the National Commissioner last night," you say,

23 "she says to me 'Look, General, who are the shareholders

24 here?' So I said I do not know the shareholders, but I

25 know that when I spoke to the Minister he mentioned Cyril.

1 And then she says, 'Now I got it.' You know why she says  
2 she got it? Remember Cyril was in the Appeal Committee of  
3 Malema, remember?" You see that reference?

4 **GENERAL MBOMBO:** Yes.

5 **MR SEMENYA SC:** You use the word

6 "pressuring me." What were you meaning by –

7 **CHAIRPERSON:** No, no, "pressuring me,"

8 "pressuring him."

9 **MR SEMENYA SC:** Pressurising the

10 Minister, that is.

11 **GENERAL MBOMBO:** Mr Chairperson, this word

12 "pressuring" that I have used, according to me and the way I

13 work it is a word that I use loosely, very loosely,

14 especially when a person or a citizen of South Africa

15 phones, hoping to be helped, or expecting other people to

16 be assisted. It is not a word that I think was used by the

17 Minister. I do not think that the Minister used this word

18 to me. This is a word that is mostly used by me concerning

19 people's problems that they want assistance with.

20 **MR SEMENYA SC:** And you refer to Cyril

21 Ramaphosa as a politically high – as the transcript

22 reflects, and it was interrupted there, I suspect. What

23 did you mean by that?

24 **GENERAL MBOMBO:** I meant that when he was

25 mentioned I knew that he was in high position in politics.

1 **MR SEMENYA SC:** What political office did

2 you know him to hold at the time?

3 **GENERAL MBOMBO:** I did not know at that

4 time in what office or politics he was in.

5 **MR SEMENYA SC:** Can I ask that we look at

6 that transcript again, but at page 6 of the transcript?

7 **CHAIRPERSON:** Are you moving away from

8 this point, Mr Semenya, or are you still with it?

9 **MR SEMENYA SC:** I was going to move away,

10 Chairperson.

11 **CHAIRPERSON:** Before you move away, I would

12 like to ask a question. At the top of line 10, or perhaps

13 we must start at the foot of page 9, what you said was,

14 "When I was speaking to Minister Mthethwa he mentioned a

15 name to me that is also calling him, that is pressurising

16 him. Unfortunately it's a political high" – why did you

17 use the word "unfortunately"?

18 **GENERAL MBOMBO:** I mentioned that word,

19 Mr Chairperson, because I did not want to divulge his name. I

20 did not even know what office he was holding at that stage

21 in politics.

22 **CHAIRPERSON:** Is that why you used the

23 word "unfortunately"? I do not understand what was

24 unfortunate about that.

25 **GENERAL MBOMBO:** There was nothing

1 unfortunate about it, Mr Chairperson, but I used that word  
2 because I did not want to divulge his name. What was meant  
3 by that word was unfortunately I am not going to call him or  
4 her by name.

5 **CHAIRPERSON:** Thank you.

6 **MR SEMENYA SC:** At page 6 of the  
7 transcript, just around line 19, just to put you in  
8 context, this is a conversation about whether or not the  
9 police should intervene and what intervention must be –

10 **CHAIRPERSON:** I am sorry, forgive me; what  
11 line are we at? You may have told us, which I didn't hear,  
12 but if you –

13 **MR SEMENYA SC:** 1-9, Chairperson. 19.

14 **CHAIRPERSON:** Line 19, thank you.

15 **MR SEMENYA SC:** Yes. There you say, "The  
16 emotions are high. Emotions are very high," so you confirm  
17 what Mr Mokwena is saying. "Whatever instruction you will  
18 have given, but because of the emotion," Mr Mokwena then  
19 says, "They would have forgotten about the instruction,  
20 yes." General, you then continue to say, "They will have  
21 forgotten about the instruction and I do not want a  
22 situation where 20 people will be dead. This is not what  
23 we are here for. What we are here for is to maintain and  
24 make sure that there is peace between us and between the  
25 people and the company. So I said even now they were

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 will  
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

1 arrests now as Lonmin wishes, there might be damage again.

2 That is why I am 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 is 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.

1 Somewhere, somebody 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 am 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 Chairperson, 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

1 move in a different direction." What are you referring to

2 there, General?

3 **GENERAL MBOMBO:** It would be, Mr Chairperson,

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 hill 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 hill, 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 shall say pamphlets rather, with a

18 chopper at the hill. You remember that?

19 **GENERAL MBOMBO:** That is so, Mr Chairperson.

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.

1 **MR SEMENYA SC:** And can I have us look at  
2 page 13 of that exhibit from line 12? There you are having  
3 a conversation with Mr Sinclair. You see that?

4 **GENERAL MBOMBO:** Yes, Mr Chairperson.

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 have 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 am 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 Chairperson.

20 **MR SEMENYA SC:** Can you give us an

21 understanding what is the conversation really about there?

22 **GENERAL MBOMBO:** Mr Chairperson, I am 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

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 Chairperson, was that firstly Lonmin people had to  
25 understand that their people who could not go to work, who

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 must not 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 am 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:** Chairperson, I am still going to  
24 be a little while on this –

25 **CHAIRPERSON:** You think it appropriate we

1 take the tea adjournment now?

2 **MR SEMENYA SC:** I would, Chairperson.

3 **CHAIRPERSON:** I agree. We will 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 are still under oath.

19 **MIRRIAM NOSAZISO ZUKISWA MBOMBO:** s.u.o.

20 **CHAIRPERSON:** Mr Semanya.

21 **EXAMINATION BY MR SEMENYA SC (CONTD.):**

22 Thank you, Chairperson. 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 Semanya, that

1 date at the top of the transcript, 16<sup>th</sup> August, is that

2 indicative of anything at all?

3 **CHAIRPERSON:** Perhaps Mr Van As can tell

4 us. I take it that is 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 16<sup>th</sup> 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 14<sup>th</sup>. 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 shall

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 Chairperson, 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

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 am not sure, Mr Chairperson,

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 Mpembe 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 Chairperson,

25 I thought the mine had its own horses. I was not even

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 am 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 Mpembe.

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 is 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

1 these members that are here, I have to pay them. So how  
2 much I am 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 Chairperson, 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 was not turned on when you began translating the answer.

13 **GENERAL MBOMBO:** In all operations, Mr  
14 Chairperson, 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 Chairperson, 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.

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?

