

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 216

11 APRIL 2014

PAGES 26596 TO 26682



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<p style="text-align: right;">Page 26596</p> <p>1 [PROCEEDINGS ON 11 APRIL 2014] 2 [09:09] CHAIRPERSON: The Commission commences – 3 resumes actually. Colonel, you're still under oath. 4 JOSEPH OMPHILE MERAFA: Correct, 5 Chairperson. 6 CHAIRPERSON: Ms Baloyi, would you like 7 to proceed with the evidence-in-chief? 8 MS BALOYI: Thank you, Chairperson. 9 Chairperson, perhaps before we start, two issues of 10 housekeeping. We've added to the list of documents two 11 documents that we omitted yesterday in error, and 12 Chairperson, one of those documents is a new document and 13 we would have to give it an exhibit number, and the other 14 one is a document which is already an exhibit before the 15 Commission. The document that is already an exhibit is the 16 letter of Colonel Vermaak dated the 12th of December 2012 17 and it is exhibit HHH68. 18 CHAIRPERSON: HHH68? 19 MS BALOYI: 68. 20 CHAIRPERSON: Have you got it listed in 21 your bundle? 22 MS BALOYI: Chairperson, it could be 11A 23 to fit in sequence with the other letter from Colonel 24 Vermaak. 25 CHAIRPERSON: I'm sorry, I shouldn't</p>	<p style="text-align: right;">Page 26598</p> <p>1 MS BALOYI: The new document, Chair, it 2 is handwritten notes of Colonel Merafe. 3 CHAIRPERSON: Headed, "Plan Wonderkop 4 13/08." 5 MS BALOYI: Indeed, Chair. 6 CHAIRPERSON: So that will get in as 7 QQQ5. Is that right? 8 MS BALOYI: That will be QQQ5, indeed. 9 CHAIRPERSON: Okay, so where does that go 10 in, in your bundle? 11 MS BALOYI: Chair, I had put it under 4, 12 so it would be 4A. 13 CHAIRPERSON: Okay, 4A. 14 MS BALOYI: Yes. 15 CHAIRPERSON: And how do I describe it? 16 Handwritten notes of? 17 MS BALOYI: The description that I've 18 given is handwritten notes of Lieutenant-Colonel Merafe, 19 the period 13/08/12 to 10/09/12. 20 CHAIRPERSON: 10? 21 MS BALOYI: 09/12. 22 CHAIRPERSON: Alright, so exhibit QQQ5 is 23 handwritten notes by Colonel Merafe for period 13 August 24 2012 to 10 September 2012. 25 MS BALOYI: To 10 September 2012, yes</p>
<p style="text-align: right;">Page 26597</p> <p>1 [Microphone off, inaudible] where does it fit in? 2 MS BALOYI: 11, under, immediately after 3 11, the item listed as 11. 4 CHAIRPERSON: [Microphone off, inaudible] 5 marked exhibit A. 6 MS BALOYI: Yes. Yes. 7 CHAIRPERSON: That's already been marked 8 and that will be exhibit QQQ5, I take it. 9 MS BALOYI: It shouldn't be, Chair. It 10 shouldn't be, because it's already an exhibit. 11 CHAIRPERSON: You gave me a document 12 which was marked 11A. It's the letter of the 12th of 13 December. 14 MS BALOYI: Yes, Chair. 15 CHAIRPERSON: Headed "Unrest Marikana and 16 Rustenburg 2012." 17 MS BALOYI: Yes, Chair. 18 CHAIRPERSON: Now you say that's an 19 exhibit already? 20 MS BALOYI: It's already HHH68. 21 CHAIRPERSON: Oh, thank you very much. 22 So I shall not have to – 23 MS BALOYI: Yes. 24 CHAIRPERSON: - mark it again. Yes, and 25 there's a new document, is there?</p>	<p style="text-align: right;">Page 26599</p> <p>1 Chair. 2 CHAIRPERSON: Okay, now the housekeeping 3 has been done. We can open the doors and let the public 4 in. 5 MS BALOYI: Thanks, Chair. 6 CHAIRPERSON: And proceed with the 7 evidence-in-chief. 8 MS BALOYI: Thank you, Chair. 9 MR CHASKALSON SC: Chair, sorry 10 Chairperson, before we complete the housekeeping, I wonder 11 if SAPS could make available the original document or book 12 or examination pad from which these handwritten notes are 13 taken because we just don't know where they come from. 14 CHAIRPERSON: Ja, well it's a copy, so 15 strictly speaking the original should be available. We 16 have to be able to satisfy ourselves that it is an accurate 17 copy. I know it's a photostat, but things can happen to 18 photostats sometimes on the way. 19 MS BALOYI: Chair, we will do that. 20 CHAIRPERSON: So anyway, you'll do that, 21 I'm sure. 22 MS BALOYI: We will do that. 23 CHAIRPERSON: Alright, so can we start 24 rolling now? 25 EXAMINATION BY MS BALOYI (CONTD.): Yes,</p>

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1 Chair. Chair, when we adjourned yesterday we were dealing
 2 with paragraph 4.7.10, and I will proceed to deal with
 3 4.7.11, but Chair, before I do that I would like to put the
 4 other statements on record and get them confirmed by the
 5 witness because we'll be making reference to those other
 6 statements. Now Colonel Merafe, if you look at the
 7 document which is marked QQ – in fact let's start with
 8 GGG15, exhibit GGG15, do you have that in front of you?
 9 COLONEL MERAPE: I have seen it,
 10 Chairperson.
 11 MS BALOYI: You confirm that it's your
 12 statement?
 13 COLONEL MERAPE: I confirm that it is my
 14 statement, Chairperson.
 15 MS BALOYI: And you confirm the contents
 16 thereof?
 17 COLONEL MERAPE: It is correct.
 18 MS BALOYI: Then have a look at the
 19 document marked QQQ3, the supplementary statement.
 20 COLONEL MERAPE: I have it, Chairperson.
 21 MS BALOYI: You confirm that is your
 22 document?
 23 COLONEL MERAPE: That's correct, Chair.
 24 MS BALOYI: And you confirm the content?
 25 COLONEL MERAPE: I do confirm the

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1 contents.
 2 MS BALOYI: Now Colonel Merafe, this
 3 statement –
 4 COMMISSIONER HEMRAJ: Ms Baloyi, which is
 5 the first statement chronologically?
 6 MS BALOYI: Chairperson, GGG15, if I may
 7 find my copy. GGG15 is the first statement in –
 8 COMMISSIONER HEMRAJ: Dated 20 December
 9 2012?
 10 MS BALOYI: It is dated 20 December, and
 11 then the supplementary statement, Chairperson, is dated 29
 12 November 2013.
 13 CHAIRPERSON: So do I hear correctly,
 14 Colonel, that your original statement, your first statement
 15 was dated the 20th of December 2012? Is that right? That's
 16 exhibit GGG15.
 17 COLONEL MERAPE: Just as my
 18 representative has stated, Chairperson, that is the
 19 statement, yes.
 20 CHAIRPERSON: Why did you wait so long
 21 from the 16th of August, or in fact it's really the 13th of
 22 August because you weren't there on the 16th of August. Why
 23 did you wait so long from the 13th of August 2012 to the
 24 20th of December 2012 before making your statement?
 25 COLONEL MERAPE: Chairperson, there are

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1 statements that I made which were intended for the opening
 2 of cases. Those statements I made, Chairperson, after the
 3 people from IPID had requested such statements from me.
 4 The one in question was made only after it became clear
 5 that I was to be called as a witness in the Commission.
 6 CHAIRPERSON: But what you said isn't
 7 right because exhibit QQQ2 is a statement which you say, it
 8 has the following in the second sentence, "I hereby make
 9 the following statement to give my version in respect of
 10 Marikana Commission of Inquiry held at Rustenburg Civic
 11 Centre," and that statement is dated the 13th of November
 12 2012. So that's before GGG15. But in any event, I don't
 13 understand why you had to wait so long even until the end
 14 of November 2012. You'd taken part in events on the 13th of
 15 August. If you made a statement about them which is put in
 16 the IPID file, that would be your original statement.
 17 That's the statement we should see. What's going on here?
 18 COLONEL MERAPE: I made the statement,
 19 Chairperson, which is unsigned as it is now. I think this
 20 statement was drawn from a computer because there was a
 21 time when they went through computers looking for
 22 statements made by police.
 23 CHAIRPERSON: [Microphone off, inaudible]
 24 from Colonel Scott's hard drive, but you see, I'll tell you
 25 what concerns me; I like to have statements from people

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1 made before they went to the Roots conference. Now is
 2 there any statement that you made dealing with the events
 3 of the 13th of August before you went to the Roots
 4 conference and took part in the discussions there?
 5 COLONEL MERAPE: Chairperson, I only make
 6 a statement when there's a request for it. I made the
 7 statement as a result of that request.
 8 CHAIRPERSON: Yes, I understand that, but
 9 it still doesn't answer my question. Did you make a
 10 statement, IPID statement, SAPS statement, any kind of
 11 statement, before you went to Roots, the Roots conference,
 12 dealing with what happened on the 13th of August?
 13 COLONEL MERAPE: I did, Mr Chairperson.
 14 CHAIRPERSON: Well, have we got that
 15 statement? If we haven't got it, could we have it, please?
 16 MS BALOYI: Chairperson, can I please
 17 make enquiries about it? I'm not aware of any IPID
 18 statement. It's never been brought to our attention.
 19 CHAIRPERSON: I don't care whether it's
 20 an IPID statement or SAPS statement –
 21 MS BALOYI: Yes.
 22 CHAIRPERSON: But I think in the light of
 23 some of the things that have happened here I'd like
 24 statements from before Roots, if possible. I'm not saying
 25 statements after Roots haven't got value, but the closer to

<p style="text-align: right;">Page 26604</p> <p>1 the event the fresher the memory of the deponent, the 2 better sometimes is the statement. But anyway, that's 3 something you're going to look into. 4 MS BALOYI: Chairperson, I understand. 5 We'll look at it. 6 CHAIRPERSON: Alright, thank you. 7 COMMISSIONER HEMRAJ: Colonel, the 8 statements you made to IPID, were they in the nature of 9 warning statements or were they witness statements? 10 COLONEL MERAFAE: Those are witness 11 statements, Chairperson. 12 MS BALOYI: Thank you, Chair. Colonel 13 Merafe, we were looking at QQQ2. This supplementary 14 statement, how did it come about? 15 COLONEL MERAFAE: I was surprised to find, 16 Chairperson, that a statement which has been put here which 17 I did not sign when – 18 MS BALOYI: And then QQ3, the 19 supplementary statement? 20 COLONEL MERAFAE: I made the supplementary 21 statement, Chairperson, after consultation with the leaders 22 of the SAPS. 23 MS BALOYI: No, with – 24 COLONEL MERAFAE: With the evidence 25 leaders. Evidence leaders, correct.</p>	<p style="text-align: right;">Page 26606</p> <p>1 COLONEL MERAFAE: I see, Chairperson. 2 MS BALOYI: Yes, JJJ137, the heading is 3 "Unrest Rustenburg 22 May 2012." You see that? 4 COLONEL MERAFAE: Correct. 5 MS BALOYI: Now this operation that you 6 refer to in paragraph 4.7.11, is that the same operation 7 that is referred to in JJJ137? 8 COLONEL MERAFAE: That is correct, 9 Chairperson. 10 CHAIRPERSON: I see at the foot of the 11 first page he says in para 3, "The following concerns were 12 raised during the meeting," this is a meeting that had 13 taken place on the 17th of May. "The following concerns 14 were raised during the meeting by the POP units, especially 15 by Lieutenant-Colonel Merafe." Then he sets out a number 16 of points in the letter on the next page and following 17 page. You see that? 18 COLONEL MERAFAE: I see, Chairperson. 19 MS BALOYI: Thank you, Chair. Now you 20 also say in paragraph 4.7.11 that there was no prior 21 warning or notification of the march. Is that correct? 22 COLONEL MERAFAE: It's correct, 23 Chairperson, there was no notification. 24 MS BALOYI: Now Colonel, does standing 25 order 262 deal with marches or gatherings where there has</p>
<p style="text-align: right;">Page 26605</p> <p>1 MS BALOYI: Yes, who prepared the 2 statement? Do you know? 3 COLONEL MERAFAE: It was sent to me after 4 it had been prepared and I was asked to sign it and return 5 it back. 6 MS BALOYI: Now if we can then go back to 7 QQQ1, which is your consolidated statement, and we look at 8 paragraph 4.7.11. 9 COLONEL MERAFAE: I see it. 10 MS BALOYI: Yes. You say in the opening 11 sentence that "In May 2012 I was operational commander in 12 charge of crowd management during an unauthorised march 13 involving 15 000 employees of Impala Platinum." Is that 14 correct? 15 COLONEL MERAFAE: That is correct, 16 Chairperson. 17 MS BALOYI: Yes, now if you turn to 18 exhibit JJJ137, this is the letter of Colonel Vermaak of 19 the 28th of May 2012. 20 MR WESLEY: Sorry, Chair, could I just 21 get the reference to that exhibit? 22 MS BALOYI: JJJ137. 23 CHAIRPERSON: It's number 11 in the – 24 MS BALOYI: In the bundle. 25 CHAIRPERSON: - in the SAPS bundle.</p>	<p style="text-align: right;">Page 26607</p> <p>1 not been prior warning? 2 COLONEL MERAFAE: Chairperson, it is so 3 that in standing order 262, paragraph 14, mention is made 4 of spontaneous gatherings. 5 MS BALOYI: Chairperson, the standing 6 order is exhibit SS2 and in our bundle it is item 19. 7 CHAIRPERSON: Thank you. 8 MS BALOYI: Colonel Merafe – 9 CHAIRPERSON: What is the paragraph, 10 Colonel, you were referring us to? 11 COLONEL MERAFAE: I mention paragraph 14, 12 Chairperson. 13 MS BALOYI: Colonel, won't you read the 14 heading and the provisions of paragraph 14 into the record? 15 COLONEL MERAFAE: Ja, paragraph 14 of 16 standing order 262 says, "The first members at scene of 17 unforeseen (spontaneous gathering)" – 18 MS BALOYI: Yes, please read the rest of 19 it. 20 COLONEL MERAFAE: "The first member who 21 arrives at the scene or venue of unforeseen (spontaneous 22 gathering) must seek to preserve the presence and to 23 protect and help the community." 24 MS BALOYI: To preserve the peace. 25 COLONEL MERAFAE: Yes.</p>

