

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 78 23 APRIL 2013 PAGES 8263 TO 8374

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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<p style="text-align: right;">Page 8263</p> <p>1 [PROCEEDINGS ON 23 APRIL 2013] 2 [09:43] CHAIRPERSON: The Commission resumes. U 3 is nog steeds onder eed, Majoor-Generaal. Mr Semenya? 4 GENERAAL-MAJOOR ANNANDALE: s.o.e. 5 EXAMINATION BY MR SEMENYA SC (CONTD.): 6 Thank you, Chair. General, yesterday we were dealing with 7 exhibit SS3 and principally the plan dated the 10th of 8 August 2012 and we were on the Greek number 6 of that 9 document. 10 MAJOR-GENERAL ANNANDALE: That is 11 correct, yes Chairperson. 12 MR SEMENYA SC: The plan in relation to 13 the arrest policy has it under paragraph 10.4.2 that all 14 arrests will be effected in terms of the arrest procedure 15 policy and personnel effecting arrests must ensure that 16 they do not exceed the powers of the authority as vested in 17 them in terms of the Criminal Procedure Act, right? 18 MAJOR-GENERAL ANNANDALE: I see that. 19 It's correct, yes sir. 20 MR SEMENYA SC: It then deals with how 21 the arrests are to be processed but against paragraph 22 10.4.3 the plan was that arresting officers must ensure 23 that they do not infringe on the constitutional or human 24 rights of the individual, that they do not exceed the 25 limits of force under the circumstances that is required to</p>	<p style="text-align: right;">Page 8265</p> <p>1 MAJOR-GENERAL ANNANDALE: That is 2 correct, Chairperson. 3 MR SEMENYA SC: Is he a POP commander as 4 indicated on that document? 5 MAJOR-GENERAL ANNANDALE: He is indeed a 6 public order policing unit commander, that's correct, 7 Chairperson. 8 MR SEMENYA SC: And we commented on his 9 experience yesterday, did we not? 10 MAJOR-GENERAL ANNANDALE: That is 11 correct, it's my understanding that he has more than 20 12 years' experience in public order policing. 13 MR SEMENYA SC: And ML Seboloke, the 14 brigadier? 15 MAJOR-GENERAL ANNANDALE: Chairperson, 16 it's my understanding – or let me first say I met Brigadier 17 Seboloke after my arrival and on the 14th of August, on that 18 Tuesday. It is my understanding that he was the acting 19 cluster commander for the responsible cluster in which the 20 Marikana police station falls. 21 MR SEMENYA SC: Shall we now move to that 22 one dated 13 August 2012? In paragraph 1 it deals with the 23 situation – 24 CHAIRPERSON: I'm sorry, may I interrupt? 25 Have you got the right document in front of you? One way</p>
<p style="text-align: right;">Page 8264</p> <p>1 be necessary and that they be tolerant in the execution of 2 their task. 3 MAJOR-GENERAL ANNANDALE: That is 4 correct, Chairperson. 5 MR SEMENYA SC: That is how you found the 6 document as part of the plan when you arrived, the 12th, 7 correct? 8 MAJOR-GENERAL ANNANDALE: When I arrived 9 on the 13th – 10 MR SEMENYA SC: The 13th. You will also 11 find in that bundle of documents the continuation of the 12 plan, but now dated 13 August 2012. 13 MAJOR-GENERAL ANNANDALE: Chairperson, I 14 only have the plan that is dated the 10th of August and then 15 I have the continuation from the 14th of August as part of 16 my SS3. Chairperson, I found it, I have that plan in front 17 of me. 18 MR SEMENYA SC: Just before we do that, 19 the plan we were dealing with now, the one dated the 10th 20 you will see at the last page of that document, paragraph 21 19 dealing with signatures. Do you see that? 22 MAJOR-GENERAL ANNANDALE: I do indeed, 23 yes, Chairperson. 24 MR SEMENYA SC: This is a document signed 25 apparently by the unit commander OJ Merafi.</p>	<p style="text-align: right;">Page 8266</p> <p>1 to deal with it, I think, is in the original hard drive 2 that we got from the SAPS there are numbers in the top 3 right hand corner and am I correct in thinking that it's 4 1674, is the number? 5 MR SEMENYA SC: That's correct. 6 CHAIRPERSON: I think it's the one – the 7 one we've been looking at up to now is 1665, is that 8 correct, Mr Semenya? 9 MR SEMENYA SC: That's indeed correct. 10 CHAIRPERSON: Now we're moving on to 11 1674, the top right hand corner. That's the part of 12 exhibit SS3 that we're now looking at. 13 MAJOR-GENERAL ANNANDALE: That is indeed 14 the document that I have in front of me, Chairperson. 15 MR SEMENYA SC: General, as you point 16 out, the plan in paragraph 1 describes the situation, the 17 nature of the operation, do you see that? 18 MAJOR-GENERAL ANNANDALE: I see that, 19 Chairperson. 20 MR SEMENYA SC: Shall we just touch on 21 some of the salient features of this plan? Against 22 paragraph 1.3 there are risk analyses identified there. 23 MAJOR-GENERAL ANNANDALE: I note the 24 analysis as it's reflected on that 1.3, yes, Chairperson. 25 MR SEMENYA SC: What do they read there?</p>