13 **GENERAL MBOMBO:** I was trying, Mr Chairperson,  
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.

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?

23 **GENERAL MBOMBO:** Page?

24 **MR SEMENYA SC:** 2. There Mr Mokwena,  
25 "Yes, I think, okay, a couple of positions. One is, I mean

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?

7 **GENERAL MBOMBO:** I did not get that  
8 recording, Mr Chairperson.

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 am 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?

18 **GENERAL MBOMBO:** Can you read it again?

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

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 am 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?

11 **GENERAL MBOMBO:** I understood him, Mr  
12 Chairperson, 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 hill.

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"?

19 **GENERAL MBOMBO:** I am not sure, Mr Chairperson.

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

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?

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 hill, concerning their security. That is where our  
19 advice would have ended.

20 **[11:18] MR SEMENYA SC:** It continues to say  
21 Lonmin and to say you do not 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?

25 **GENERAL MBOMBO:** I understood him to be

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 hill 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, Chairperson.

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 Chairperson, but the  
25 transcript that Mr Mokwena was talking about is saying it

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 are  
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 do not  
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 do not know who is 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 do not  
21 know who is responsible for the legend but it must clearly  
22 be sorted out. Mr Budlender, do you know who –  
23 **MR BUDLENDER:** I do not, Chairperson, but that  
24 should plainly be corrected. According to the witness it  
25 was on the morning of the 14<sup>th</sup> of August –

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 had spoken to - Maybe I am  
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 14<sup>th</sup>?

9 **GENERAL MBOMBO:** That is not correct, Mr  
10 Chairperson, because in the evening I would already left Lonmin that  
11 is why actually I was saying I am 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 14<sup>th</sup>?

19 **GENERAL MBOMBO:** As I said, Mr Chairperson, I am  
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

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 am 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 Chairperson.

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 13<sup>th</sup>? Do you recall that day speaking to

19 Colonel Vermaak?

20 **GENERAL MBOMBO:** That is correct, Mr

21 Chairperson.

22 **MR SEMENYA SC:** What were the

23 circumstances?

24 **GENERAL MBOMBO:** He phoned me after I had

25 spoken to General Mpembe when I was on the way, turning

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 would  
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.

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 is your response?

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.

22 **MR SEMENYA SC:** All right talking about  
23 the events of the 15<sup>th</sup> 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

1 there, General.

2 **CHAIRPERSON:** You said KKK4 is it? KKK4?

3 **MR SEMENYA SC:** Indeed, Chairperson. I want

4 the conversation you have, it indicate the telephone call

5 you have with Captain Adriano on the 15<sup>th</sup> at 11:41.

6 **CHAIRPERSON:** 11:41?

7 **MR SEMENYA SC:** That is correct, Chairperson.

8 **CHAIRPERSON:** That is 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 Adriano, what was that about?

13 **GENERAL MBOMBO:** Someone was on the

14 hill that is now Captain Adriano, 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 are 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 would talk later on that.

22 **MR SEMENYA SC:** And the following page

23 there is yet another call you have with Captain Adriano,

24 this is now around 17:14:02.

25 **GENERAL MBOMBO:** Yes.

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.

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.

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 Adriano around

13 23:28:07, do you see that?

14 **GENERAL MBOMBO:** Yes.

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.

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

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 Adriano from Midrand?

10 **GENERAL MBOMBO:** That is correct, Mr  
11 Chairperson.

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 Mpenbe 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?

1 **MR SEMENYA SC:** Indeed, Chairperson, and there  
2 you say, "During the morning of Wednesday, 15 August 2012  
3 you enquired from General Mpmembe 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.

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 Chairperson, 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.

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 is Exhibit JJJ177?

7 **MR SEMENYA SC:** Indeed, Chairperson.

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 Chairperson, we have 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 was not 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

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 15<sup>th</sup>, 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 Masemula 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 Masemula 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

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 have 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 have 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.

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 am not sure about this  
7 word, Mr Chairperson, 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 Masemula.

14 **MR SEMENYA SC:** Just for completeness,  
15 who is General Mawela and who is General Masemula?

16 **GENERAL MBOMBO:** General Masemula 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 Chairperson.

23 **MR SEMENYA SC:** In there you tell us that  
24 that meeting was not the meeting of the National Management  
25 Forum.

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:** Chairperson, 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

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:** Chairperson, I was not 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 am just saying it for the record as well –

21 **CHAIRPERSON:** What I said may create the  
22 impression that I am questioning your word, it is not my  
23 intention at all. I accept entirely what you tell us.

24 **MR SEMENYA SC:** Yes, Chairperson, I am just,  
25 just for the record as well, that it must not be reported as

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 cannot  
7 give the answer now, but you will do so once you have  
8 obtained instructions?

9 **MR SEMENYA SC:** Indeed, Chairperson.

10 **CHAIRPERSON:** Thank you.

11 **MR BUDLENDER SC:** Chairperson, 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 will be able to deal with after you have  
24 taken instructions.

25 **MR SEMENYA SC:** I will, Chairperson. General,

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 Chairperson.

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 Chairperson

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

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 Chairperson, 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:** Chairperson, I do not remember  
24 being there, I am not sure if this was adopted there, except  
25 these people sitting in a meeting on their own, like we have

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, Chairperson, 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 are 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

1 Chairperson.

2 **MR SEMENYA SC:** When do you make the

3 decision that the strikers ought to be disarmed?

4 **GENERAL MBOMBO:** Mr Chairperson, in the days

5 before since the strike started at Marikana 10 people had

6 already been killed. The 10<sup>th</sup> person was killed when the

7 police were already there. As I said earlier on we had,

8 because of the threats that made life difficult for the

9 community in the area, and the fact that one of them was

10 injured whilst we were there, we did not know what to

11 expect, what will happen, whether someone else would be

12 injured in the presence of the police, or even killed,

13 someone else killed. The police function is to maintain

14 order, protect people as well as their property. It was

15 therefore important for us to use the powers that the

16 Constitution of this country allows us to, ensure the

17 safety of the citizens of this country, as the Constitution

18 says. I then saw it fit as the commander of the police in

19 the area to tell the police that the main thing that I

20 wanted, that I wish for in whatever they were doing was

21 that the weapons be taken away from the strikers because

22 the weapons were the main issue, the main thing that caused

23 fear amongst the people. It was also suspected that the

24 weapons were used in killing the people that were already

25 killed.