<p style="text-align: right;">Page 26608</p> <p>1 MS BALOYI: Yes, and then –</p> <p>2 COLONEL MERAPE: “To preserve the peace</p> <p>3 and protect and help the community.”</p> <p>4 MS BALOYI: Yes.</p> <p>5 COLONEL MERAPE: “The first member who</p> <p>6 arrives at the scene or venue must follow the following</p> <p>7 procedure.”</p> <p>8 MS BALOYI: Yes?</p> <p>9 COLONEL MERAPE: In step 1, “Action,</p> <p>10 contact the operational centre and request backup by</p> <p>11 personnel trained in crowd management.” Number 2, “Set up</p> <p>12 a mobile JOC or notify ACCU,” which is –</p> <p>13 CHAIRPERSON: That’s “and notify”.</p> <p>14 COLONEL MERAPE: - “and notify”.</p> <p>15 CHAIRPERSON: Just remind us what ACCU</p> <p>16 stands for.</p> <p>17 COLONEL MERAPE: ACCU stands for</p> <p>18 presently POP. It was Area Crime Combating Unit.</p> <p>19 CHAIRPERSON: Yes, thank you.</p> <p>20 COLONEL MERAPE: - “who will take</p> <p>21 operational command on arrival. Attempt to create an</p> <p>22 atmosphere which is conducive to negotiations by refraining</p> <p>23 from the display of aggression, such as for instance the</p> <p>24 branding of firearms” –</p> <p>25 MR MAHLANGU: Brandishing.</p>	<p style="text-align: right;">Page 26610</p> <p>1 talking about the operation on the 22nd of May.</p> <p>2 COLONEL MERAPE: I’m sorry. I was in</p> <p>3 command of this operation.</p> <p>4 MS BALOYI: And the – who was deployed to</p> <p>5 this operation?</p> <p>6 COLONEL MERAPE: The people employed were</p> <p>7 members of the POP in Rustenburg, in this operation.</p> <p>8 MS BALOYI: Yes, were you the only</p> <p>9 commander deployed to this operation?</p> <p>10 COLONEL MERAPE: I was the overall,</p> <p>11 actually the operational commander assisted by Lieutenant</p> <p>12 Ramagodi and Lieutenant Mokgatle.</p> <p>13 MR MAHLANGU: As he said it in English.</p> <p>14 MS BALOYI: Yes. And these two gentlemen</p> <p>15 that you referred to, these are POP commanders.</p> <p>16 COLONEL MERAPE: The one was a lady,</p> <p>17 Lieutenant Mokgatle. She was one of the platoon commanders</p> <p>18 who were in charge of the members on the ground.</p> <p>19 MS BALOYI: Yes. Now Colonel Vermaak</p> <p>20 discusses this operation in JJJ137 that we referred to. Do</p> <p>21 you confirm that he was present at that operation?</p> <p>22 COLONEL MERAPE: I agree, yes, that</p> <p>23 Colonel Vermaak arrived whilst the operation was</p> <p>24 continuing.</p> <p>25 MS BALOYI: Yes. Now you say that you</p>
<p style="text-align: right;">Page 26609</p> <p>1 COLONEL MERAPE: - “brandishing of</p> <p>2 firearms and special equipment.” 4 says, “Identify the</p> <p>3 leadership element in order to establish communication and</p> <p>4 to start negotiations.” 5, “Set up a higher standard of</p> <p>5 tolerance and do not use any firearm against the</p> <p>6 demonstrators except in the case of private defence should</p> <p>7 the lives be in serious danger.</p> <p>8 [09:29] 6. Consult with the local authority and</p> <p>9 authorised member concerning the gathering and the purpose</p> <p>10 of the gathering. 7. Bring the contents of section</p> <p>11 9(1)(c) of the Act to the attention of the leadership</p> <p>12 elements.</p> <p>13 MS BALOYI: Thank you. Now if you would</p> <p>14 turn to paragraph 4.7.12 of exhibit QQQ1.</p> <p>15 COLONEL MERAPE: I have opened 4.7.12.</p> <p>16 MS BALOYI: Yes. Now you describe in the</p> <p>17 second sentence starting at the third line that some of the</p> <p>18 marchers were armed with knobkerries, pangas and sticks, do</p> <p>19 you see that?</p> <p>20 COLONEL MERAPE: I see it, Chairperson.</p> <p>21 MS BALOYI: Can I just confirm, you were</p> <p>22 in command of this operation?</p> <p>23 COLONEL MERAPE: Chairperson, General</p> <p>24 Mpembe was in command of the operation.</p> <p>25 MS BALOYI: No, Colonel, we’re still</p>	<p style="text-align: right;">Page 26611</p> <p>1 had 54 members of POP from your unit that you deployed with</p> <p>2 on that day, is that correct?</p> <p>3 COLONEL MERAPE: Correct, Chairperson.</p> <p>4 MS BALOYI: Yes. How many members, how</p> <p>5 many POP members do you have in your Rustenburg POP?</p> <p>6 COLONEL MERAPE: All in all, Rustenburg</p> <p>7 POP has a number of 148 members and 38 of those members are</p> <p>8 deployed at the satellite unit at Klipgat. 15 of them are</p> <p>9 working as SAP, doing administration. 20 of my members are</p> <p>10 in the radio room, they are working shifts.</p> <p>11 CHAIRPERSON: Mr Mahlangu, I’m sorry to</p> <p>12 interrupt you. When the witness gives evidence in English</p> <p>13 then I should you should then translate it into Xhosa. I</p> <p>14 know it’s very tricky because sometimes he gives evidence –</p> <p>15 you should translate it into Xhosa.</p> <p>16 MR MAHLANGU: If I may say, Chairperson,</p> <p>17 there is indeed somebody –</p> <p>18 CHAIRPERSON: Alright, sorry. I’m</p> <p>19 reminded that someone is translating into Xhosa but then</p> <p>20 you must please translate his English into Tswana and when</p> <p>21 he speaks Tswana, translate his Tswana into English. It</p> <p>22 doesn’t help to repeat in English what he’s just said in</p> <p>23 English or to repeat in Tswana what he’s just said in</p> <p>24 Tswana.</p> <p>25 MR MAHLANGU: I thank you, Chairperson.</p>

<p style="text-align: right;">Page 26612</p> <p>1 COLONEL MERAPE: Thank you, Chairperson. 2 I was explaining that 20 of the members are in the OPS 3 room, that is our radio room and in some cases other 4 members are on leave. That is why I operating with 54 5 members on the day. 6 MS BALOYI: Yes. At any one time, how 7 many members, operational members do you in fact have 8 available to you? 9 COLONEL MERAPE: I usually have, 10 Chairperson, between 50 and 60 members per day. 11 MS BALOYI: Now, Colonel Merafe, the 12 members, the operational members, the 50 to 60 that you 13 have per day, what area falls under the Rustenburg unit 14 that must be covered by these members? 15 COLONEL MERAPE: It covers three areas, 16 Chairperson, these being Rustenburg cluster, Brits cluster 17 and Mmakau cluster. 18 MR MAHLANGU: Mmakau spelt with M-M-A-K- 19 A-U. 20 MS BALOYI: Thank you. Now you also say 21 in this statement that at some point you requested backup 22 and you were joined during this operation, and you were 23 joined by – you requested backup from the surrounding 24 stations, is that correct? 25 COLONEL MERAPE: I did, Mr Chairperson,</p>	<p style="text-align: right;">Page 26614</p> <p>1 already started with protesters, trying to disperse them. 2 I did not have the chance of briefing Colonel Vermaak as to 3 what was happening. 4 MS BALOYI: Now Colonel Vermaak, and if 5 you look at JJJ137 again, paragraph 9, Colonel Vermaak says 6 that you requested the air wing to throw teargas and stun 7 grenades from the helicopter into the crowd from above. It 8 did have good results as the crowd was now directly 9 affected by the teargas and the stun grenades. Firstly, do 10 you confirm that you requested Colonel Vermaak to throw 11 teargas and stun grenades from the helicopter? 12 COLONEL MERAPE: I confirm this, 13 Chairperson. I spoke to him, yes. 14 MS BALOYI: Yes. When you made the 15 request to Colonel Vermaak, what was happening? 16 COLONEL MERAPE: The protesters were 17 dispersing in groups, in different groups. The whole 18 09:29/10-44* we could not control them, proceeding towards 19 the settlement at Tlabane. 20 MS BALOYI: And what was the purpose of 21 your request, of your request to Colonel Vermaak to fire 22 teargas and stun grenades? What did you seek to achieve 23 with that? 24 COLONEL MERAPE: Chairperson, my 25 intention was to have the protesters disperse altogether at</p>
<p style="text-align: right;">Page 26613</p> <p>1 yes, I asked for assistance from other police stations in 2 the vicinity which were nearby. 3 MS BALOYI: And you say in response to 4 that you received 4 TRT members and 20 VISPOL members, is 5 that correct?? 6 COLONEL MERAPE: Correct, Chairperson. 7 MS BALOYI: Do you know why you did not 8 receive POP backup when you made the request for 9 assistance? 10 COLONEL MERAPE: I do know that members 11 of the POP in Klerksdorp and in Potch were also involved at 12 the time in operations that were taking place there. 13 MS BALOYI: Now if we can just go back to 14 Colonel Vermaak, you say you do confirm that Colonel 15 Vermaak did attend to the scene, you confirmed that. Now, 16 did you call him to be at the scene? 17 COLONEL MERAPE: Chairperson, no, I did 18 not call him. He arrived there because they had an 19 operation of their own around, in the Rustenburg area. 20 MS BALOYI: Did you, when he arrived at 21 the scene, once you became aware of him, did you have the 22 opportunity or did you in fact brief him about the 23 operation and what it is that you were going to be doing? 24 COLONEL MERAPE: When Colonel Vermaak 25 arrived at the scene of this unrest, Chairperson, we had</p>	<p style="text-align: right;">Page 26615</p> <p>1 the end of the day and not continue with what they were 2 doing. 3 MS BALOYI: Did Colonel Vermaak in fact 4 throw the teargas? 5 COLONEL MERAPE: Correct, Chairperson, he 6 did, the teargas and the stun grenades. 7 MS BALOYI: And he threw this into the 8 crowd, is that correct? 9 COLONEL MERAPE: Correct, Chairperson. 10 MS BALOYI: Now when you made the request 11 to Colonel Vermaak, did he express any concerns about that 12 request to you? 13 COLONEL MERAPE: Not at all, he did not 14 have any complaint whatsoever. 15 MS BALOYI: Now still in paragraph 9 of 16 JJJ137, Colonel Vermaak says, "It did have good results as 17 the crowd was now directly affected by the teargas and the 18 stun grenade." Do you see that? 19 COLONEL MERAPE: Chairperson yes, I see 20 it, it is so. 21 MS BALOYI: On your observation, what was 22 the effect of the teargas and stun grenades thrown? 23 COLONEL MERAPE: Chairperson, the teargas 24 made it that the crowd should disperse and also the stun 25 grenades. As a result, they discontinued.</p>