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1 MAJOR-GENERAL ANNANDALE: First, "Murder
 2 of dissenting persons to strike, damage to property,
 3 intimidations, assault, persons gathering illegally, acts
 4 of public violence and possession of dangerous weapons."
 5 MR SEMENYA SC: And the threats?
 6 MAJOR-GENERAL ANNANDALE: The threats
 7 indicate, crime intelligence has been tasked to ensure
 8 information flow to all the relevant role players. And
 9 further, the daily threat analysis must be used to
 10 determine the daily force deployments.
 11 MR SEMENYA SC: It also touches on a
 12 number of things but against paragraph 3 it deals with the
 13 concept and focus.
 14 MAJOR-GENERAL ANNANDALE: Yes,
 15 Chairperson.
 16 MR SEMENYA SC: Under operational orders
 17 it records that, "All forces will parade at the Middle
 18 Kraal Rescue Centre, Lonmin mine."
 19 MAJOR-GENERAL ANNANDALE: That's correct,
 20 Chairperson.
 21 MR SEMENYA SC: It also, against
 22 paragraph 3.2.6, records that "Briefing will be conducted
 23 by the overall commander and daily briefings will be given
 24 by crime intelligence to give direction of the deployment."
 25 MAJOR-GENERAL ANNANDALE: It indicates

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1 that, Chairperson.
 2 MR SEMENYA SC: It then also records
 3 against paragraph 5.2.2 under the heading "Intelligence"
 4 that intelligence – "must liaise with intelligence
 5 community regarding all available intelligence and provide
 6 it to the joint operational centre for operational planning
 7 purposes." Do you see that?
 8 MAJOR-GENERAL ANNANDALE: I do see that,
 9 yes, Chairperson.
 10 MR SEMENYA SC: And what is the
 11 assignment given to the public order police under paragraph
 12 5.2.4?
 13 MAJOR-GENERAL ANNANDALE: It indicates
 14 that, "Public order police will be responsible to do the
 15 following" – first bullet, "Crowd management in terms of
 16 the national policy on crowd management," second bullet,
 17 "record all incidents as they occur," third bullet, "post a
 18 record clerk at the JOC."
 19 MR SEMENYA SC: Against paragraph 7 the
 20 plan deals with the use of force.
 21 MAJOR-GENERAL ANNANDALE: Yes,
 22 Chairperson.
 23 MR SEMENYA SC: Can you tell us what is
 24 stated there?
 25 MAJOR-GENERAL ANNANDALE: It states under

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1 paragraph 7, "Use of force only on command or self-defence
 2 in accordance with legislation."
 3 MR SEMENYA SC: And of course it repeats
 4 the policy on the arrest against paragraph 10.4.1 and if we
 5 go to the last page of the document, do you recognise any
 6 of the signatures that appear there?
 7 MAJOR-GENERAL ANNANDALE: I recognise
 8 three signatures, that of Brigadier Calitz, that of Major-
 9 General Naidoo and that of Major-General Mpmembe.
 10 MR SEMENYA SC: Any of those individuals
 11 with POP experience?
 12 MAJOR-GENERAL ANNANDALE: Chairperson
 13 yes, specifically Brigadier Calitz. I think his POP
 14 experience is spanning a period of about 12 years, directly
 15 actively involved with public order policing and then
 16 subsequent to that in his current post as the operational,
 17 or the provincial commander for operational response
 18 services, one of his functions includes the function of
 19 public order policing. And then General Mpmembe, as far as
 20 I know, he's been the deputy provincial commissioner for
 21 probably a good – it must be more than 10 years and the
 22 nature of his post as a deputy provincial commissioner for
 23 operations would also give him that specific exposure in
 24 terms of public order policing. General Naidoo, I am not
 25 too sure, I think that he served in KwaZulu Natal and he