1 Our function, Mr Chairperson, is to save lives and  
2 protect the property of the people. People should be free  
3 to go to their workplaces. They should be free to go about  
4 their business. The situation there was intimidation of  
5 people, the whole community. That is the reason, Mr Chairperson.

6 **MR SEMENYA SC:** In terms of days, what  
7 day did you take that decision?

8 **GENERAL MBOMBO:** On Monday night, Mr  
9 Chairperson, when we got a report from General Mzembe and  
10 Brigadier Calitz about what had happened that Monday, when  
11 we had met the National Commissioner and the people who  
12 were accompanying her, we had discussions to the effect  
13 that this problem had to be attended too quickly. On  
14 Tuesday the 14<sup>th</sup> after I'd been told about the views of the  
15 generals and the police that were there, assisting each  
16 other about a plan to curb the violence that was there, I  
17 said to them, "If this plan of yours allows us to disarm  
18 these people, take their weapons away from them, I wish  
19 that you tried that if tomorrow the 15<sup>th</sup> there is nothing  
20 that comes out of it." I said that not knowing that there  
21 was someone already killed on the hill. That is how I  
22 then heard about this person that was killed, and when I  
23 heard about this person killed I said, "We really have to  
24 disarm these people, disperse them. If there is a way, you  
25 people shall see how to do it."

1 **MR SEMENYA SC:** You deal with this in  
2 paragraph 54 of your amplified statement, exhibit LLL1,  
3 General. Is that right?

4 **CHAIRPERSON:** Have you moved away from  
5 the National Management Forum meeting, or rather the ad hoc  
6 meeting after the National Management Forum meeting? Have  
7 you moved away from that?

8 **MR SEMENYA SC:** I have, Chairperson.

9 **CHAIRPERSON:** Now when you addressed the  
10 ad hoc meeting, I take it you did address the ad hoc  
11 meeting, you spoke at the ad hoc meeting. Is that right?

12 **GENERAL MBOMBO:** Yes, Mr Chairperson.

13 **CHAIRPERSON:** For how long did you speak?  
14 How long did your address last?

15 **GENERAL MBOMBO:** My address could not  
16 have taken 10 or 15 minutes because the whole meeting did  
17 not even take an hour.

18 **CHAIRPERSON:** Did a number of the other  
19 persons present speak as well?

20 **GENERAL MBOMBO:** That is correct, Mr  
21 Chairperson, General Mawela, and General Masemula, and the  
22 Commissioner of the Police, as well as other Provincial  
23 Commissioners who had to assist me with the equipment that  
24 was needed. They assured the National Commissioner that  
25 they would assist.

1 **CHAIRPERSON:** Thank you.

2 **MR SEMENYA SC:** In paragraph 54 of

3 exhibit LLL1 you say that for completeness you need to

4 state that the decision to disperse, disarm and arrest - in

5 parenthesis DDA tactic - the strikers was made by yourself

6 already on Tuesday the 14<sup>th</sup> and you communicated that

7 decision to General Mpembe, General Naidoo, and General

8 Annandale in the afternoon of that day. Is that right?

9 **GENERAL MBOMBO:** That is correct, Mr

10 Chairperson.

11 **MR SEMENYA SC:** You say you envisaged

12 that that tactical option would take place the Wednesday

13 15th, but you were not prescriptive about how that is to

14 happen.

15 **GENERAL MBOMBO:** That is correct.

16 **MR SEMENYA SC:** You left it to the

17 operational people to determine the how and the when aspect

18 of implementing that decision.

19 **GENERAL MBOMBO:** That is so, Mr Chairperson.

20 **MR SEMENYA SC:** You continue to say the

21 morning of that Wednesday, you enquired from General Mpembe

22 whether they are ready to implement the decision and he

23 advised that there are prospects of involving the unions

24 and the standoff might be resolved without the use of

25 force. That is what you testified to earlier.

1 **GENERAL MBOMBO:** That is so, Mr Chairperson.

2 **MR SEMENYA SC:** You agreed to that

3 proposal?

4 **GENERAL MBOMBO:** That is correct.

5 **MR SEMENYA SC:** In your statement exhibit

6 GGG5 you deal with the events of the 16<sup>th</sup>. You had already

7 told us that you discussed the evening before with Captain

8 Adriano relevant to a press briefing -

9 **GENERAL MBOMBO:** That is so.

10 **MR SEMENYA SC:** - that was to happen the

11 following day at 9 o'clock.

12 **GENERAL MBOMBO:** That is correct.

13 **MR SEMENYA SC:** You then hold that media

14 briefing at 9:30. Why is that?

15 **GENERAL MBOMBO:** Dennis told me that some

16 of the journalists were on the way, others were getting

17 lost.

18 **MR SEMENYA SC:** And that was the reason

19 for the delay?

20 **GENERAL MBOMBO:** That is correct.

21 **MR SEMENYA SC:** And you then gave the

22 briefing and announced what was going to happen. Is that

23 right?

24 **GENERAL MBOMBO:** That is correct.

25 **MR SEMENYA SC:** And that is what we have

1 as exhibit HHH40, your media briefing.

2 **CHAIRPERSON:** That's behind tab 9 in the

3 file you have given us.

4 **MR SEMENYA SC:** Indeed, Chairperson. Do you

5 have it?

6 **GENERAL MBOMBO:** Yes, I have.

7 **MR SEMENYA SC:** In your briefing you also

8 say that matters are coming to a head that day. You

9 remember that?

10 **GENERAL MBOMBO:** Could you repeat that?

11 **MR SEMENYA SC:** That this strike and the

12 carrying of arms, you are going to bring it to a halt, a

13 stop, on that day.

14 **GENERAL MBOMBO:** That was my wish, Mr

15 Chairperson, that is correct.

16 **MR SEMENYA SC:** You actually say so on

17 the video recording of the briefing, right?

18 **GENERAL MBOMBO:** That is so, Mr Chairperson.

19 **MR SEMENYA SC:** Why was it that you were

20 now resolute that they would – the strikers, that is – be

21 disarmed that day?