<p style="text-align: right;">Page 26616</p> <p>1 MS BALOYI: When you say they 2 discontinued, please explain that? 3 COLONEL MERAFAE: The idea was to drive 4 them back to where they came from and that is what they 5 did. 6 MS BALOYI: Yes. Now in your experience 7 as a POP member and commander, what has been your 8 experience where teargas has been used in crowd control 9 situations? 10 COLONEL MERAFAE: According to me, Mr 11 Chairperson, with my 20 years' experience in the public 12 order policing, teargas has the effect of dispersing 13 people. They wouldn't come to you when you apply it. 14 MS BALOYI: And stun grenades, where stun 15 grenades are used? 16 COLONEL MERAFAE: At a grenade which 17 explodes and makes a big sound, it has the effect of 18 scaring the people. They wouldn't come to you, they 19 disperse. 20 MS BALOYI: Have you had, do you have any 21 experience where teargas and/or stun grenades were thrown 22 and they resulted in an attack on the police, in your 23 experience? 24 COLONEL MERAFAE: Chairperson, only the 25 experience of the 13th August 2012, it was the very first</p>	<p style="text-align: right;">Page 26618</p> <p>1 information about the leadership of the march, who was the 2 leader of the march? 3 COLONEL MERAFAE: We did not know who the 4 leaders were, Mr Chairperson. 5 MS BALOYI: Did you have – you say in the 6 second sentence, "Members of POP Rustenburg were deployed 7 to monitor the march." Did you have any involvement with 8 this deployment? 9 COLONEL MERAFAE: As the unit commander of 10 the Rustenburg public order policing, Chairperson, Marikana 11 serves, Marikana is in the area that is served by this 12 unit. My involvement there, Chairperson, was when we came 13 to know that there was this kind of an action I sent the 14 police there. 15 MS BALOYI: So you deployed members. 16 COLONEL MERAFAE: I sent members, I sent 17 members under the leadership, the command of Lieutenant 18 Molobye and Lieutenant Khutu from Klipgat, which is one of 19 my satellite stations. They took together with them 22 20 members, 12 from the unit and 10 from Klipgat. I also sent 21 the person, the video operator Warrant Officer Masinya. 22 MS BALOYI: Now how many members deployed 23 to this operation? 24 COLONEL MERAFAE: 22 members, one video 25 operator, all in all will be 23.</p>
<p style="text-align: right;">Page 26617</p> <p>1 time. It was the first time that I've seen teargas being 2 thrown on the police and them attack – on the protesters 3 and them attacking the police. 4 MS BALOYI: If we may then turn to 5 paragraph 5.1. 6 COLONEL MERAFAE: I am with that document. 7 MS BALOYI: Now, this is about the 8 operation in Marikana. You say at paragraph 5.1, "On 10 9 August 2012 Lonmin employees had an unauthorised march to 10 Lonmin offices. Members of POP Rustenburg were deployed to 11 monitor the march. Lonmin officials refused to receive a 12 memorandum from representatives of the protesting 13 employees. The march ended without incident." Do you see 14 that, 5.1? 15 COLONEL MERAFAE: I see, Chairperson. 16 MS BALOYI: Yes. Did the police have 17 prior notification of this march? 18 COLONEL MERAFAE: The truth of the matter, 19 Chairperson, is we only heard in the morning of this day, 20 the 10th, that there were people who were marching towards 21 Lonmin offices. 22 MS BALOYI: Did the police know who 23 organised the march? 24 COLONEL MERAFAE: We did not know, sir. 25 MS BALOYI: Did the police have any</p>	<p style="text-align: right;">Page 26619</p> <p>1 MR MAHLANGU: As mentioned, I sent 22 2 members and one video operator. All in all it would be 23 3 people. 4 CHAIRPERSON: What's that in Tswana? He 5 said it in English and you repeated it in English. That's 6 not interpretation, that's repetition. 7 MR MAHLANGU: The satellite office, we 8 don't have that word in Tswana. We use the word 9 "satellite," it's a borrowed word. 10 CHAIRPERSON: No – no, you don't 11 understand. He said something in English and you repeated 12 it in English. That's why I said – I know it's tricky. He 13 normally gives in evidence in Tswana and you interpret into 14 English. 15 MR MAHLANGU: Yes. 16 [09:49] CHAIRPERSON: But when he switches over 17 to English, you've got to remember to switch over to Tswana 18 and I know it's tricky to keep all those balls in the air 19 at the same time but – 20 MR MAHLANGU: I understand, yes. He 21 mentioned the numbers, it's 20, 23, yes. 22 CHAIRPERSON: But you know what we want 23 is interpretation, not repetition. Anyway, let's carry on. 24 MS BALOYI: Now, Colonel Merafe, if you 25 would turn to item 20 in the bundle of documents.</p>

<p style="text-align: right;">Page 26620</p> <p>1 Chairperson, it's the contingency plan 10/08/12, it is 2 exhibit SS3. 3 CHAIRPERSON: Thank you. 4 MS BALOYI: Do you have the document, 5 Colonel? 6 COLONEL MERAFAE: I have the document, 7 sir. 8 MS BALOYI: Now you see on the first 9 page, the document is headed "South African Police 10 Rustenburg POP, Contingency plan, strike by employees of 11 Lonmin Eastern and Western Platinum (Karee Mine) on 12 2012/08/10." You see that? 13 COLONEL MERAFAE: I see, Chairperson. 14 MS BALOYI: And in the line immediately 15 below to the right it says, "Enquiries Lieutenant-Colonel 16 Merafe" and it gives details, telephone numbers and a fax 17 number, you see that? 18 COLONEL MERAFAE: It is so. 19 MS BALOYI: What is this document, 20 Colonel? 21 COLONEL MERAFAE: The document is a plan, 22 the operational plan which we draw to prepare ourselves for 23 anything, to prepare ourselves for any action that might 24 happen. This is not a proper plan, it's something that is 25 being done to take care of the situation as at the time to</p>	<p style="text-align: right;">Page 26622</p> <p>1 MS BALOYI: What is that date? 2 COLONEL MERAFAE: This is the date that is 3 put there after a plan has been drawn. 4 MS BALOYI: So this plan was drawn on the 5 10th? 6 COLONEL MERAFAE: On the 10th after the 7 march in the afternoon. 8 MS BALOYI: Now if we could move to 9 paragraph 5.2, do you have that? 10 COLONEL MERAFAE: That is so, Chairperson. 11 MS BALOYI: Of QQQ1, you say there "On 11 12 August I received a telephone call from Lieutenant-Colonel 13 Masiza, the station commander, Marikana. Marikana falls 14 under my policing area. Lieutenant-Colonel Masiza informed 15 me that there was trouble at the Wonderkop taxi rank where 16 people were shooting at each other. On verifying the 17 report with other members, I was informed that some people 18 were passing near Wonderkop stadium where employees 19 gathered and shots were fired." Do you see that? 20 COLONEL MERAFAE: I see it, Chairperson. 21 MS BALOYI: Yes and then you carry on at 22 5.13, you say "After I received the report from Lieutenant- 23 Colonel Masiza, I received a call from Brigadier Calitz and 24 he asked me to make provision for members to be on night 25 shift and day shift at Wonderkop. I arranged for two</p>
<p style="text-align: right;">Page 26621</p> <p>1 intervene. 2 MS BALOYI: Now – 3 COLONEL MERAFAE: - it's a plan to can, an 4 intervention plan. 5 CHAIRPERSON: I see you've signed this 6 report actually on page 7. 7 COLONEL MERAFAE: I did sign it. 8 CHAIRPERSON: Did you draw it up or did 9 Warrant Officer Motlame do it or did you do it together? 10 COLONEL MERAFAE: Warrant Officer Motlame 11 drew it on my behalf. 12 MR MAHLANGU: Motlame drew it on my 13 behalf, Chairperson. 14 MS BALOYI: Now at the time of the March, 15 is this the document that was used or that was applicable 16 on the 10th? 17 COLONEL MERAFAE: Chairperson, the march 18 was spontaneous. There was no document drawn then. This 19 document was drawn after the march had started and in case 20 others then spring up. 21 MS BALOYI: Yes. In fact, if you go to 22 the page that the Chairperson referred you to, page 7 where 23 your signature appears, just above your signature you've 24 got date 2012/08/10, you see that? 25 COLONEL MERAFAE: That's correct, Chair.</p>	<p style="text-align: right;">Page 26623</p> <p>1 shifts to be deployed to Wonderkop, one in the night of 11 2 August 2012 until morning and the other in the morning of 3 12 August 2012 until night." And then you go on to say, 4 "On 10 and 11 August the Marikana police station was 5 responsible for monitoring and policing as part of its 6 crime prevention functions in the Marikana area." Do you 7 see that? 8 COLONEL MERAFAE: I see, Chairperson. 9 MS BALOYI: Yes. Now if you turn now to 10 the next paragraph 5.4, 5.4 you say "On 12 August 2012 Mr 11 Sinclair of Lonmin called me and reported that two Lonmin 12 security employees were torched inside vehicles by a group 13 of strikers. I was in Polokwane, Limpopo, at the time and 14 could not attend to this incident. I sent Lieutenant 15 Thukwane to attend to the situation in Marikana. I 16 reported the telephone call from Mr Sinclair to Brigadier 17 Calitz and he told me that he was on the way to Marikana." 18 You see that? 19 COLONEL MERAFAE: I see, Chairperson. 20 MS BALOYI: Did you have any other 21 involvement on the 12th of August? 22 COLONEL MERAFAE: Chairperson, I wasn't 23 present and as such I did not have any involvement on the 24 12th of August but members of my police, as a result of my 25 instruction, did go there.</p>

<p style="text-align: right;">Page 26624</p> <p>1 MS BALOYI: Yes. Then at paragraph 5.5 2 you say, "On Monday, 13 August 2012, I went to Lonmin and 3 found Brigadier Calitz there. He instructed me to mobilise 4 all members of my unit to Marikana for the operation." You 5 see that? 6 COLONEL MERAPE: I see it, Chairperson. 7 MS BALOYI: Did you in fact mobilise 8 members to attend at Marikana? 9 COLONEL MERAPE: Correct, all the members 10 that were in my unit, I did. 11 MS BALOYI: How many members responded? 12 COLONEL MERAPE: On that day, 70 members 13 came. 14 MS BALOYI: And then you go on to say, 15 "Later that morning the Provincial Commissioner, Major- 16 General Naidoo and Major-General Mpembe arrived at Lonmin. 17 The Provincial Commissioner asked me to be part of the SAPS 18 delegation that was to meet with representatives of Lonmin. 19 I attended the meeting with the Provincial Commissioner, 20 Major-General Naidoo, Major-General Mpembe, Brigadier 21 Seboloke, Lieutenant Masiza and Colonel Singwana, do you 22 see that? 23 COLONEL MERAPE: I see, Chairperson. 24 MS BALOYI: Who is Brigadier Seboloke? 25 COLONEL MERAPE: Brigadier Seboloke was</p>	<p style="text-align: right;">Page 26626</p> <p>1 to the offices on the 10th, Mr Chairperson, there was no 2 damage to property along the way, that we, the members of 3 the POP who are properly trained, we have undergone 4 training to be able to apply the principle of situational 5 appropriateness. That helped us in controlling the 6 situation on the day of the 10th of August, 10 August 2012. 7 That was the explanation I gave to the Lonmin people on the 8 morning of the 13th. 9 MS BALOYI: Yes. Now if you turn to 10 paragraph 5.7 and you say, "After the meeting with Lonmin 11 we went back to the JOC. The Provincial Commissioner said 12 that she was leaving for Potchefstroom and ordered that 13 Major-General Mpembe was from then on in charge of the 14 operation," you see that? 15 COLONEL MERAPE: I see, Chairperson. 16 MS BALOYI: What in fact did the 17 Provincial Commissioner say? 18 COLONEL MERAPE: General Mbombo, the 19 Provincial Commissioner of North-West Province instructed 20 the Deputy Provincial Commissioner by then, Major-General 21 Mpembe, that she was proceeding to Potchefstroom and that 22 General Mpembe should then take over as the overall 23 commander of the area, that there should be no people along 24 the roads carrying weapons, that there should be no people 25 attacking others whilst the police, the South African</p>
<p style="text-align: right;">Page 26625</p> <p>1 the cluster, acting cluster commander of Rustenburg. 2 MS BALOYI: And who is Lieutenant-Colonel 3 Singwana? 4 COLONEL MERAPE: He is the commander of 5 the POP in Pretoria. 6 MS BALOYI: And then you say at paragraph 7 5.6, "The SAPS delegation went to the offices of Lonmin 8 where we met with officials of Lonmin. The Lonmin 9 officials reported to us about the strike and intimidation 10 of workers who were going to work." Do you see that? 11 COLONEL MERAPE: I see that, Chairperson. 12 MS BALOYI: What did the Lonmin officials 13 say about the strike? 14 COLONEL MERAPE: We spoke about it, 15 Chairperson. They mentioned that their workers were being 16 stopped from going to work. They mentioned that on the 12th 17 some of their members were killed. They mentioned that 18 there was a group of workers but they did not know which of 19 the worker unions represented them. They also enquired 20 from the police as to why the police allowed people to 21 march on the 10th. My explanation to them, I mentioned to 22 them that there was a march and we as the police could not 23 disperse them, that they were not worrying, they were not 24 assaulting anybody as they were walking, as they were 25 marching towards the Lonmin offices. As they were marching</p>	<p style="text-align: right;">Page 26627</p> <p>1 Police is there. That is the explanation, Chairperson. 2 MS BALOYI: And then at paragraph 5.8 you 3 say, "After we returned to the JOC, I paraded my members 4 under the command of Lieutenant Khutu. I inspected them to 5 check that they had all their crowd control equipment." Do 6 you see that? 7 COLONEL MERAPE: I see this, Chairperson. 8 MS BALOYI: Yes. When you inspected your 9 members to check that they had all their crowd control 10 management, what in fact did you find? 11 COLONEL MERAPE: Chairperson, members of 12 the police that control crowds, when we train them we make 13 sure that they have the correct equipment. Firstly we 14 inspect if he has the protective, bulletproof vest which is 15 protective, also check whether he has a shield, the helmet, 16 *09:49/15-28 and the gas mask which protects them against 17 the effects. We also check if they have their appointment 18 certificate, their side pistols, to check whether they have 19 sufficient ammunition in their magazines and also to check 20 if they have their pocketbooks. That is what I checked, 21 Chairperson. 22 MS BALOYI: And did you find that they 23 had this equipment or not? 24 COLONEL MERAPE: They had complete 25 equipment and were in a position to perform their duties.</p>