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1 was either part of a public order policing unit or he
 2 worked together in terms of numerous public order policing
 3 incidents in the KwaZulu Natal area.
 4 MR SEMENYA SC: And we do know that the
 5 evening of the 13th, Colonel Scott then joined the team.
 6 MAJOR-GENERAL ANNANDALE: That is
 7 correct, yes, Chairperson.
 8 MR SEMENYA SC: And the plan was further
 9 developed following the happenings of the 13th into the
 10 14th.
 11 MAJOR-GENERAL ANNANDALE: That is indeed
 12 so, yes, Chairperson.
 13 MR SEMENYA SC: We will spend a little
 14 bit more time with Colonel Scott about how the plans were
 15 developed from that point but for the purposes of your
 16 evidence, can we deal with what was conceived to happen in
 17 the event the promise to lay down their weapons was not –
 18 CHAIRPERSON: Before you get on to that,
 19 can I ask a question that arises just before you move on to
 20 that point? In this document we've been looking at, or
 21 series of documents actually, SS3, the first document as
 22 we've seen is a document that actually began at page 1665
 23 of the hard drive. That appears to be the contingency plan
 24 or that is the contingency plan as it was on the 10th. It
 25 looks as if it was – it was on the 10th and it was signed on

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1 the 10th so I take it, it effectively was a document in
 2 place at the beginning of operations, if that's the correct
 3 word, on the 10th which is Friday the 10th. And as is seen,
 4 that plan was signed by Lieutenant-Colonel Merafi,
 5 presumably drawn up by him, I take it, and approved by
 6 Brigadier Seboloke.
 7 MAJOR-GENERAL ANNANDALE: That is also my
 8 understanding, Chairperson.
 9 CHAIRPERSON: Yes, fine. Then the next
 10 document which is page 1674 of the police hard drive,
 11 that's the plan of the 13th and one can see by comparing the
 12 two documents that the equipment is now more extensive, the
 13 number of people involved, the report on the situation is
 14 fuller and that effectively takes the story up to the end
 15 of the 12th because it ends with what happened on the 12th
 16 and that now new people have taken over, as you've
 17 mentioned. Brigadier Calitz, I take it, drew up the plan,
 18 it was recommended by Major-General Naidoo and approved by
 19 Major-General Mpembe. That's correct. Then the next
 20 document is a far more substantial document. It's called
 21 Operation Platinum. It hasn't got a page at the end
 22 indicating who drew it up, who recommended it and who
 23 approved it but perhaps that's information you can give us
 24 but is this effectively the plan that came into being after
 25 Lieutenant-Colonel Scott came on the scene and certain

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1 decisions were made, I think on the evening of the 13th as
 2 you've described. That's the third meeting, is that –
 3 would that be correct?
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 yes, it's correct. It started with the arrival of Colonel
 6 Scott at around 19:30 on that Monday evening and then it
 7 continued basically after the direction that was given
 8 during that third meeting.
 9 CHAIRPERSON: Now what I'm leading up to
 10 is, we don't have a page here that says – as we have in the
 11 other two – so is there such a document in existence, do
 12 you know, or can we, can you just tell us what that
 13 document would contain if there were one. In other words
 14 like the last page of the other two plans. The first
 15 signature is, I take it, the person responsible for drawing
 16 up the plan. The second is the recommender and the third
 17 is the approver. Is that how this one would have worked
 18 also?
 19 MAJOR-GENERAL ANNANDALE: Chairperson,
 20 there is no such a plan that was compiled in the same
 21 format as the one of the 10th and the 13th, so there's no
 22 plan where there are signatures attached. The reason for
 23 that is that there was already now an active protest
 24 environment and what we do is we go and operationalise that
 25 specific planning, that's why it was referred to as a