22 **GENERAL MBOMBO:** Mr Chairperson, after I was

23 done with the meeting the night of the 15th I spoke to

24 General Mpmembe over the telephone. He told me that they

25 had received a response from Mr Mathunjwa saying that he

1 was promising the police that by 9 o'clock the next morning  
2 the strikers would lay down their weapons. Mr Mpembe  
3 assured me that the way Mr Mathunjwa put this he promised  
4 that it appeared as if this was going to happen. As a  
5 result of Mr Mathunjwa's promise I also became hopeful that  
6 the AMCU president will help us, and because we also had  
7 spoken to Dennis that we should at least talk to the  
8 community, tell the community what the police were doing  
9 about the problems in Lonmin. I realised that when we  
10 talked to the journalists, the media, telling them that we  
11 as the police are present here to protect life, property,  
12 and to maintain peace and order, and tell the community  
13 that even those small groups of strikers that had already  
14 been arrested were, they were going to appear in court that  
15 morning. And the other thing, I was happy, happy about Mr  
16 Mathunjwa's promise, realising that we indeed had people  
17 who were prepared to help us, wanted the community to know  
18 that there were people out there who were assisting us, who  
19 had an interest in this matter.

20 **[12:51]** But I also wanted people to know that all the  
21 help we were expecting to get, including Mr Mathunjwa's  
22 help, does not assist us in getting the weapons from the  
23 strikers. We as the police service would then use the  
24 powers that we get from the Constitution of this country  
25 and other legislation governing us as well as the strikers.

1 The Constitution amongst others states that the strikers  
2 have got the right to strike, but not carrying weapons. I  
3 was trying to tell the community that we would work with  
4 diligence in order to try and get the weapons; they should  
5 have patience, although they were scared.

6 **MR SEMENYA SC:** Yes, you were of the firm  
7 view that this will not go into the Friday, the Saturday,  
8 the Sunday, etcetera - Saturday, Sunday, etcetera, but it  
9 had to happen on that particular day, right? The Thursday.

10 **GENERAL MBOMBO:** That is correct, Mr  
11 Chairperson, according to the transcript.

12 **MR SEMENYA SC:** And you tell us as to the  
13 how and when on Thursday you left that to the commanders to  
14 do.

15 **GENERAL MBOMBO:** When I said on that day  
16 we had to get the weapons away from the strikers, I was  
17 convinced that Mr Mathunjwa would assist us, but I knew  
18 that if that does not happen, the police that were there  
19 would know when it was the opportune time to do what they  
20 had to do. So I left it up to them.

21 **MR SEMENYA SC:** In HHH40, exhibit HHH40,  
22 on page 7 from line 13 it is recorded, you saying, "As the  
23 police therefore we have deployed these various means in  
24 order to make sure that today we end this violence." You  
25 see that?

1 **GENERAL MBOMBO:** Yes, I see it.

2 **MR SEMENYA SC:** Questions have been asked

3 of other witnesses why this operation could not be delayed

4 and implemented days after. What is your reaction to that?

5 **GENERAL MBOMBO:** As I am talking about

6 violence here, main thing that was of concern to me was for

7 the strikers to lay down their weapons because it is the

8 weapons that concerns the community at large. If they had

9 done that they would still continue if they had not

10 received any response from their employer.

11 **MR SEMENYA SC:** Continued to do what?

12 **GENERAL MBOMBO:** Continue striking, with

13 us policing them and having no weapons, with them having no

14 weapons. That was important to me and we had to attend to

15 it because it worried the community. But again it was my

16 wish that we would do that peacefully.

17 **MR SEMENYA SC:** Your decision to hold the

18 press conference for 9 o'clock the morning of Thursday, and

19 the fact that a possibility was that the strikers would lay

20 down their weapons at 9 o'clock, which time coincided with

21 your planning for the press briefing, how did you expect

22 that to work together?

23 **GENERAL MBOMBO:** When we were done, or

24 finalised the issue of the time of the media briefing –

25 **MR SEMENYA SC:** When was that?

1 **GENERAL MBOMBO:** It was at night on the  
2 15<sup>th</sup>. I had not spoken to General Mpembe at that time about  
3 the issue of 9 o'clock concerning Mr Mathunjwa. Now when I  
4 heard later about this 9 o'clock I thought of us delaying  
5 this thing, waiting a bit. I was then told about  
6 journalists who were coming from far, different places, and  
7 that this might hamper their work, but I then thought of  
8 using this opportunity maybe and explain that this promise  
9 that we had received might be helpful to us, and that the  
10 people who would be listening to this press conference  
11 would know that there are efforts being taken to solve this  
12 problem.

13 **MR SEMENYA SC:** Would this be a  
14 convenient stage, Chairperson?

15 **CHAIRPERSON:** We will now take the lunch  
16 adjournment. I think we must try – it is not always easy to  
17 achieve, but we must try to reassemble at quarter to 2.

18 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

19 **[13:51] CHAIRPERSON:** The Commission resumes.

20 I have been asked to remind all present that there is a sign  
21 outside that says no food or drink other than water is  
22 allowed in the chamber, the rule imposed by the Council.  
23 It is important that we adhere to it, so I remind everyone  
24 concerned that there is that and in fact, it is on a notice  
25 just outside the door there. Provisional Commissioner,

1 you are still under oath. Mr Semenya.

2 **MR VAN AS:** Sorry, Mr Chairman, before my

3 learned friend continues with the evidence in chief you

4 made a request to us to get the date on that transcript.

5 Apparently that's the date that it was downloaded onto the

6 Lonmin hard drive.

7 **CHAIRPERSON:** Your guess as to what it

8 was –

9 **MR VAN AS:** Is correct.

10 **CHAIRPERSON:** - is correct.

11 **MR VAN AS:** Thank you, Mr Chairman.

12 **CHAIRPERSON:** Congratulations. Mr

13 Semenya.

14 **MR SEMENYA SC:** General, can I have us

15 look at exhibit JJJ88? It's a video clip and if we can go

16 one minute into that clip.

17 **[VIDEO SHOWN]**

18 **CHAIRPERSON:** This is exhibit JJJ88 and

19 we said we are beginning at 53 seconds.

20 **[VIDEO SHOWN]**

21 **MR SEMENYA SC:** Do you remember that,

22 General?

23 **GENERAL MBOMBO:** It is so, Mr

24 Chairperson.

25 **MR SEMENYA SC:** It appears that you had

1 really come to the end of your tether, you were not seeing

2 any other way of resolving the matter going forward.

3 **GENERAL MBOMBO:** It is correct, Mr

4 Chairperson, that if any other means had been anything that

5 has been tried were not successful in terms our job,

6 employment we had no alternative but to do what police work

7 involves. I was then convinced that if there was no other

8 means of solving this thing we had to act as police.