<p style="text-align: right;">Page 26628</p> <p>1 MS BALOYI: And then you say, "I briefed 2 them about the protesters who were armed in the area. I 3 also told them about the shooting incident of 11 August 4 2012, the attack and burning of two Lonmin security 5 employees and vehicles on 12 August and the intimidation 6 and attacks of workers who were going to work. I posted 7 them to patrol around Wonderkop and Nkaneng informal 8 settlement. I also told them that they must not allow 9 people to move around with weapons." You see that? 10 COLONEL MERAFAE: I see this part, 11 Chairperson. 12 CHAIRPERSON: Before you carry on with 13 that, you were talking about the equipment, did they have 14 gas masks? 15 COLONEL MERAFAE: Chairperson, yes, they 16 had gas masks. If I need to explain this more I will do 17 so, Chair. 18 CHAIRPERSON: Well, if someone else wants 19 to ask you about it later you can get a chance then. 20 COLONEL MERAFAE: Thank you, alright. 21 COMMISSIONER HEMRAJ: This gas mask, they 22 carry it on their person when they go into the field? 23 COLONEL MERAFAE: Gas masks are contained 24 in a certain bag so that they don't get dust because if 25 they are full of dust they would not in a position to –</p>	<p style="text-align: right;">Page 26630</p> <p>1 MS BALOYI: Yes, now when General Mpembe 2 said, when General Mpembe instructed you in the JOC to go 3 with him to the area where you saw the marchers, what did 4 General Mpembe say you were going to do? 5 COLONEL MERAFAE: General Mpembe, 6 Chairperson, went along with us as police to go and explain 7 to those people who were marching there that they were not 8 supposed to be carrying weapons whilst they were - that 9 there is no fighting going on. 10 MS BALOYI: Yes, you then say, "I drove 11 with Major-General Mpembe, Captain Thupe, Colonel Diole and 12 other TRT members to where we saw the group." Who is 13 Captain Thupe? 14 COLONEL MERAFAE: Captain Thupe is the 15 commander of the Tactical Response Team in Rustenburg, the 16 TRT. 17 MS BALOYI: And who is Colonel Diole? 18 COLONEL MERAFAE: He's the commander of 19 Visible Policing in the Rustenburg cluster. That is 20 Captain Diole. 21 CHAIRPERSON: Colonel. 22 MR MAHLANGU: Oh, he's a colonel. 23 Colonel Diole, I'm sorry. 24 MS BALOYI: And then you say, "At the 25 railway crossing we were joined by Lieutenant-Colonel</p>
<p style="text-align: right;">Page 26629</p> <p>1 they remain in those bags until it becomes necessary for 2 them to be used. 3 COMMISSIONER HEMRAJ: So they would 4 remain in the vehicle rather than be carried on the person 5 of the member? 6 COLONEL MERAFAE: Chairperson, they remain 7 in the containers and then the operational commander would 8 then give an instruction if he is going to have gas used. 9 MS BALOYI: Now what happened with his 10 members after he inspected their equipment and after he 11 briefed them? 12 COLONEL MERAFAE: Chairperson, they went 13 into their vehicles and proceeded with the job as had been 14 instructed to do the job that I had given them. 15 MS BALOYI: You then say at paragraph 16 5.9, "While still at the JOC a report came through about a 17 group of people who were marching from the side of Karee. 18 I contacted members on patrol by radio to drive in the 19 direction of the railway crossing where the marchers we saw 20 were." Let me read that again. "I contacted members on 21 patrol by radio to drive in the direction of the railway 22 crossing where the marchers we saw were. Major-General 23 Mpembe then instructed us in the JOC to go with him to the 24 area where we saw the marchers." You see that? 25 [10:08] COLONEL MERAFAE: I see, Chairperson.</p>	<p style="text-align: right;">Page 26631</p> <p>1 Tsiloane of POP Pretoria and other members and members from 2 POP KwaMhlanga in Pretoria. You see that? 3 COLONEL MERAFAE: I see, Chairperson. 4 COMMISSIONER HEMRAJ: Colonel, on whose 5 instructions did members of the TRT join you on this 6 operation? 7 COLONEL MERAFAE: Chairperson, it was the 8 instruction from General Mpembe. 9 MS BALOYI: The members that you 10 contacted on radio who you say were on patrol and you 11 contacted them to go to the railway crossing, did they in 12 fact join you at the railway crossing? 13 COLONEL MERAFAE: Our members, 14 Chairperson, did so immediately as instructed. 15 MS BALOYI: At paragraph 5.10 you say, 16 "We approached the group at the railway crossing." You 17 say, "As we approached the group at the railway crossing we 18 came upon two males who had blankets on. They were walking 19 towards the group on the road. We stopped the two males 20 and searched them. We found two firearms. The two were 21 taken to the police station for a check on the firearms 22 that were found in their possession." You see that? 23 COLONEL MERAFAE: I see this, Chairperson. 24 MS BALOYI: And then at 5.11 you say, 25 "After the encounter with the two males we then continued</p>

<p style="text-align: right;">Page 26632</p> <p>1 and approached the group of males that we had earlier seen 2 on the security monitor. At this stage we were still in 3 our vehicles. As we neared the group we stopped our 4 vehicles and got out. A Nyala that had come from the 5 direction of Karee came from behind the group and remained 6 behind the strikers while Major-General Mpembe was talking 7 to them on the road. The marchers squatted on the road 8 when they saw us approach." Do you see that? 9 COLONEL MERAFAE: I see, Chairperson, yes. 10 COMMISSIONER HEMRAJ: The two persons 11 with the firearms, after they left the police station did 12 they join the march? 13 COLONEL MERAFAE: They were removed. They 14 did not join the march. They could not be with us there. 15 MS BALOYI: And then you say at 5.12, 16 "After we got out of our vehicles I walked ahead of the 17 SAPS members towards the group that had now stopped and 18 squatted on the road." You see that? 19 COLONEL MERAFAE: I see this, Chairperson. 20 MS BALOYI: What kind of vehicle were you 21 in? 22 COLONEL MERAFAE: I was in the vehicle 23 that I use, it's a Ford Focus, white in colour. 24 MS BALOYI: And then you say, "As the 25 commander of POP I approached the group and left Major-</p>	<p style="text-align: right;">Page 26634</p> <p>1 your cross-examination I must remind the witness, you're 2 still bound by the terms of your oath. 3 JOSEPH OMPHILE MERAFAE: s.u.o. 4 CHAIRPERSON: Now we've got some more 5 paper? 6 MS BALOYI: Yes. 7 CHAIRPERSON: Another forest down 8 overnight. What's this about? 9 MS BALOYI: Chair, if I may say something 10 about it, we've been handed this document by Mr Charles 11 Wesley. It's another statement of Colonel Merafe and it is 12 dated the 13th of August 2012. 13 CHAIRPERSON: [Microphone off, inaudible] 14 closer to the events that we're busy with than the one that 15 you – 16 MS BALOYI: It's on the same date, it's 17 on the same day. 18 CHAIRPERSON: - you put up. 19 MS BALOYI: Yes. 20 CHAIRPERSON: The pre-Roots statement. 21 MS BALOYI: It is indeed, Chair. 22 CHAIRPERSON: Alright, what exhibit 23 number shall we give it? 24 MS BALOYI: QQQ6, Chair. 25 CHAIRPERSON: And where shall we put it</p>
<p style="text-align: right;">Page 26633</p> <p>1 General Mpembe, Captain Thupe, Colonel Tsiloane, Colonel 2 Diole behind me. As I approached the group Colonel Diole 3 and Major-General Mpembe called me back, saying that these 4 people would kill me. I went back to the police members 5 and Major-General Mpembe addressed the marchers." You see 6 that? 7 COLONEL MERAFAE: I see, Chairperson. 8 MS BALOYI: And then you also say, "Mr 9 Blaauw of Lonmin Security was with us at the railway line 10 and I heard Major-General Mpembe ask him to arrange for an 11 interpreter from Lonmin." 12 COLONEL MERAFAE: That is correct, that is 13 what happened, Chairperson. 14 MS BALOYI: Was an interpreter provided? 15 COLONEL MERAFAE: The answer is no, there 16 was none. 17 MS BALOYI: Yes. 18 CHAIRPERSON: But before we move on to 19 the next paragraph I think we should take the first comfort 20 break. 21 MS BALOYI: Thank you, Chair. 22 [COMMISSION ADJOURNS COMMISSION RESUMES] 23 [10:33] CHAIRPERSON: Yes, Adv Baloyi. 24 MS BALOYI: Thank you, Chair. 25 CHAIRPERSON: Before you continue with</p>	<p style="text-align: right;">Page 26635</p> <p>1 in your – oh, it has been punched. Where shall we put it? 2 After 1A? Make it 1B? 3 MS BALOYI: Chair, yes. 1B, Chair. 4 CHAIRPERSON: Alright. We must thank you 5 and Mr Wesley for this, and I'll just write it in my book, 6 sorry. QQQ6, statement by Lieutenant-Colonel Merafe, you 7 say it's dated the – 8 MS BALOYI: 13th of August, Chair, 2012. 9 CHAIRPERSON: Dated 13/8/2012, and Adv 10 Hemraj tells me it looks as if it's been taken from a 11 docket. It's got a case number on the top. 12 MS BALOYI: Yes. Chair, the Colonel – 13 CHAIRPERSON: CAS-number. 14 MS BALOYI: Yes. 15 CHAIRPERSON: Ja, alright. 16 MS BALOYI: The Colonel had a quick look 17 at it and he says it had to do with a case. He would have 18 prepared it in that context. 19 CHAIRPERSON: That's a useful piece of 20 housekeeping. Shall we carry on with the evidence? 21 EXAMINATION BY MS BALOYI (CONTD.): Thank 22 you, Chair. Colonel, we were moving to paragraph 5.13 of 23 your statement QQQ1. You say there, "Major-General Mpembe 24 addressed the strikers and told them that their gathering 25 was not authorised. He pleaded with them to surrender</p>

<p style="text-align: right;">Page 26636</p> <p>1 their weapons and that they would then be allowed to 2 proceed to the koppie without weapons." You see that? 3 COLONEL MERAFAE: Yes, Chairperson. 4 MS BALOYI: What was the reaction of the 5 strikers to General Mpmembe? 6 COLONEL MERAFAE: When General Mpmembe 7 spoke to them they crouched down, they sat down and 8 listened to him. 9 MS BALOYI: Yes, and you say, "The 10 marchers said that they were not fighting and wanted to 11 speak to their employer about their wage demand. They 12 refused to hand over their weapons to the police." Is that 13 correct? 14 COLONEL MERAFAE: It is correct, 15 Chairperson. It is correct, Chairperson, because it was 16 General Mpmembe's plea to them that they put their weapons 17 down. 18 MS BALOYI: And then you say, "They said 19 that Major-General Mpmembe must bring the employer to them. 20 I then said to Major-General Mpmembe that as a senior POP 21 commander I am taking control and that we should disperse 22 and disarm the marchers." You see that? 23 COLONEL MERAFAE: I see that, yes, 24 Chairperson. 25 MS BALOYI: Why did you say this to</p>	<p style="text-align: right;">Page 26638</p> <p>1 I'm going to take. When speaking to them I also had to 2 brief members of my police to say at what position they 3 should be. Because this did not happen, Chairperson, I 4 gave in to my commander, General Mpmembe, I gave him the 5 chance that he could possibly, he had something that he 6 could do. 7 COMMISSIONER HEMRAJ: Yes, but what is 8 the action that you would have taken to disperse them and 9 disarm them? 10 COLONEL MERAFAE: Action I was going to 11 take, Chairperson, I had to explain to them what action I'm 12 going to take against them. The protesters had to know 13 before such action is taken what it is that is going to be 14 done to them. Chairperson, in the public order law we are 15 trained to in the use of force. So like I stated earlier 16 on, I would have viewed the situation as it develop and by 17 so doing I will be able to take a reasonable step in order 18 to defuse the situation before me. For instance, 19 Chairperson, I wouldn't allow my members to be in contact 20 with armed group. That is to create space between us and 21 them. Because as a member of POP I know my members should 22 not be injured and that injuries should be sustained by the 23 protesters. Let me stop at this, Chairperson, because I 24 wasn't given the chance to do this. 25 COMMISSIONER HEMRAJ: I appreciate that,</p>
<p style="text-align: right;">Page 26637</p> <p>1 General Mpmembe? 2 COLONEL MERAFAE: Chairperson, in matters 3 of crowd management, this work is to be done, conducted by 4 Public Order to control the protesters. Myself, 5 Chairperson, as a senior member of this command, of this 6 POP at that time, I decided to take control of the 7 situation. 8 MS BALOYI: Yes, and you say that, 9 "Major-General Mpmembe refused that we disarm the marchers 10 and said that he did not want another Tatane incident and 11 he ordered that we escort the strikers to the koppie." 12 COLONEL MERAFAE: Chairperson, it is so 13 and in the past when mention was made of Tatane there was 14 the allegation going around that members of the Public 15 Order Policing, fingers were being pointed at them as 16 people who are killing other people. 17 MS BALOYI: What did you do when General 18 Mpmembe refused that you disarm the strikers there? 19 COMMISSIONER HEMRAJ: Just before you get 20 there, Ms Baloyi - Colonel, how did you propose to disarm 21 and disperse this crowd at that stage, as you suggested? 22 COLONEL MERAFAE: Chairperson, as an 23 experienced member in the POP I wanted to take the 24 responsibility at the time. I was going to first start 25 talking to the protesters to explain to them what action</p>	<p style="text-align: right;">Page 26639</p> <p>1 Colonel. I still would like for you please to explain what 2 the action would be that would be taken by you to disarm 3 and disperse. 4 COLONEL MERAFAE: Okay. Chairperson, I am 5 talking here about something that I did not do then. That 6 is if I was afforded the opportunity, Chairperson, I was 7 going to use a stun grenade between them, but first of all 8 I would have explained it to them before doing so. I 9 believe, Chairperson, in my experience when you explain 10 this to people they become aware of it, some of them would 11 start moving away. I also explained to the Chair the 12 effect that teargas has on people; it has the effect of 13 dispersing them, and teargas does not kill, it only causes 14 tears and a person leaves thereafter. It's a less 15 dangerous move that I will have used on the day in question 16 to disperse. After dispersing we will then get with our 17 armoured vehicle and get our gear with us, being able to – 18 dispersion means breaking people into smaller "Nyama" 19 manageable groups. 20 MR MAHLANGU: "Smaller 'Nyama'" means 21 very small. 22 COLONEL MERAFAE: What I am saying, 23 Chairperson, is something that I'm talking from experience. 24 CHAIRPERSON: Of course that wouldn't 25 have worked on this particular day because we know from</p>