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1 contingency planning. We operationalised it in the sense,
 2 because of the constant changes, the fluidity of the
 3 situation. You will see in this plan that the essence of
 4 what is contained in the more formalised plan is also
 5 contained, even albeit in a different format.
 6 [10:03] CHAIRPERSON: It now had a name,
 7 Operation Platinum.
 8 MAJOR-GENERAL ANNANDALE: Chairperson,
 9 yes. That was something that was decided by us on that
 10 Tuesday, that it's easier when we refer to a – when we do a
 11 planning we refer to it, so it was just a name that we
 12 dubbed the operation.
 13 CHAIRPERSON: Not necessarily. If there
 14 had been a last page such as we have in the two previous
 15 plans, what would it have contained? Who would have signed
 16 it? In other words who is responsible for drawing it up –
 17 I understand, with inputs from other people – who then
 18 recommended it, if someone recommended it, and who then is
 19 being regarded as the person who approved it?
 20 MAJOR-GENERAL ANNANDALE: Chairperson, it
 21 would have been drawn up by a planning team and then it
 22 would have been recommended by Brigadier Calitz as the
 23 operational commander and it would have been signed off by
 24 Major-General Mpembe as the overall commander.
 25 CHAIRPERSON: Thank you.

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1 MR SEMENYA SC: Yes. General, that plan
 2 Operation Platinum, as we will deal with it more fully with
 3 Colonel Scott, does it look familiar to you with the
 4 various slides that are in it?
 5 MAJOR-GENERAL ANNANDALE: It does look
 6 familiar, yes Chairperson.
 7 MR SEMENYA SC: And in broad brush, how
 8 was this from time to time developed in the JOC?
 9 MAJOR-GENERAL ANNANDALE: Chairperson,
 10 the plan was developed on that Tuesday in terms of six
 11 stages, starting with monitoring and dialogue, then it was
 12 the stage 2, the phase 2 as a positioning of police assets,
 13 specifically referring to the barbed wire as well as a show
 14 of force. The third phase was one in terms of dispersal,
 15 disarming as well as arrest. The fourth phase would have
 16 been the arrest and the processing of those people that
 17 have been arrested as well as then the dangerous weapons
 18 confiscated, the fifth phase being intelligence led
 19 operation in terms of intelligence information that would
 20 have been gained by those people arrested and then the last
 21 phase was the cordoning and search of specific identified
 22 areas, inclusive but not limited to specific hostels.
 23 Every one of the phases would have started with the
 24 monitoring and the dialogue.
 25 MR SEMENYA SC: Shall we just again, in

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1 broad terms maybe, describe what was contemplated in
 2 respect of each phase?
 3 MAJOR-GENERAL ANNANDALE: Chairperson,
 4 phase 1 was a command group under the command of Brigadier
 5 Calitz as the operational commander. He would have then
 6 had negotiators, four negotiators with him in the command
 7 Nyala. It consisted of five Nyalas in total with close to
 8 50 public order policing personnel. Inclusive of that, the
 9 negotiators that are referred to, as well as two public
 10 order policing information officers that also acted as the
 11 video operators. The intention was that this group will go
 12 forward to the so-called frontline area close to the koppie
 13 and position themselves a distance away from the grouping
 14 of the protesters. 100 metres behind them there was a TRT
 15 deployment that was responsible for the protection of those
 16 public order policing members, should they be specifically
 17 threatened in life threatening situations.
 18 The tasking was that the negotiators must make
 19 contact with a leadership element of the protesters, that
 20 they should create a climate and atmosphere that is
 21 conducive for potential negotiation and communication. The
 22 intention was that they would then communicate with this
 23 leadership element, that the police are there to find a
 24 peaceful resolution to the situation, to indicate to them
 25 that it's an illegal gathering and that the possession of

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1 the dangerous weapons in itself is illegal, that they
 2 should do these negotiations through the interpretation of
 3 a person that is familiar with Fanagolo, that they should
 4 do it from the confines of the protected armoured vehicle
 5 using a public address system. They should then also
 6 indicate to the striking mineworkers that there are
 7 processes in place that they can address their grievances
 8 through, that the police's interest is in the maintenance
 9 of law and order.
 10 MR SEMENYA SC: Thus part of the plan
 11 was, as you told us yesterday, implemented in full and
 12 successfully.
 13 MAJOR-GENERAL ANNANDALE: This part was
 14 indeed implemented, yes, sir.
 15 MR SEMENYA SC: But of course we know
 16 that the group at the koppie did not disarm.
 17 MAJOR-GENERAL ANNANDALE: They did not,
 18 no, Chairperson.
 19 MR SEMENYA SC: Despite the negotiations
 20 that were engaged with its leadership.
 21 MAJOR-GENERAL ANNANDALE: Despite that,
 22 yes, Chairperson.
 23 MR SEMENYA SC: Can you now tell us
 24 broadly what phase 2 contemplated?
 25 MAJOR-GENERAL ANNANDALE: Phase 2 was six