9 **MR SEMENYA SC:** What other means were you

10 referring to that did not provide a solution?

11 **GENERAL MBOMBO:** Our negotiations with

12 which we were busy for the whole week and the promise made

13 by Mr Mathunjwa which we believed, this was not successful

14 in the manner in which we had hoped. I saw no reason why

15 we should delay acting in terms of our call as police.

16 **MR SEMENYA SC:** And in the statement

17 GGG5, paragraph 19.2 you say that after the briefing you

18 are then told that Mr Mathunjwa did not pitch up at the

19 hill and that the strikers had not laid their arms down.

20 **GENERAL MBOMBO:** Correct, Mr Chairperson.

21 General Mpmembe reported to me in that way.

22 **MR SEMENYA SC:** You do some attempts to

23 get hold of Mr Mathunjwa?

24 **GENERAL MBOMBO:** Yes –

25 **MR SEMENYA SC:** How did you do that?

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 hill and I am 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

1 General Annandale just outside the JOC.

2 **GENERAL MBOMBO:** That is 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 hill?

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 arrange 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 am 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 am not talking to him, as though

22 I am 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

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 have not been brought up correctly, I am

21 asking, I am pleading for him, I am apologising.

22 **MR SEMENYA SC:** You deal with that in

23 paragraph 60 of exhibit LLL1 do not you, General?

24 **GENERAL MBOMBO:** Correct, Chairperson.

25 **MR SEMENYA SC:** You were in the JOC

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 hill 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

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 had left people  
8 who knew what to do and people who had been dealing with  
9 this problem from the beginning.

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.

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.

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

1 as was agreed, do you see that?

2 **GENERAL MBOMBO:** I see it, Chairperson.

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?

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.

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

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?

4 **GENERAL MBOMBO:** At that time I had left,  
5 Mr Chairperson.

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?

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.

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?

22 **GENERAL MBOMBO:** That is correct,  
23 Chairperson.

24 **MR SEMENYA SC:** On your arrival from the  
25 hospital you go back to the JOC?

1 **GENERAL MBOMBO:** Correct, Chairperson.

2 **MR SEMENYA SC:** Do you remain in the JOC

3 throughout the period or what?

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.

9 **MR SEMENYA SC:** Were you listening at any

10 point to the radio communication that was happening there

11 inside the JOC?

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.

25 **MR SEMENYA SC:** The transcript of some of

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 hill and that during this

17 confrontation certain people got injured and that there are

18 fatalities. He mentioned that there was a second hill.

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

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 hill I did not  
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 hill 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 hill 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

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 am 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 Masemula arrived there at the JOC and they –

17 **GENERAL MBOMBO:** Correct, Chairperson –

18 **MR SEMENYA SC:** - also got a briefing?

19 **GENERAL MBOMBO:** That is 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

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. \_\_\_\_\_communications\_\_\_\_\_

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

1 see that one?

2 **GENERAL MBOMBO:** 14:26:59? Okay, yes, I

3 see it.

4 **MR SEMENYA SC:** Do you remember what the

5 conversation was between you and the National Commissioner

6 there?

7 **GENERAL MBOMBO:** I do not remember very

8 clearly here but every time she phoned me, every time she

9 phoned me was enquiring about what is the position now.

10 **MR SEMENYA SC:** And the transcript –

11 **CHAIRPERSON:** I am sorry, have I missed

12 something? According to this list the phone call of 14:26

13 is from Brigadier Tsiloane to Captain Monyane of the NIU,

14 is that right? That is the one with the mark against

15 it, cell phone call, Brigadier Tsiloane to Captain Monyane

16 of the NIU, that is the one that has got the blue marker

17 against it on the screen and that is recorded at 14:26. Now

18 what call are we busy with?

19 **MR SEMENYA SC:** Chairperson, Mr Budlender can

20 help us understand this.

21 **CHAIRPERSON:** Alright, even Mr Budlender

22 can help us.

23 **MR BUDLENDER SC:** Only partially, Chairperson.

24 This is not the correct list, the KKK4 is supposed to be

25 the list of all the calls in which General Mbombo was

1 involved, either making or receiving. This is a larger  
2 list, which has everybody and not everybody, if you know  
3 what I mean? So I am afraid this is not the right list, but  
4 the right list that was used was the one where Mr Semenya  
5 was asking questions before lunch which was General  
6 Mbombo's list, so I am not sure where this comes from. This  
7 is all inclusive and does not seem to have everything in  
8 fact, but I think the commissioners may have the right one,  
9 I hope you have the right one on your hardcopy?

10 **MR SEMENYA SC:** Decoded, Mr Budlender  
11 says it is not a SAPS mistake.

12 **CHAIRPERSON:** It is not a classified  
13 document.

14 **MR SEMENYA SC:** Okay, General, -

15 **[14:30] CHAIRPERSON:** What we have here is a  
16 document that has already been provided; at 14:26:59  
17 there's what's described as an MOC, which is a mobile  
18 originating call made by General Phiyega to Lieutenant  
19 General Mbombo and there's a column that's got 530, I do not  
20 know what that means, but - that's the duration of the  
21 call, 530 seconds, or whatever.

22 **MR BUDLENDER SC:** That is the duration in  
23 seconds, Chairperson.

24 **CHAIRPERSON:** Yes, so if someone can do  
25 the arithmetic they can tell me how many minutes that was.

- 1 **MR BUDLENDER SC:** Just under nine  
2 minutes, Chairperson.
- 3 **CHAIRPERSON:** Just indeed, thank you.
- 4 **MR SEMENYA SC:** There is also an  
5 indication that you would have sent an SMS message to  
6 General Phiyega against the timeline there, 16:02:19. Do  
7 you see that?
- 8 **GENERAL MBOMBO:** 16?
- 9 **MR SEMENYA SC:** 16:02 –
- 10 **GENERAL MBOMBO:** – 02:19, yes.
- 11 **MR SEMENYA SC:** 19.
- 12 **GENERAL MBOMBO:** I see, Chairperson.
- 13 **MR SEMENYA SC:** Do you recall what you  
14 were saying to her there?
- 15 **GENERAL MBOMBO:** I do not remember so  
16 well, Chairperson, but this was all about reporting.
- 17 **MR SEMENYA SC:** So too is a telephone  
18 call against time 16:32:48. Do you see that?
- 19 **GENERAL MBOMBO:** I see, Chairperson.
- 20 **MR SEMENYA SC:** Another one 16:32:49.
- 21 **GENERAL MBOMBO:** I think the one at  
22 16:32 –
- 23 **MR SEMENYA SC:** It may very well be the  
24 same call, as I –
- 25 **GENERAL MBOMBO:** Yes, that is the same

1 call.