<p style="text-align: right;">Page 26640</p> <p>1 what you tell us in paragraph 5.18 that the marchers didn't 2 appear to be affected by the teargas and continued walking, 3 and we also know that the members who had taken their gas 4 masks with them, brought their gas masks with them to the 5 scene didn't have them on them at the time. So that 6 wouldn't have worked either, would it? How should the – 7 you people were heavily outnumbered, weren't you? You were 8 about 70; there were 200 strikers armed with very dangerous 9 weapons. Is that right?</p> <p>10 COLONEL MERAFE: I understand you very 11 well, Chairperson.</p> <p>12 CHAIRPERSON: You agree with me?</p> <p>13 COLONEL MERAFE: I agree with you, 14 Chairperson.</p> <p>15 CHAIRPERSON: Right, now Major-General 16 Mpembe was concerned that there'd be another Tatane 17 situation and he decided to apply to doctrine of 18 situational appropriateness. Is that correct?</p> <p>19 COLONEL MERAFE: Chairperson, we have 20 that respect for one another in the police – the highest- 21 ranking officer's word is the last word.</p> <p>22 CHAIRPERSON: No, I understand that, 23 but –</p> <p>24 COLONEL MERAFE: I understand, 25 Chairperson. Now Chairperson, I say what I said because</p>	<p style="text-align: right;">Page 26642</p> <p>1 start running and that is what will happen, as he explained 2 in English.</p> <p>3 COMMISSIONER HEMRAJ: At the stage, 4 Colonel, of the arrest and the disarming, would it be done 5 by POPS members or the TRT members that were there?</p> <p>6 COLONEL MERAFE: Chairperson, to arrest, 7 each and every member of the service is trained to arrest, 8 more especially the VISPOL member. The members of POP will 9 make arrests and in case we run short we will then ask the 10 TRT to assist us because they are there on our backup.</p> <p>11 COMMISSIONER HEMRAJ: Yes, thank you, 12 Colonel.</p> <p>13 CHAIRPERSON: Alright, now we know that 14 teargas didn't work on this occasion. Teargas was used by 15 Warrant-Officer Kuhn and it didn't deter the strikers 16 because, as you yourself say in paragraph 5.18, the 17 marchers didn't appear to be affected by teargas and 18 continued walking. We also know that stun grenades were 19 used. Lieutenant Baloyi used a stun grenade. Somebody 20 else, we don't know who it is, also appears to have used a 21 stun grenade on the ground, but despite that the strikers 22 turned and attacked the police with pangas and so on. 23 Isn't that right?</p> <p>24 COLONEL MERAFE: That is the situation 25 that occur exactly like that, Chair.</p>
<p style="text-align: right;">Page 26641</p> <p>1 more in my 27 years of experience doing the same job I have 2 encounter many events whereby I am forced to disarm people, 3 and I have stated categorically that even the victims were 4 not so, I don't remember people being killed when I'm in 5 charge of the group. I don't want to go there because I 6 never exercise my capabilities on the day in question.</p> <p>7 MR MAHLANGU: He started by saying before 8 he went over to English that "In my 27 years of experience 9 I have this knowledge."</p> <p>10 COMMISSIONER HEMRAJ: Colonel, can we 11 just go back to the explanation you were giving me. You 12 said, I understand from your answer that you would be using 13 stun grenades and teargas after an explanation to disperse 14 the group. How did you plan to disarm them?</p> <p>15 COLONEL MERAFE: Chairperson, the members 16 of Public Order Police they follow instruction from their 17 commander. Firstly, I had to make sure that the police 18 were properly clad, they had the proper equipment, and then 19 explain that I was going to use teargas. They will run, 20 they will literally run, then the members will be 21 approaching them using the armed vehicles and their 22 vehicles. When they are near they will then start to 23 arrest people.</p> <p>24 MR MAHLANGU: As he has explained in 25 English, if teargas has been used the people would then</p>	<p style="text-align: right;">Page 26643</p> <p>1 CHAIRPERSON: So if you tried to do it 2 your way would you have been applying the doctrine of 3 situational appropriateness the way Major-General Mpembe 4 applied it?</p> <p>5 COLONEL MERAFE: Chairperson, General 6 Mpembe applied his own way of managing that crowd and I had 7 my own way that I have explained to this Commission. I 8 wouldn't be fair for me to say I would have done better 9 than him because we are talking of things that have already 10 happened past.</p> <p>11 CHAIRPERSON: Ja, you see what I'm 12 putting to you – no, I won't use that expression. I won't 13 put anything to you. What I'm just saying to you is that 14 we know what happened when teargas was used. We know what 15 happened when stun grenades were used. We know that it 16 ended up in a catastrophe. Policemen were killed and 17 strikers were killed. Isn't that right?</p> <p>18 COLONEL MERAFE: Yes, Chairperson. It is 19 so, Chairperson, yes.</p> <p>20 CHAIRPERSON: The only difference is no 21 warning was given, but I'm not sure there's any evidence to 22 indicate that a warning would have been taken seriously by 23 these people. How do you respond to that?</p> <p>24 COLONEL MERAFE: On my side, Chairperson, 25 my way, when you are not closer to the people you eliminate</p>

<p style="text-align: right;">Page 26644</p> <p>1 the chances of attacks. When you give people space, you 2 give me even the space to move away if they had to flee. 3 You give them the chance to escape if they are cornered. 4 You give them the space to get away if they see they are 5 cornered. 6 CHAIRPERSON: Ja, that's if they wanted 7 to get away. 8 [10:53] Anyway, I'm sure that debate will be carried 9 further by other people. I was just interested to know how 10 you would have avoided a repetition of a Tatane kind of 11 situation but anyway, that's something that we'll look at 12 in due course. 13 COLONEL MERAPE: Thank you, Chairperson. 14 CHAIRPERSON: We're interrupting. Adv 15 Baloyi is trying very patiently to lead your evidence. 16 Forgive me, Ms Baloyi, I interrupted you but please carry 17 on. 18 MS BALOYI: Thank you, Chair. Colonel, 19 before we continue where we were, you were asked the 20 question whether the POP and VISPOL would effect arrests in 21 this case. Now if I may piggyback on that, you had a crowd 22 or a group of people who were armed with sharp weapons. 23 Would the POP and VISPOL effect arrests, attempt to effect 24 arrests of people that are armed in that way? 25 COLONEL MERAPE: Chair, it would have</p>	<p style="text-align: right;">Page 26646</p> <p>1 Mpembe, which is supported by the evidence of Lieutenant- 2 Colonel Vermaak, is that the strikers were proceeding 3 peacefully across the field in the direction of the koppie, 4 that the spark which caused the conflagration, caused the 5 events that took place, the killings and so on, was the 6 firing of the teargas canister by Warrant Officer Kuhn and 7 the subsequent firing of the stun, of the two stun 8 grenades, one by Lieutenant Baloyi, we don't know who 9 fired the other. That, he described as the spark that 10 caused the trouble. Lieutenant Vermaak, Lieutenant-Colonel 11 Vermaak who was in the helicopter above with Captain 12 Loest's evidence is that he said to Captain Loest, what's 13 going on, why are they firing the teargas and the stun 14 grenades, there's no reason to do it? And he agreed, as I 15 understand his evidence, with General Mpembe that that was 16 the spark that caused the trouble. So if there hadn't been 17 that spark, according to them, we wouldn't have had this 18 incident. Now I don't know, I know you weren't there at 19 the time – you were at the time but you were, you were 20 there at the time but you were in the Nyala, were you, is 21 that correct? Where were you at the time when it all 22 happened? You were in the Nyala. Was that the Nyala that 23 went to ensure that the strikers didn't go over into the 24 informal settlement, is that correct? 25 COLONEL MERAPE: I'll try to respond to</p>
<p style="text-align: right;">Page 26645</p> <p>1 depended what the police would have *10:53/01-30 – 2 developing situation, what next should we - it would have 3 depended on the situation, the next step we would take. I 4 don't think - if they realised that they were going to be 5 attacked then possibly they would not have done that. 6 MS BALOYI: Yes. 7 CHAIRPERSON: That's one possibility. 8 The other possibility is they might have taken advantage of 9 the fact that they 200 with sharp weapons and you were only 10 70 and they might have attacked you people and killed more 11 of you. 12 COLONEL MERAPE: Chairperson, we were 64 13 – same number, more than that number that were at the 14 railway crossing. 15 MR MAHLANGU: More than the number of 16 people who were at the railway crossing. 17 COLONEL MERAPE: - to compare the tasked 18 events that have been mentioned with this one of the 13th 19 because one doesn't know the dynamics there, why they were 20 left and content in attacking the police. One cannot say 21 why. I am not in that position, Chairperson. 22 MR MAHLANGU: I'm not in a position to 23 explain that, Chairperson, what made them in this number to 24 attack the police. 25 CHAIRPERSON: The evidence of General</p>	<p style="text-align: right;">Page 26647</p> <p>1 this, Chairperson. The Chair referred me to the statements 2 of those two gentlemen, Colonel Vermaak and General Mpembe, 3 both senior officers say that the use of teargas was 4 inappropriate according to them. 5 MR MAHLANGU: And that is what the 6 Chairperson says. 7 COLONEL MERAPE: What surprises me, 8 Chairperson, if it is true that such instruments used then 9 angered the crowd to attack the police, why is it then that 10 we are issued with these? Why are we using this kind of 11 ammunition up to now? Chairperson, I was using my vehicle, 12 driving along the road parallel to the strikers when the 13 teargas was thrown. My vehicle windows are not tinted, I'm 14 able to see the people next to the road, in front of the 15 road, even 100 metres I can see. When the first teargas 16 was fired, Chairperson, **10:53/06-21 including the stun 17 grenade – from the chopper to the very same crowd, that a 18 person comes here before this Commission and says they are 19 the cause of problem. Now – because they were also falling 20 on the same group of people, the very same teargas because 21 one teargas was thrown by Kuhn, the rest of the teargas was 22 thrown somewhere from the chopper. I don't know which 23 officer of us between, which officer between General Mpembe 24 and Vermaak was on the chopper but the teargas was thrown 25 on the 13th. Now if we say one teargas causes the problem,</p>

<p style="text-align: right;">Page 26648</p> <p>1 what about the rest teargases that were thrown on the 2 crowd? 3 MR CHASKALSON SC: Chair, I'm sorry to 4 interrupt. I'm not following – we're jumping, the witness 5 is jumping between languages and I'm finding it very 6 difficult to follow what's happening because we're now 7 getting half a translation effectively, interjected with 8 English. If we could just establish whether we're going to 9 do it in Setswana or English, just so that we can follow 10 it. 11 CHAIRPERSON: Lieutenant-Colonel, you've 12 got a choice to speak Setswana or English. You chose 13 initially to speak Setswana, which was your right. If you 14 prefer to speak in English you can do so but it does cause 15 difficulties for the interpreter and for those of us who 16 are trying to follow if you jump from one language to 17 another. So may I ask you please to try – I know it's not 18 always easy, so I don't want to be too critical but may I 19 ask you please to try to stick to one language? You can 20 talk English or you can talk Setswana but do me a favour, 21 try to speak one and not mixing the two, if you can. 22 MR MAHLANGU: May I possibly just try to 23 say the last sentence that he said, Chairperson? He said 24 if it is alleged by certain people that the shooting of the 25 stun grenade and the teargas was the cause of the rioting,</p>	<p style="text-align: right;">Page 26650</p> <p>1 but stick to one if you can. Ms Baloyi, you want to say 2 something? No, before – Ms Baloyi, you want to say 3 something? 4 MS BALOYI: No, Chair, I will try as much 5 as possible to remind the witness if he veers off to the 6 English to try and speak in Setswana. It's unfortunately 7 the difficulty of our languages, you know, that he's most 8 comfortable in Setswana but in some instances he may feel 9 the point gets better made if he speaks in English. 10 CHAIRPERSON: Anyway, I understand how it 11 is, I sometimes find it, though I'm English-speaking, 12 that's my mother language, I do sometimes in the course of 13 speaking English, break into Afrikaans if there's a 14 particularly appropriate Afrikaans expression which conveys 15 my meaning better, so I do too. So I'm not blaming the 16 witness, I'm merely asking him, if he can, to please try 17 and speak one language but I understand there may be times 18 when he can't and I'll understand that. It's not an order, 19 it's just a request to be complied with if he can but I 20 have, as I say, between English and Afrikaans I have the 21 same problem so I sympathise with him. 22 MS BALOYI: As many of us do, Chair. I 23 do understand, thank you. Colonel Merafe, after you had 24 said to General Mpembe that you were taking control – in 25 fact at that point when you said to General Mpembe that you</p>
<p style="text-align: right;">Page 26649</p> <p>1 some of the teargas and stun grenades were thrown from the 2 helicopter, from the people who make these allegations. I 3 do not know whether it was Colonel Vermaak who was up there 4 or General Mpembe, except the stun, the teargas that was 5 shot by Kuhn. 6 COMMISSIONER HEMRAJ: What you said, 7 Colonel, was that there was just one teargas canister shot 8 from the ground and all the others came from the air, I 9 think. 10 COLONEL MERAFFE: Chairperson, I want 11 maybe to request that I think me using Setswana was to make 12 sure that I am clear in where I'm struggling because I was 13 born, I was not born speaking English. I learned English 14 along the way, so Setswana is my mother tongue and I think 15 Setswana is also the 11 languages that should be spoken in 16 South Africa – 17 CHAIRPERSON: Lieutenant-Colonel, I'm 18 fully aware of the fact that Setswana is one of the 19 official languages. I'm fully aware that your mother 20 tongue is Setswana. I explained to you, you have the 21 fullest right to speak in Setswana. We have a very able 22 and competent interpreter to interpret what you say in 23 Setswana into English. All I'm saying to you is that if 24 you, you create practical difficulties if you switch from 25 one language to the other. I know it's not always easy,</p>	<p style="text-align: right;">Page 26651</p> <p>1 were taking control, had members who were with you by the 2 railway line at that point, had they been briefed about 3 what would happen with a dispersal and disarming operation, 4 at that point had there been any briefing to the members? 5 COLONEL MERAFFE: The police had not been 6 briefed, Chairperson, they had not been told what it is 7 that they were going to do. They were told to be inside 8 the Nyalas and to see to it that the people do not go into 9 the settlement in the direction in which they were moving. 10 MS BALOYI: Yes. Now with that in mind, 11 if General Mpembe had agreed with you that the strikers 12 should be dispersed and disarmed there and then, if he had 13 agreed with you, what are the action modes that you would 14 have taken? 15 COLONEL MERAFFE: Firstly, we will warn 16 the participants accordingly, they are going to be 17 dispersed and then the action mode is dispersal, disperse. 18 We were also going to apply the action mode, block. Then 19 as we disperse we will then canalise the Nyala in between – 20 in dispersing them we would have used the Nyalas to 21 disperse them into smaller groups. 22 MS BALOYI: Yes. If you did any briefing 23 to the members at that stage, what briefing would have been 24 made? What would have been the content of the briefing to 25 members?</p>