2 **MR SEMENYA SC:** There is the one for

3 16:34:44.

4 **GENERAL MBOMBO:** I see that one,

5 Chairperson.

6 **MR SEMENYA SC:** Do you recall what you

7 were saying to the National Commissioner and what she was

8 saying to you?

9 **GENERAL MBOMBO:** One of these calls, Mr

10 Chairperson, this is where I was trying to say to her about

11 the numbers that we kept on receiving from time to time,

12 but before we were, we were still not certain, sure,

13 because on the phone for the first time she enquired that I

14 should keep on telling how many people were injured and how

15 many are deceased.

16 **MR SEMENYA SC:** Okay, as you continue you

17 deal in paragraph 23 of GGG5 about the events at Roots, as

18 it is commonly referred to.

19 **GENERAL MBOMBO:** Correct, Chairperson.

20 **MR SEMENYA SC:** How did that happen?

21 **GENERAL MBOMBO:** On the 17<sup>th</sup> of August

22 after this tragic incident the National Commissioner of the

23 Police made an explanation to the whole world, using the

24 media. After that explanation, Chairperson, we had

25 discussions together wherein we were asked to explain to

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.

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 am not  
24 making a mistake, I am not very certain, I think it was the  
25 third day. I wanted to find out how far they had

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 is correct, Chairperson.

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 is correct, we did  
19 not do it.

20 **MR MAHLANGU:** I am 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 17<sup>th</sup>, that night, on that day General Mpenbe was to  
25 have a meeting with all the commanders. They were meeting

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 do not 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,

1 yes.

2 **MR SEMENYA SC:** You also deal from

3 paragraph 20 with your involvement in Marikana and your

4 evidence up to this point has been what you did, and you

5 have testified about this as well.

6 **GENERAL MBOMBO:** Correct, Chairperson.

7 **MR SEMENYA SC:** You continue dealing with

8 that up until you deal now with the concerns that have been

9 raised by the evidence leaders for you to address. Is that

10 right?

11 **GENERAL MBOMBO:** Correct, Chairperson.

12 **MR SEMENYA SC:** In paragraph 50, as you

13 were testifying, you dealt with the issue of Warrant

14 Officer Myburgh, remember?

15 **GENERAL MBOMBO:** Is it 5-0?

16 **MR SEMENYA SC:** Five zero.

17 **GENERAL MBOMBO:** Correct, Chairperson.

18 **MR SEMENYA SC:** There you tell us that

19 General Naidoo brought Warrant Officer Myburgh to you and

20 to the National Commissioner. Is that right?

21 **GENERAL MBOMBO:** That is correct, Sir.

22 **MR SEMENYA SC:** The report Warrant

23 Officer Myburgh makes to you was that as he walked in to

24 hill 3 and past an injured striker who sat leaning

25 against a rock, and that after he had passed the injured

1 striker he heard a gunshot behind him and when he turned to  
2 look he saw an NIU member put his firearm in the holster  
3 and he asked the member what he was doing and the member  
4 gave a response to the effect that, and I quote, "These  
5 people deserve to die." Do you remember that report?

6 **[14:50] GENERAL MBOMBO:** That is how he reported  
7 to us, Mr Chairperson.

8 **MR SEMENYA SC:** You tell us that the  
9 information was immensely distressing to both you and the  
10 National Commissioner.

11 **GENERAL MBOMBO:** Very much, Mr  
12 Chairperson.

13 **MR SEMENYA SC:** Asked Warrant Officer  
14 Myburgh whether he knows the name of the NIU member,  
15 whether he is able to identify that member, whether he  
16 reported this matter to anyone of the commanders on the  
17 day, whether he recorded the information in his pocketbook,  
18 whether he reported that matter to the JOC, and you say to  
19 most of these questions the answer was in the negative.

20 The only information which was relatively helpful was that  
21 in September he had reported the matter to "a white man  
22 working at the air wing." Do you see that?

23 **GENERAL MBOMBO:** It is so, Mr  
24 Chairperson, but that September, the September I mention  
25 here was towards the end of September, just before it

1 became October.

2 **MR SEMENYA SC:** The National Commissioner

3 and yourself decided that a written statement be obtained

4 from Warrant Officer Myburgh. Correct?

5 **GENERAL MBOMBO:** That is correct,

6 Chairperson.

7 **MR SEMENYA SC:** That it be given to IPID.

8 **GENERAL MBOMBO:** Correct, Sir.

9 **MR SEMENYA SC:** And you got Major General

10 Soomani to take that statement from Warrant Officer

11 Myburgh.

12 **GENERAL MBOMBO:** Correct, Sir.

13 **MR SEMENYA SC:** After it was completed it

14 was then handed over to IPID.

15 **GENERAL MBOMBO:** Correct, Sir.

16 **MR SEMENYA SC:** And you bear no knowledge

17 of what has become of that matter.

18 **GENERAL MBOMBO:** At the moment, I do not

19 know.

20 **MR SEMENYA SC:** In paragraph 57 of LLL1

21 you discuss the question of the cordon and search there.

22 **GENERAL MBOMBO:** That is correct, Mr

23 Chairperson.

24 **MR SEMENYA SC:** You say you authorised

25 the cordon and search of 15 to 16 August before you left

1 for the National Management Forum meeting.

2 **GENERAL MBOMBO:** That is so, Mr Chairperson.

3 **MR SEMENYA SC:** And it was when it was

4 contemplated that the strikers would be dispersed and

5 disarmed on the 15<sup>th</sup>.

6 **GENERAL MBOMBO:** That is correct, Mr

7 Chairperson.

8 **MR SEMENYA SC:** When that did not happen

9 you gave authorisation for the cordon and search for 16 and

10 17th. Is that right?

11 **GENERAL MBOMBO:** That is correct.

12 **MR SEMENYA SC:** In anticipation of a

13 follow-up operation to what would have happened on the 16<sup>th</sup>.

14 **GENERAL MBOMBO:** That is so.