<p style="text-align: right;">Page 26652</p> <p>1 COLONEL MERAFAE: As I explained, Chair, I 2 would have explained to the members we are now going to, 3 into dispersal. We are going to disperse these people. 4 The members would then get themselves ready by putting on 5 the correct things to wear. I would then have divided them 6 into groups, some others to be on the side of the squatter 7 camp to see to it that people do not go there and some 8 others to be on one side, so that nobody gets injured on 9 the way as they proceed. 10 MS BALOYI: Yes. Now, after General 11 Mpembe refused that you disarm the marchers at that point, 12 what did you do? 13 COLONEL MERAFAE: I gave General Mpembe 14 the chance to take control, to give the instructions, 15 realising that amongst us there were also other units such 16 as the TRT and the NIU. 17 MS BALOYI: Yes and you go on to say, "As 18 a result of Major-General Mpembe saying that we should not 19 disarm the marchers, some of my members retreated away from 20 the scene, from the strikers." What do you mean there when 21 you say some of your members retreated away from the 22 strikers? 23 COLONEL MERAFAE: After General Mpembe had 24 taken control of the operation, Chair, some of the members 25 then retreated back to the Nyalas, waiting for instructions</p>	<p style="text-align: right;">Page 26654</p> <p>1 COLONEL MERAFAE: Yes. 2 MS BALOYI: And then you go on – now 3 we've had evidence from Colonel Vermaak that some members 4 alleged that General Mpembe ordered that the members should 5 leave their weapons in their vehicles, they should put 6 their vehicles, their weapons in their vehicles. Did you 7 hear General Mpembe give such an order? 8 COLONEL MERAFAE: Well, I did not hear 9 that instruction. I was next to General Mpembe. 10 MS BALOYI: In the time that you were by 11 the railway line on the road, where were you in relation to 12 General Mpembe? Where did you stand when the members were 13 on the road? How far were you from him? 14 COLONEL MERAFAE: Chairperson, just the 15 distance between me and the interpreter here. 16 MS BALOYI: Were you able to hear 17 everything that General Mpembe said? 18 COLONEL MERAFAE: Each and every thing he 19 said I could hear, Chairperson. 20 MS BALOYI: Yes. 21 [11:13] COMMISSIONER HEMRAJ: In the event of the 22 General wishing to issue any order to members under your 23 command, would he not communicate that to you to convey to 24 the members? 25 COLONEL MERAFAE: What the General</p>
<p style="text-align: right;">Page 26653</p> <p>1 as to what they had to do. Some stood in line with us – 2 General Mpembe, waiting for instructions as to what had to 3 be done and so on. 4 MS BALOYI: Yes. And then, Chair, just 5 for the record so that there's no confusion, we're still 6 reading at paragraph 5.13. We're still dealing with 7 paragraph 5.13. And then you say in that second last line, 8 you say, "And some went and put their weapons in their 9 vehicles." Do you see that? Do you know – do you see 10 that? 11 COLONEL MERAFAE: I saw it, Chairperson, 12 yes. I am aware of it. 13 MS BALOYI: And then you go on to say, 14 "Others kept their weapons on them." 15 COLONEL MERAFAE: Some carried their 16 weapons with them, yes, sir. 17 COMMISSIONER HEMRAJ: Which weapons are 18 you referring to, Colonel, that they put away in the 19 vehicles? 20 COLONEL MERAFAE: I'm talking of the long 21 weapons which uses the rubber. 22 CHAIRPERSON: The shotguns? 23 COLONEL MERAFAE: Shotguns, yes. 24 CHAIRPERSON: Which you use for firing 25 rubber balls.</p>	<p style="text-align: right;">Page 26655</p> <p>1 communicated with me after the disagreement of what I 2 proposed, when I had given him the control, the instruction 3 he gave me was to arrange members to go and block people 4 from entering into the shack settlement. 5 MS BALOYI: Yes. In the time that you 6 were at the railway line, did you hear, did you see General 7 Mpembe address members directly? 8 COLONEL MERAFAE: No. 9 MS BALOYI: Now if we would go to 10 paragraph 5.14, you say "While Major-General Mpembe was 11 addressing the marchers, the marchers started singing and 12 stood up and walked into the open veld. One member of POP 13 went in front of the marchers to block them and he was told 14 to let the marchers pass. This is that member that can be 15 seen on the video holding a rifle, facing the marchers 16 behind the trees." Do you see that? 17 COLONEL MERAFAE: Yes, Chairperson. 18 MS BALOYI: Now did you, as General 19 Mpembe was addressing the marchers and they were responding 20 to him, did you hear General Mpembe agree with the strikers 21 that they would be allowed to go to the koppie or to 22 proceed to the koppie with their weapons? 23 COLONEL MERAFAE: They mentioned, 24 Chairperson, to the General that they would take their 25 weapons and hand them only at the koppie, not there. He</p>

<p style="text-align: right;">Page 26656</p> <p>1 did not agree with them because he said to them, I am going 2 to count and I am going to count from one up to three and 3 when I say three, you put your weapons down. While he was 4 counting they started hitting their arms against one 5 another, stood up and walked through that passage. 6 MS BALOYI: Then at paragraph 5.15 you 7 say, "The marchers proceeded and walked in the veld and 8 Major-General Mpembe ordered Nyala drivers to drive to the 9 road in front of the informal settlement and to ensure that 10 the marchers did not go through the informal settlement." 11 Did you hear General Mpembe say that? 12 COLONEL MERAFAE: That is what I 13 explained. Members that were next to him could hear him 14 but he told me to tell the police to do one, two, three. 15 MS BALOYI: Now if you could look at the 16 supplementary statement which is exhibit QQQ3, do you have 17 that, Colonel? 18 COLONEL MERAFAE: Page 3? 19 MS BALOYI: QQQ3. 20 MR MAHLANGU: Is it on page 3? 21 COLONEL MERAFAE: I have it, Chairperson. 22 MS BALOYI: And look at page 2, paragraph 23 4. You say in paragraph 4, "Turning to the matters 24 concerning the events at Marikana, on 13 August 2012 at the 25 scene by the railway line at Marikana I stood with Major-</p>	<p style="text-align: right;">Page 26658</p> <p>1 COLONEL MERAFAE: Chairperson, to go to 2 the settlement was actually to stop the marchers from going 3 in that direction where the residents stay. We were scared 4 that there could be attacks with the weapons they were 5 having. Being there was actually to channel them to go 6 towards the koppie and not towards the place where the 7 residents are. 8 MS BALOYI: Yes. You then at paragraph 9 5.16 say, "The Nyalas went on the road to the informal 10 settlement as ordered by Major-General Mpembe. I also got 11 into my vehicle and drove with Colonel Diole on the road in 12 the direction of the informal settlement parallel to the 13 strikers and the members who were walking in the veld." 14 And then you say, "The whole time I had sight of the 15 marchers and police walking in the veld." You see that? 16 COLONEL MERAFAE: Correct, Chairperson, 17 but if I may just correct one thing there? 18 MS BALOYI: Yes, Colonel? 19 COLONEL MERAFAE: I think I made a mistake 20 by putting Colonel Diole's name here. He only came to me 21 at the car when we were helping Lepaaku. Why I said I 22 could see the people over there, if Colonel Diole was with 23 me in the car I wouldn't have called. 24 MS BALOYI: Yes. 25 CHAIRPERSON: So are you saying that in</p>
<p style="text-align: right;">Page 26657</p> <p>1 General Mpembe facing the group of protesters who were 2 about 10 metres away when he gave the instruction that we 3 were to block them." What do you mean by that? 4 COLONEL MERAFAE: Chairperson, these 5 people were walking along a road. The blocking that I'm 6 referring to here was to stop them where they were. That's 7 the blocking I'm referring to here. 8 MS BALOYI: Yes. And then if we go back 9 to QQQ1, that paragraph 15.15 – 10 COLONEL MERAFAE: QQQ1? 11 COMMISSIONER HEMRAJ: I'm sorry, can you 12 just assist me there, Colonel? When you say the blocking 13 was to stop them where they were, are you referring to 14 where they were at the railway line? 15 COLONEL MERAFAE: Yes, Chairperson, where 16 they were at the railway line. 17 COMMISSIONER HEMRAJ: Yes, thank you. 18 MS BALOYI: Still at paragraph 5.15 you 19 say, you continue to say, "I had with me a handset radio 20 and I also spoke to Nyala drivers that they should go line 21 up their Nyalas in front of the settlement. We had a total 22 of five Nyalas by the railway line where we found the 23 marchers." Now when you spoke to the Nyala drivers to line 24 up in front of the settlement, you said to them to line up 25 in front of the settlement to do what?</p>	<p style="text-align: right;">Page 26659</p> <p>1 paragraph 5.16 in the – the last word of the second line 2 and the first and second words of the third line should be 3 deleted? So the second sentence would then read, "I also 4 got into my vehicle and drove on the road in the direction 5 of the informal settlement." 6 COLONEL MERAFAE: That's correct, 7 Chairperson. 8 MS BALOYI: Thank you, Chair. And did 9 you give any other instruction on the radio to any person 10 other than the instruction to the Nyala drivers? 11 COLONEL MERAFAE: I did not give to 12 anybody any other instruction, Chairperson, except where I 13 told our members of the Nyalas to go and line up there by 14 the settlement. 15 MS BALOYI: And then still paragraph 5.16 16 you say, "I became aware of Lieutenant-Colonel Vermaak's 17 chopper flying above while we were on the road near the 18 railway line." You see that? 19 COLONEL MERAFAE: It is so, it was flying 20 above the people. 21 MS BALOYI: Do you know how it came about 22 that Colonel Vermaak arrived at the scene? 23 COLONEL MERAFAE: Chair, I do not know how 24 it came about. I should mention that the chopper which he 25 was in, the Lonmin, was outside the JOC whilst we were,</p>