15 **MR SEMENYA SC:** The view being to recover

16 weapons that the police may not have recovered during the

17 surrender of weapons or the dispersal and disarmament

18 operation. Is that correct?

19 **GENERAL MBOMBO:** Yes, Sir.

20 **MR SEMENYA SC:** In paragraph 63 of the

21 statement you address, you say you are aware that one of the

22 deceased person's –

23 **GENERAL MBOMBO:** 63?

24 **MR SEMENYA SC:** - cause of death was –

25 **GENERAL MBOMBO:** Sorry, Chairperson, in

1 paragraph what?

2 **MR SEMENYA SC:** 6-3. The real last

3 paragraph of LLL1.

4 **GENERAL MBOMBO:** Oh, okay, I have got it.

5 **MR SEMENYA SC:** You refer to the

6 individual whose cause of death was the pellet wounds,

7 correct?

8 **GENERAL MBOMBO:** Yes, that is what I was

9 told.

10 **MR SEMENYA SC:** And you say there that

11 you can state in clear terms that no birdshot ammunition is

12 issued to members of the service in your province.

13 **GENERAL MBOMBO:** That is what I said, Mr

14 Chairperson.

15 **MR SEMENYA SC:** Are there still these

16 type of birdshot ammunition in the province as far as the

17 SAPS is concerned?

18 **GENERAL MBOMBO:** They are still there, Mr

19 Chairperson because from the year 2006 when they were

20 discontinued from use in the operations they were taken

21 away from all the places where they had been stored or kept

22 even in the stations. They were then stored in two

23 different places, at the Potchefstroom Public Order

24 offices, and Rustenburg in their safes. In terms of

25 instructions that were given at the time, Chairperson, the

1 use of this was totally discontinued in any operation.  
2 They were only to be used when the police went for  
3 training. There was a way in which they were managed. It  
4 was also clear that when the police were going to do their  
5 job, how they get their firearms and the ammunition.

6 **MR SEMENYA SC:** Chairperson, would this be a  
7 convenient stage for –

8 **CHAIRPERSON:** Yes, I think it would.

9 We will take the tea adjournment now.

10 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

11 **[15:18] CHAIRPERSON:** The Commission resumes.

12 Provincial Commissioner, you are still under oath.

13 **MIRRIAM NOSAZISO ZUKISWA MBOMBO:** s.u.o.

14 **CHAIRPERSON:** Mr Semenya.

15 **EXAMINATION BY MR SEMENYA SC (CONTD.):**

16 Thank you, Chairperson. Chairperson, for the record, it appears that  
17 the exhibit KKK4 and the one we have are not the same and  
18 that it might –

19 **CHAIRPERSON:** That has become apparent

20 for some time, hasn't it?

21 **MR SEMENYA SC:** Yes.

22 **CHAIRPERSON:** Have you got it sorted out

23 in some way?

24 **MR SEMENYA SC:** Yes, we are proposing

25 that we have, the one that we were referring to, the one

1 that you have in your folder as LLL3 and wherever I refer  
2 in the transcript to KKK4, that should be understood and  
3 read to be LLL3.

4 **CHAIRPERSON:** You are in a sense applying  
5 for amendment of the record. Amendment granted. We need a  
6 LLL3, do not we? So we have got to be clear what it is and so  
7 on. Anyway, that is a housekeeping matter; you can attend  
8 to it tomorrow, unless something turns on it between now  
9 and the time we adjourn.

10 **MR SEMENYA SC:** General, I invite you to  
11 look at item 11, which is exhibit HHH68. This is now the  
12 letter written to you dated 12 December 2012, clearly after  
13 the events of Marikana. Do you have that document?

14 **GENERAL MBOMBO:** That's correct, Mr  
15 Chairperson.

16 **MR SEMENYA SC:** I wish to point your  
17 attention to paragraph 11. This is a letter written to you  
18 by Lieutenant Colonel Vermaak. Is that right?

19 **GENERAL MBOMBO:** Correct, Chairperson.

20 **MR SEMENYA SC:** In it he raises several  
21 issues, which I would invite your comment on. He says,  
22 "During the unrest at Lonmin, Amplats and Impala, the  
23 following shortcomings were identified. 11.1, members  
24 do not have commanders with experience in charge at unrest  
25 scenes." Do you know particularly what unrest scenes he's

1 referring to there?

2 **GENERAL MBOMBO:** I am not sure, Mr

3 Chairperson.

4 **MR SEMENYA SC:** Is the broad statement

5 accurate though that members do not have commanders with

6 experience?

7 **GENERAL MBOMBO:** According to me, Mr

8 Chairperson, I do not really agree with that statement.

9 **CHAIRPERSON:** As it appears from the

10 opening section of paragraph 11 the statement refers to Lonmin,

11 Amplats and Impala. Now it may be that 11.1 doesn't refer

12 to all three, but only refers to one or two. But I

13 understand in view of the lack of clarity it will be

14 difficult for the witness to deal with it, but she has

15 expressed a general view that she does not agree.

16 Presumably when Lieutenant Colonel Vermaak comes he can be

17 asked for further detail, but for the moment the Provincial

18 Commissioner has done the best she can; she says she

19 does not agree.

20 **MR SEMENYA SC:** In 11.2 says Colonel

21 Vermaak, "Commanders do not know or have the legislation

22 under what they can act." Do you know what he is talking

23 about there?

24 **GENERAL MBOMBO:** I am not sure of what

25 he is talking about, Chairperson. According to my knowledge

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 is referring to there?

9 **GENERAL MBOMBO:** Even here, Mr  
10 Chairperson, I am not sure.

11 **MR SEMENYA SC:** He says there, "Senior  
12 officers," under paragraph 11.4, "do planning 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 is referring to there?

16 **GENERAL MBOMBO:** I am 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 is referring to?

25 **GENERAL MBOMBO:** I have no idea of this,

1 Mr Chairperson.

2 **MR SEMENYA SC:** What specific actions

3 were taken, what he is 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 do not 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 planning

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

1 between book knowledge and experience on the ground." Do

2 you know what he is 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 is saying towards the end of this sentence where he says

7 theoretical knowledge differs from practical experience.

8 **MR SEMENYA SC:** In 11.7 he says, "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 do not have this capacity anymore. Some of the video

13 footage that was taken during Marikana Lonmin incidents did

14 not have any value. What is 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 do not know if what he

25 wants to convey there is that commanders should have voice

1 recorders when negotiating. But what I know, Mr  
2 Chairperson, is that when there's negotiation taking place  
3 there is 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 is 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 is 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

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 am not sure of this  
17 accusation that he is 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 do not follow.