<p style="text-align: right;">Page 26660</p> <p>1 when we came out of the JOC.</p> <p>2 MS BALOYI: And do you know where he was</p> <p>3 when Colonel, when General Mpembe at the JOC said to you</p> <p>4 and other members you should all go to the railway line?</p> <p>5 Do you know where Colonel, did you see Colonel Vermaak at</p> <p>6 the JOC?</p> <p>7 COLONEL MERAFAE: I would not be telling</p> <p>8 the truth. I don't remember seeing him there.</p> <p>9 MS BALOYI: Yes. And then you carry on,</p> <p>10 still at paragraph 5.16, you say "As these strikers walked,</p> <p>11 I was communicating on the handset radio with the Nyalas</p> <p>12 and also giving sitreps to JOC. I did not communicate with</p> <p>13 anyone of the members that were walking in the veld." You</p> <p>14 see that?</p> <p>15 COLONEL MERAFAE: Yes, Chairperson. The</p> <p>16 reason is that the people who were walking there were not</p> <p>17 carrying radios.</p> <p>18 MS BALOYI: And then at paragraph 5.17</p> <p>19 you say, "As the marchers and police walked in the veld,</p> <p>20 the police walked on the left and right flanks and others</p> <p>21 at the back of the marchers. I saw Major-General Mpembe</p> <p>22 and Captain Thupe walking with other members at the back of</p> <p>23 the marchers. While the strikers and police were walking</p> <p>24 in the veld and before teargas was thrown, I saw some of</p> <p>25 the members who had driven to the road in front of the</p>	<p style="text-align: right;">Page 26662</p> <p>1 were walking, that were walking on foot, did not carry</p> <p>2 radios with them, but there were radios in the vehicles and</p> <p>3 also in the Nyalas.</p> <p>4 COMMISSIONER HEMRAJ: And General Mpembe</p> <p>5 had a radio.</p> <p>6 COLONEL MERAFAE: General Mpembe, I did</p> <p>7 not take much note, I'm not sure, Chair. I want to speak</p> <p>8 the truth here so I don't want to speak something I'm not</p> <p>9 sure of.</p> <p>10 COMMISSIONER HEMRAJ: Yes, thank you.</p> <p>11 MS BALOYI: Thank you, Chair. And then</p> <p>12 at paragraph 5.17 – no, we've done that. At paragraph 5.18</p> <p>13 you then say, "As the police and marchers were walking,</p> <p>14 someone at the front on the right of the strikers fired a</p> <p>15 teargas canister. The marchers" – perhaps before I</p> <p>16 proceed, did you see the teargas canister being fired? Did</p> <p>17 you see it?</p> <p>18 COLONEL MERAFAE: Chairperson, I could see</p> <p>19 from the smoke that teargas had been fired there.</p> <p>20 CHAIRPERSON: Perhaps this is a suitable</p> <p>21 stage to take the tea adjournment but if there are some</p> <p>22 questions you want to ask first before we do that,</p> <p>23 obviously you must do that, I permit you to do that. I'm</p> <p>24 in your hands really, tell me when it's appropriate to take</p> <p>25 the tea adjournment.</p>
<p style="text-align: right;">Page 26661</p> <p>1 informal settlement, standing outside their vehicles." Do</p> <p>2 you see that?</p> <p>3 COLONEL MERAFAE: I see, Chairperson.</p> <p>4 MS BALOYI: Is this a reference to the</p> <p>5 Nyalas that you gave an instruction to, to go to the</p> <p>6 settlement?</p> <p>7 COLONEL MERAFAE: It is correct,</p> <p>8 Chairperson. The Nyalas that were in front there, the</p> <p>9 members thereof had alighted, had come out of vehicles.</p> <p>10 MS BALOYI: Were there any other vehicles</p> <p>11 other than Nyalas?</p> <p>12 COLONEL MERAFAE: Some of them. The one</p> <p>13 other was behind, that was the one coming from behind the</p> <p>14 protesters.</p> <p>15 MS BALOYI: In addition to the Nyalas,</p> <p>16 were there any other vehicles?</p> <p>17 COLONEL MERAFAE: Yes, Chairperson. Other</p> <p>18 vehicles belonging to the TRT and the national intervention</p> <p>19 unit, NIU.</p> <p>20 COMMISSIONER HEMRAJ: Before you go on</p> <p>21 can you just clarify the issue of the radios please,</p> <p>22 Colonel? I didn't quite catch what you said. Was it all</p> <p>23 the members in the field did not have radios or some of</p> <p>24 them didn't?</p> <p>25 COLONEL MERAFAE: I'm saying those that</p>	<p style="text-align: right;">Page 26663</p> <p>1 MS BALOYI: Thank you, Chair, we'll take</p> <p>2 the tea adjournment now.</p> <p>3 CHAIRPERSON: That proposal will be</p> <p>4 endorsed.</p> <p>5 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>6 [11:52] CHAIRPERSON: The Commission resumes. I</p> <p>7 have just received a message from the Mayor to the effect</p> <p>8 that this chamber will be required by the municipality on</p> <p>9 Tuesday afternoon from 2 o'clock for another memorial</p> <p>10 service. So what we're going to do – and they require half</p> <p>11 an hour to clear the room before they start the memorial</p> <p>12 service. So we will only take the lunch adjournment at</p> <p>13 half past one on Tuesday. It means that we will lose some</p> <p>14 time. At least we'll try to make it up to some extent and</p> <p>15 so I'm giving notice now to those who are interested in</p> <p>16 hearing this, that on Tuesday we'll be sitting through</p> <p>17 until half past one, for the reasons I've mentioned. And</p> <p>18 on Wednesday, it being the third Wednesday of the month, we</p> <p>19 will not be sitting here in the auditorium. We'd better</p> <p>20 tell the latecomers. We're not sitting on Tuesday</p> <p>21 afternoon after half past one, we're sitting through to</p> <p>22 half past one on Tuesday afternoon. The chamber is</p> <p>23 required for a memorial service after that. We're not</p> <p>24 sitting on Wednesday morning because it's the third</p> <p>25 Wednesday and the municipality needs the chambers as well,</p>

<p style="text-align: right;">Page 26664</p> <p>1 so we will merely be having the seminar on, at 2 o'clock, 2 the seminar is going to be at 2 o'clock on Wednesday 3 afternoon at the venue at Wits University. 4 While we're talking about the seminar on 5 Wednesday at 2 o'clock, can you please tell us what the 6 subject will be, Mr Chaskalson? And if you know the 7 speakers or your computer knows the speakers, perhaps you 8 can give us that information as well. 9 MR CHASKALSON SC: The subject is going 10 to be on violence in industrial relations. The speakers 11 are going to be Professor Eddie Webster, a Mr Crispin 12 Chinguno and Dr Gareth Newham who will be focusing on the 13 role of police in violent industrial conflicts. 14 CHAIRPERSON: I take it that means that 15 Ms Barnes will be in attendance. 16 MR CHASKALSON SC: We had lined her up as 17 a possible fourth speaker. 18 CHAIRPERSON: Alright, Lieutenant- 19 Colonel, you're still under oath. Ms Baloyi? 20 OMPHILE JOSEPH MERAFE: (s.u.o.) 21 EXAMINATION BY MS BALOYI (CONTD.): Thank 22 you, Chair. Colonel, we were dealing with paragraph 5.18, 23 you say, "As the police and members were walking, someone 24 at the front on the right of the strikers fired a teargas 25 canister. The marchers did not appear to be affected by</p>	<p style="text-align: right;">Page 26666</p> <p>1 COLONEL MERAFE: It did not take much 2 time, Chairperson, before – from the explosion of the first 3 one to the following one. It can be about two minutes. 4 MS BALOYI: And was this before or after 5 you saw members retreating and five or six marchers 6 charging towards individual members? Was it before or 7 after when you heard the second stun? 8 COLONEL MERAFE: That was during the 9 process when – it was during the process when I saw the 10 group going towards the police and the police retreating. 11 MS BALOYI: Now the reaction to the 12 teargas and to the stun that you describe, is that what you 13 are accustomed to seeing during crowd management 14 operations? 15 COLONEL MERAFE: I was seeing this for 16 the first time, Chairperson, on the 13th that when teargas 17 is thrown, people reacting as though nothing has happened. 18 And secondly, regrouping and attacking the police. 19 MS BALOYI: You also say in paragraph 20 5.19, "At this stage I was still driving on the road." Is 21 this when you heard the second sound, you say you were 22 still driving on the road? 23 COLONEL MERAFE: Yes. 24 MS BALOYI: And then you go on to say, 25 "At the time that I heard the sound of the second stun</p>
<p style="text-align: right;">Page 26665</p> <p>1 the teargas and continued walking. I saw members 2 retreating away from the teargas. The teargas was 3 immediately followed by the sound of a stun grenade from 4 somewhere in the same direction where the teargas was fired 5 from." Now Colonel, if you would just describe what in 6 fact did you observe? A stun grenade was thrown and what 7 do you see happen? 8 COLONEL MERAFE: Chairperson, after the 9 throwing of the teargas and the stun grenade, there was 10 dust and confusion there. The police retreated away from 11 the tear smoke. The people regrouped, I don't know whether 12 it was because of the teargas or attacking the police. 13 MS BALOYI: And then you say, "I saw that 14 members were retreating and the smaller groups of five or 15 six marchers charged towards individual members who were 16 isolated from the rest of their members." Do you see that? 17 COLONEL MERAFE: I see, Chairperson. 18 MS BALOYI: And then in the next 19 paragraph 5.19 you say, "I also heard the sound of a second 20 stun grenade thrown from the front on the extreme left." 21 Do you see that? 22 COLONEL MERAFE: I see it. 23 MS BALOYI: In relation to what you have 24 described in paragraph 5.18, in relation to that, when did 25 you hear the second stun grenade?</p>	<p style="text-align: right;">Page 26667</p> <p>1 grenade, I saw police members retreating from smaller 2 groups of strikers who were charging at them. The second 3 stun grenade is the one that was thrown in the direction 4 where Lieutenant-Colonel Baloyi was later found injured." 5 Do you see that? 6 COLONEL MERAFE: Yes, ma'am. 7 MS BALOYI: Do you now know who fired the 8 first stun grenade, the first one? Do you have any 9 knowledge? 10 COLONEL MERAFE: It was later that I 11 heard who it was that threw the first stun grenade. 12 MS BALOYI: And who did you hear threw 13 the stun grenade? 14 COLONEL MERAFE: I was told the first one 15 was by Warrant Officer Kuhn. 16 MS BALOYI: And the second stun grenade? 17 COLONEL MERAFE: The second was by 18 Lieutenant Baloyi. 19 MS BALOYI: And then you proceed at 20 paragraph 5.20, "I saw marchers run towards Officer Lepaaku 21 and attack him. As he was retreating, he tripped and the 22 marchers attacked him with sharp weapons." You see that? 23 COLONEL MERAFE: It is so, Chairperson. 24 MS BALOYI: At this stage where were you? 25 COLONEL MERAFE: When Lepaaku was</p>

<p style="text-align: right;">Page 26668</p> <p>1 attacked I was at between 10 and 15 metres, a distance of 2 between 10 and 15 metres towards him. That's where I 3 brought my vehicle to a standstill, a stop there and went 4 out of the vehicle.</p> <p>5 MS BALOYI: So you were still in your 6 vehicle when you saw what you are describing here?</p> <p>7 COLONEL MERAFAE: Correct, Chairperson, I 8 was inside the vehicle.</p> <p>9 MS BALOYI: Still on the road or are you 10 in the veld now in your vehicle?</p> <p>11 COLONEL MERAFAE: Still in the road. The 12 road was about to curve, I was approaching the T-junction.</p> <p>13 MR MAHLANGU: As he says in English, I 14 was just about to reach the T-junction where the road was 15 about to curve.</p> <p>16 MS BALOYI: And then you say, still at 17 paragraph 5.20, "I saw some of the members who had parked 18 in front of the informal settlement, run in the direction 19 where members were being attacked and shooting in the 20 direction of the attack on the members." The shooting that 21 you describe here, shooting in the direction of the attack 22 on the members, who was doing the shooting? Was it members 23 or strikers, I'm trying to -</p> <p>24 COLONEL MERAFAE: The members themselves.</p> <p>25 MS BALOYI: "As the police were shooting,</p>	<p style="text-align: right;">Page 26670</p> <p>1 we've looked at. Is there a reason why it's not mentioned 2 in those statements, in those other statements, that you 3 saw Colonel Vermaak on the scene?</p> <p>4 COLONEL MERAFAE: Chairperson, the 5 contents of my consolidated statement, Chairperson, 6 contains each and every thing that I did not, that I had 7 not mentioned or forgotten in the other statements.</p> <p>8 MS BALOYI: And then you proceed to say, 9 "I saw Lieutenant-Colonel Vermaak grab an R5 rifle from one 10 of the TRT members who was standing around where we were 11 attending to Warrant Officer Lepaaku and I heard him in say 12 in Afrikaans to the TRT members, why were they just 13 standing and that they should go with him to chase after 14 the marchers to go recover the police R5." You see that?</p> <p>15 COLONEL MERAFAE: I see it, yes, 16 Chairperson.</p> <p>17 MS BALOYI: Yes. Now you say he spoke in 18 Afrikaans. What exactly did he say in Afrikaans?</p> <p>19 COLONEL MERAFAE: "Julle kan nie hierso 20 wag nie. Julle kan sien hulle het ons vuurwapen gevat, 21 laat ons hulle volg en ons vuurwapen kry."</p> <p>22 MS BALOYI: Now, when all this happened, 23 you are the scene near Warrant Officer Lepaaku, am I 24 correct?</p> <p>25 COLONEL MERAFAE: It's correct, Chair.</p>
<p style="text-align: right;">Page 26669</p> <p>1 I saw the attacking marchers leave Warrant Officer Lepaaku 2 lying on the ground and saw one of them take his rifle and 3 run away with it. I then saw Major-General Mpmembe come 4 running towards Warrant Officer Lepaaku, shouting that we 5 should assist a member who is dying. I got out of the 6 vehicle and ran to where Warrant Officer Lepaaku lay to 7 attend to him." You see that?</p> <p>8 COLONEL MERAFAE: It is correct, 9 Chairperson.</p> <p>10 MS BALOYI: You then also say, "During 11 the attack on the police I saw teargas coming from above to 12 where the attack on the police was happening." Do you see 13 that?</p> <p>14 COLONEL MERAFAE: That's correct, 15 Chairperson.</p> <p>16 MS BALOYI: Yes. Now we know Colonel 17 Vermaak has testified that he threw teargas from the 18 helicopter. And then you proceed at paragraph 5.21 that, 19 "Whilst attending to Warrant Officer Lepaaku, I also saw 20 Lieutenant-Colonel Vermaak on the scene. I did not see him 21 land his chopper on the scene." Now, Colonel, this 22 description, this part that I have just read, it is not 23 contained in any of your other statements that you saw 24 Lieutenant-Colonel Vermaak on the scene. It's not 25 contained in GGG15 and in the QQQ series of statements that</p>	<p style="text-align: right;">Page 26671</p> <p>1 When this happened, the members of the TRT were standing a 2 distance of between where I am to that door, I could 3 clearly hear everything that was being said in that 4 vicinity.</p> <p>5 MS BALOYI: Now, where you say you saw 6 Colonel Vermaak grab a rifle, do you know who he took – do 7 you know the person from whom Colonel Vermaak took the R5 8 rifle?</p> <p>9 COLONEL MERAFAE: Chairperson, I did not 10 put my eyes much on that person because Lepaaku was lying 11 on the ground but I can explain it is a person, shortish, a 12 member of the police *11:52/16-13 shottists and as far as I 13 know it's the members of the TRT who were standing on the 14 side.</p> <p>15 MS BALOYI: And then, you then say, 16 "Lieutenant-Colonel Vermaak ran with the TRT members that 17 he ordered to go with him in the direction of the informal 18 settlement." Do you see that?</p> <p>19 COLONEL MERAFAE: It is correct, I see, 20 Chairperson.</p> <p>21 MS BALOYI: Now when you – 22 COMMISSIONER HEMRAJ: The other TRT 23 members, Colonel, who ran with Colonel Vermaak, did they 24 also have R5s with them?</p> <p>25 COLONEL MERAFAE: Yes, they had R5s with</p>

<p style="text-align: right;">Page 26672</p> <p>1 them, Mr Chairperson.</p> <p>2 MS BALOYI: You say that these members</p> <p>3 are TRT members. Do you know from where?</p> <p>4 COLONEL MERAFAE: The members who were</p> <p>5 there, Chairperson, were TRT from Rustenburg. These are</p> <p>6 Captain Thupe's people.</p> <p>7 MS BALOYI: Now, in paragraph 5.22 you</p> <p>8 say, "Colonel Diole and I took Warrant Officer Lepaaku by</p> <p>9 car to the Marikana Clinic. He was still alive. At the</p> <p>10 clinic he was taken by ambulance to Andrew Saffy Hospital.</p> <p>11 While at the clinic I called the Provincial Commissioner</p> <p>12 and reported to her about the attack on the members. I</p> <p>13 told her that the police were attacked by the strikers and</p> <p>14 that a member of my unit, Warrant Officer Lepaaku, was</p> <p>15 critically injured and that there was also a striker that</p> <p>16 was shot by the police. As I state, I spoke to the</p> <p>17 Provincial Commissioner. I was not aware of other injuries</p> <p>18 and deaths." Is that correct?</p> <p>19 COLONEL MERAFAE: It is so, Chairperson,</p> <p>20 because when I was, when I took Lepaaku away our members</p> <p>21 were still in, mixed there with the strikers and there was</p> <p>22 still action.</p> <p>23 MS BALOYI: Now in paragraph 5.23 you say</p> <p>24 that you went back to the scene from the hospital and</p> <p>25 Brigadier Calitz briefed you about the attack on Warrant</p>	<p style="text-align: right;">Page 26674</p> <p>1 General Mpembe.</p> <p>2 COMMISSIONER HEMRAJ: Did any of the</p> <p>3 members under your command express dissatisfaction with</p> <p>4 what had happened there with the policemen having been</p> <p>5 killed?</p> <p>6 COLONEL MERAFAE: Chair, not on the scene,</p> <p>7 on the scene where it happened. Yes, after a few days</p> <p>8 during discussions that was mentioned.</p> <p>9 MS BALOYI: And what dissatisfaction was</p> <p>10 expressed by your members?</p> <p>11 COLONEL MERAFAE: Chair, the members felt</p> <p>12 that if I had taken control of the operation we would not</p> <p>13 have lost members, people that work with us. They also</p> <p>14 mentioned that people, the protesters would also not have</p> <p>15 lost their lives.</p> <p>16 MS BALOYI: And then you say at paragraph</p> <p>17 5.24, "We went back to the JOC where we gave a report to</p> <p>18 the Provincial Commissioner. Later the National</p> <p>19 Commissioner, the Gauteng Provincial Commissioner arrived</p> <p>20 at the JOC. General Mpembe gave a briefing of what</p> <p>21 happened and I also made some inputs about my observations.</p> <p>22 At the briefing the Provincial Commissioner requested the</p> <p>23 National Commissioner to assist with the reinforcement of</p> <p>24 personnel to help stabilise the area." Is that correct?</p> <p>25 COLONEL MERAFAE: It is so, Chairperson.</p>
<p style="text-align: right;">Page 26673</p> <p>1 Officer Monene, that he had died at the scene and that</p> <p>2 Captain Baloyi had been injured and taken to hospital, is</p> <p>3 that correct?</p> <p>4 COLONEL MERAFAE: Correct, Chairperson.</p> <p>5 MS BALOYI: Now you also say that back at</p> <p>6 the scene you did not find Colonel Vermaak or Major-General</p> <p>7 Mpembe, is that correct?</p> <p>8 COLONEL MERAFAE: That is correct, I did</p> <p>9 not find them when I came back from the clinic,</p> <p>10 Chairperson.</p> <p>11 MS BALOYI: Now, when you went back to</p> <p>12 the scene who did you find at the scene?</p> <p>13 [12:12] COLONEL MERAFAE: Going back to the scene</p> <p>14 I found Brigadier Calitz, Colonel Botha of the LCRC,</p> <p>15 detective Van Zyl of the detective unit and my members are</p> <p>16 standing around securing the scene.</p> <p>17 MS BALOYI: Now we've had, rather Colonel</p> <p>18 Vermaak has testified that some members, the members of the</p> <p>19 TRT that he went with to chase up on the strikers</p> <p>20 threatened that General Mpembe should be killed and that he</p> <p>21 should lie with the members who died on the scene. Did</p> <p>22 you, when you went back to the scene did you hear anything</p> <p>23 about this threat to General Mpembe?</p> <p>24 COLONEL MERAFAE: Chairperson, when I went</p> <p>25 back there I did not hear any of these threats against</p>	<p style="text-align: right;">Page 26675</p> <p>1 Our Commissioner asked for assistance of members from other</p> <p>2 provinces.</p> <p>3 MS BALOYI: Now, back at the JOC that</p> <p>4 evening did you hear anything about the alleged threat to</p> <p>5 General Mpembe?</p> <p>6 COLONEL MERAFAE: Totally nothing. If</p> <p>7 there was anything, Chairperson, if there was such a thing</p> <p>8 it would be told to the National and the Provincial</p> <p>9 Commissioner right there. If there's a threat on the life</p> <p>10 of a person, that is a contravention of a law.</p> <p>11 MS BALOYI: Now Colonel, we also know</p> <p>12 that that same evening General Mpembe and others held, and</p> <p>13 the National Commissioner, held discussions with Lonmin</p> <p>14 management, officials of Lonmin. Were you involved in any</p> <p>15 of that?</p> <p>16 COLONEL MERAFAE: I was not with them when</p> <p>17 they went to meet Lonmin that evening.</p> <p>18 MS BALOYI: Still at the JOC that</p> <p>19 evening, did any debriefing happen that evening, debriefing</p> <p>20 of members who were involved in the operation? Did you</p> <p>21 conduct a debriefing?</p> <p>22 COLONEL MERAFAE: Chairperson, I</p> <p>23 personally did not have time to meet my members to give</p> <p>24 them a debriefing.</p> <p>25 MS BALOYI: Why is that so?</p>

<p style="text-align: right;">Page 26676</p> <p>1 COLONEL MERAFAE: Chairperson, if I may 2 say, on that day the 13th I went on duty at six in the 3 morning and I worked until sunrise of the following day, 4 the 14th. There was no time to rest or to do anything 5 because of the confusion that was there. 6 MS BALOYI: Now we've also heard from 7 General Mpmembe that members received psychological 8 debriefing, I think that's what he called it, or 9 counselling. Did you receive any? 10 COLONEL MERAFAE: Chairperson, during the 11 day on the 14th, ministers of religion and social workers 12 came from Potchefstroom, who spoke to us because of what we 13 had observed, to try and bring us down to normality. 14 MS BALOYI: Then you say there is this 15 report back to the National Commissioner and the Provincial 16 Commissioner on the 13th, did anything else happen that 17 evening at the JOC? 18 COLONEL MERAFAE: If you could just repeat 19 the question please counsel? 20 MS BALOYI: In paragraph 5.24 you 21 describe that a briefing was given to the National 22 Commissioner and the Provincial Commissioner of Gauteng and 23 North-West. Now what I'm asking you is, other than this 24 briefing, did anything else happen that evening at the JOC? 25 COLONEL MERAFAE: The JOC was running as</p>	<p style="text-align: right;">Page 26678</p> <p>1 MS BALOYI: And how many did you arrange 2 to be brought? 3 COLONEL MERAFAE: From my unit we only had 4 four and I sent the four. 5 MS BALOYI: Now you go on to say, "Later 6 Colonel Scott arrived and I was instructed to sit with him 7 and assist in the drawing of a plan and we then met in a 8 separate room from the JOC. Up to this stage we were 9 operating on a contingency plan which was drawn by my 10 unit." And then at 5.26 you say, "During the preparation 11 of the plan I made inputs about the area of the operation 12 and identified the key points to be policed. We also 13 discussed the approach to take in dealing with the 14 unfolding situation. We also discussed about the resources 15 that we would have to use and their deployment, water 16 cannons, barbed wire and Nyalas. We also discussed the 17 deployment of specialised units in the operation." Is that 18 correct? 19 COLONEL MERAFAE: It is the total truth, 20 nothing but the truth. 21 MS BALOYI: Now, with the discussion 22 where you say "We also discussed the approach to take in 23 dealing with the unfolding situation," what did you say 24 about that in this discussion that you were having? 25 COLONEL MERAFAE: Chair, we were talking</p>
<p style="text-align: right;">Page 26677</p> <p>1 usual. There were police posted outside, people were 2 sending in situation reports about the conditions of where 3 they were, our commanders had also started phoning, trying 4 to get assistance from other provinces. 5 MS BALOYI: Now, at paragraph 5.25 you 6 say, "On 14 August 2012 reinforcements arrived from other 7 provinces. General Annandale also arrived from the 8 national office. Our first JOC meeting was held that 9 morning, chaired by Major-General Mpmembe. At the meeting, 10 crime intelligence was tasked to gather information on the 11 people gathered at the koppie. Brigadier Calitz instructed 12 me to check how many barbed wire trailers we have as a unit 13 and to bring them to Lonmin." Now when Brigadier Calitz 14 instructed you to bring barbed wire trailers to Lonmin, 15 what did he say their purpose was, was to do what with 16 them? 17 COLONEL MERAFAE: Chair, when he requested 18 the bringing of the barbed wire, I understood this to be 19 for the use of encircling the koppie. 20 MS BALOYI: Did - 21 COLONEL MERAFAE: Where the people were. 22 MS BALOYI: Did you arrange for the 23 barbed wire to be brought to Lonmin? 24 COLONEL MERAFAE: As I was instructed, I 25 did so, Chairperson.</p>	<p style="text-align: right;">Page 26679</p> <p>1 about what is the first thing that we were planning to do. 2 We were talking about the people on the mountain, they were 3 armed, we were discussing as to how do we get them there, 4 how do we disarm them, how do we disperse them - 5 information was that some of those people have arms, those 6 that were taken from our members. It is what we were 7 planning as to what we were going to do with the barbed 8 wire, what was to be done with it and how many Nyalas we 9 have and where do we deploy them. And because we had other 10 components like TRT, NIU and the task force and POP, how we 11 were going to deploy these people in this joint operation, 12 what the role of each unit was going to be. 13 MS BALOYI: Now, you say that you had 14 information that the people at the koppie had weapons. Is 15 that the only information that you had about the strikers? 16 COLONEL MERAFAE: The word "weapon," I am 17 using it in general, Chairperson, speaking of firearms, 18 that is a weapon, also reference to pangas, which I could 19 see with my own eyes and some other instruments that can be 20 used to stab a person. 21 MS BALOYI: Yes. What I'm asking you, 22 Colonel, is did you have any other information? You've 23 told us that you had information that they had weapons 24 because they had taken weapons. Did you have any other 25 information at all about the strikers?</p>

<p style="text-align: right;">Page 26680</p> <p>1 COLONEL MERAFE: Other information was 2 that they were walking around the area of Marikana and that 3 they were stopping people who were going to work and that 4 certain people had been injured as a result of the attacks 5 on them.</p> <p>6 MS BALOYI: Now, at paragraph 5.27 you 7 say "As part of the plan it was decided that there would be 8 negotiation with the strikers to get them to disarm and 9 that the police would deploy Nyalas at the koppie as a show 10 of force. This was done from 14 August 2014," is that 11 correct?</p> <p>12 COLONEL MERAFE: Yes, Chairperson. After 13 we had sat down and started thinking about the plan - 14 though it was difficult, Mr Chairperson, because we did not 15 know who we are dealing with – Chairperson, it was decided 16 that the first thing would be to negotiate with negotiation 17 because on the 13th they had given the undertaking that they 18 would hand over their weapons at the mountain. It was then 19 decided that the Nyalas be deployed along the mountain 20 there, that when they see the Nyalas there and the number 21 of police, the show of force, that they would possibly give 22 up and surrender.</p> <p>23 MS BALOYI: And then at paragraph 5.28 24 you say, "After the plan exercise with Colonel Scott, we 25 did the slide presentation and briefed members on the same</p>	<p style="text-align: right;">Page 26682</p> <p>1 o'clock when the Lieutenant-Colonel will tell us what 2 briefing he gave his members. 3 [COMMISSION ADJOURNED] 4 . 5 . 6 . 7 . 8 . 9 . 10 . 11 . 12 . 13 . 14 . 15 . 16 . 17 . 18 . 19 . 20 . 21 . 22 . 23 . 24 . 25 .</p>
<p style="text-align: right;">Page 26681</p> <p>1 day about what the plan will be." What did you tell the 2 members the plan would be? What did you say or what was 3 said to the members?</p> <p>4 COLONEL MERAFE: Chairperson, I want to 5 let the Commission know that from that day, the 13th 6 forward, the operational commander was Brigadier Calitz, 7 that the overall commander was General Mpembe. I was in 8 charge of my group, POP Rustenburg. My group was the POP 9 Rustenburg and those were the people that I had to brief as 10 to what was going to be done and what, there.</p> <p>11 CHAIRPERSON: Ms Baloyi, I think this is 12 a suitable stage. We did indicate we'd stop at half past 13 12 and people have made aeroplane bookings on the strength 14 of that. This seems to be a convenient stage and the 15 Lieutenant-Colonel can take up the narrative again on 16 Monday morning.</p> <p>17 MS BALOYI: Chair, that would be –</p> <p>18 CHAIRPERSON: Would that be acceptable to 19 you?</p> <p>20 MS BALOYI: I beg your pardon, Chair?</p> <p>21 CHAIRPERSON: I say that's acceptable to 22 you?</p> <p>23 MS BALOYI: It is, Chair.</p> <p>24 CHAIRPERSON: Alright. We'll now 25 adjourn. We'll resume on Monday morning just after 9</p>	

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