21 **GENERAL MBOMBO:** I am saying, Mr  
22 Chairperson, I am not sure of what he is 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

1 in translation there. You are saying if the accusation is

2 accurate, what happened?

3 **MR MAHLANGU:** Yes, I am sorry, Sir. She

4 said if?

5 **GENERAL MBOMBO:** I am saying if the

6 accusation that he is 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 is talking about there?

12 "In the past [**he says**] 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

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 Mpembe 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 Mpembe 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 un-particularised 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 Mpembe 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

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 is 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 are now in January 2014 and we are 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 is not that they are not  
24 supposed to happen, but this is from time to time, and  
25 these are individuals involved.

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.

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?

15 **GENERAL MBOMBO:** I see it, Chairperson.

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?

25 **GENERAL MBOMBO:** I see it, Chairperson.

1 **MR SEMENYA SC:** What's your comment to

2 that which Colonel Merafe is saying there?

3 **GENERAL MBOMBO:** He is 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 are 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 will say we now

12 have sufficient members in the police.

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.

19 Pertaining to 9.2, Mr Chairperson, it is 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.

25 **MR SEMENYA SC:** Is that reference to

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 am 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.

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 is 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 will 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

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 Potchefstroom, 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 do not 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

1 collusion that happened in –

2 **GENERAL MBOMBO:** I am not.

3 **CHAIRPERSON:** I do not know that Mr White

4 is saying there was collusion.

5 **MR SEMENYA SC:** No, no, no, Chairperson, I –

6 **CHAIRPERSON:** The point that he's making

7 simply is that because there was this conference at

8 Potchefstroom and many of the statements were produced

9 thereafter, this leaves the police open to allegations of

10 possible collusion. And that must be right. Whether the

11 allegations are correct or well-founded is another matter,

12 but the point he's making is that by adopting the procedure

13 you did, having this full-scale lengthy conference where

14 various matters were gone over in great detail, and

15 statements, definitive statements only being prepared

16 thereafter, that the police left themselves open, as he

17 puts it, to an allegation that there was collusion. That

18 must be right. As I say, whether the allegation is correct

19 or not is another matter, but what he's suggesting, I

20 think, is it was unwise of the police to do that because

21 they left themselves open to this allegation and that's

22 what you have got to comment on, not whether there was in

23 fact collusion. That is another matter.

24 **GENERAL MBOMBO:** Chairperson, according

25 to me I do not know whether it's true that there could have

1 been any collusion, but as he says it is possible that we  
2 get such criticism.

3 **MR SEMENYA SC:** I am asking a different  
4 question, General. Where such may open the SAPS to  
5 possible collusion occurring, as a matter of fact are you  
6 conscious or aware of any collusion that happened there?

7 I am asking a separate question.

8 **GENERAL MBOMBO:** Not at all, Mr  
9 Chairperson. I have no such idea.

10 **MR SEMENYA SC:** Can we now go to  
11 paragraph 4.2.8.

12 **CHAIRPERSON:** Page?

13 **MR SEMENYA SC:** The same page, 29.

14 **CHAIRPERSON:** Same page.

15 **MR SEMENYA SC:** There Mr White says,  
16 "Lieutenant Colonel Scott was one of two people tasked at  
17 Potchefstroom with preparing the police presentation to the  
18 Commission. If the purpose of the Potchefstroom meeting  
19 was to prepare an objective analysis of the Marikana  
20 operation for the Commission, then Lieutenant Colonel Scott  
21 was an inappropriate choice to produce the presentation  
22 given there, given that he was the key SAPS member  
23 responsible for planning the operation on 16 August. It is  
24 unsurprising that Lieutenant Colonel Scott would cast the  
25 plan in a positive light." The criticism there is that it

1 was – were you responsible for the involvement of Colonel

2 Scott at Roots?

3 **GENERAL MBOMBO:** No, it's not so,

4 Chairperson.

5 **MR SEMENYA SC:** Were you involved in the

6 decision to choose the role Colonel Scott was playing at

7 Roots?

8 **GENERAL MBOMBO:** No, not true,

9 Chairperson.

10 **MR SEMENYA SC:** Can we now go to 4.2.18,

11 which you will find at page 35 of that document. There Mr

12 White says, "Fourthly, the evidence of the senior officers

13 who were involved in the operations of 9 to 16 August

14 reveals a distinct unwillingness to engage with the tragic

15 consequences of the police action and a failure to

16 acknowledge errors or accept responsibility for the deaths

17 which occurred. Notably the initial statements," and then

18 mentions amongst others your statement, "barely contain a

19 reference to the fact that the police had fired live

20 ammunition during the operation, killing 34 people."

21 What is your response there?

22 **GENERAL MBOMBO:** Chairperson, I do not

23 really understand what he means by saying – I will make an

24 example with my own statement. How would I be expected to

25 make mention of this which happened where I was not

1 present?

2 **MR SEMENYA SC:** He continues to say,

3 "While it is true that some of these officers claim not to  
4 have been aware of the shootings at the time they occurred,  
5 it is surprising that they did not give detailed evidence of  
6 how they learned of the shootings and deaths, why they were  
7 told of the circumstances of a death and by whom, and what  
8 steps they had taken to investigate or enquire about the  
9 cause of death." What is your reaction to that?

10 **GENERAL MBOMBO:** Possibly there would be  
11 some truth that in my statement I was to mention that  
12 General Naidoo, what it was that he reported to General  
13 Annandale, but I was to get it from General Annandale and  
14 to include it in my statement according to the details  
15 given to me by Annandale.

16 **MR SEMENYA SC:** Can I invite you now to  
17 look at paragraph 7.3.3 –

18 **CHAIRPERSON:** Before you move on from  
19 that paragraph, the last sentence of paragraph 4.2.18 reads  
20 as follows, "From the initial statements" – and that  
21 includes yours – "one is left with the unfortunate and  
22 presumably incorrect impression that the senior leadership  
23 does not believe that the operation went wrong at all."  
24 Well, is the impression that the senior leadership, which  
25 includes you, does not believe the operation went wrong at

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 is 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 is 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 am saying is that

1 I am 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 will 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:** Chairperson, I am 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

1 indication, I know it is difficult, I will not 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:** Chairperson, I shall 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]**