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1 armoured Nyala vehicles, all six of them had barbed wire
 2 trailers that had the potential of deploying three strands
 3 or three rows of barbed wire for a distance of maximum 100
 4 metres. They were under the command of Colonel Makhubela.
 5 He also had approximately 50, I think just less than or
 6 just over 50 public order policing members in those Nyalas.
 7 Those Nyalas were kept back at the forward holding area 1
 8 for the Tuesday as well as the Wednesday. They were moved
 9 forward on the Thursday and they were pre-positioned just
 10 about 10 metres in front of the command line, the
 11 negotiators and monitoring group of Brigadier Calitz and
 12 Colonel Mere. They were positioned from the power station,
 13 that is to the – basically to the south of the koppie.
 14 That power station formed a natural barrier in terms of the
 15 fence that's erected around the power station and they were
 16 then positioned from that southern position more towards
 17 the north, about 80 metres apart and five of them being in
 18 line, with the sixth Nyala initially slightly forward and
 19 in a westerly direction. They were just pre-positioned and
 20 the barbed wire was not deployed. The stage 2 Nyalas moved
 21 in during the stage 1 deployment. It was done as a
 22 contingency based on the intelligence that we received
 23 during that morning at the JOCOM meeting.
 24 MR SEMENYA SC: What intelligence was
 25 that?

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1 MAJOR-GENERAL ANNANDALE: Colonel Isaacs
 2 that represented Brigadier Engelbrecht from crime
 3 intelligence indicated to us at the time of the meeting at
 4 6 o'clock that there were already 300 people at the koppie
 5 and that they are armed with dangerous weapons, that the
 6 information indicates that the people will not lay down
 7 their arms, that they will not disperse and leave the
 8 koppie and that they were willing to fight the police if an
 9 attempt is made to disarm them. That made us then to put
 10 that contingency in place because we were convinced at that
 11 stage and we had a firm belief that at 9 o'clock the people
 12 will disarm as per the discussions we had the previous day,
 13 specifically with the president of AMCU, Mr Mathunjwa.
 14 Chairperson, it didn't make sense to us that the
 15 people, if they intended to disarm, that they will come
 16 with their arms to the koppie, then they just might as well
 17 just leave it at their homes. So the first indications
 18 was, that there were still people coming to the koppie now
 19 with arms. So we thought of not leaving the stage 2 barbed
 20 wire trailers to move in later on because we were mindful
 21 of the fact that that might raise alarm because it's
 22 something that is different to the previous day's
 23 deployment. So it was moved in, these six Nyalas with the
 24 other five Nyalas and then positioned as indicated.
 25 MR SEMENYA SC: What was the thinking of

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1 all of that stage, i.e. the show of force?
 2 MAJOR-GENERAL ANNANDALE: Chairperson,
 3 that would have been, together with a show of force, in
 4 terms of moving reserve groups from the forward holding
 5 areas also forward. This is part of a specific show of
 6 force that has worked successfully for us over many, many
 7 years in thousands and thousands of specific dealing with
 8 crowd management situations. The principle is that if you
 9 go and deploy additional personnel, that those personnel
 10 deploy in a disciplined manner, that those personnel will
 11 have a variety of resources, specifically armoured vehicles
 12 as well as other vehicles, other units present, then it
 13 will give the indication that the police are organised and
 14 the police have the numbers to actually deal with any
 15 aspect of lawlessness. So the idea was that should there
 16 be any threat, specific threat made at the negotiating
 17 Nyalas as well as the police officers deployed behind that,
 18 inclusive of the media, that the police will be able to
 19 rapidly deploy that six barbed wire or the wire on the
 20 barbed wire trailers and that would have enclosed the
 21 police then basically on three sides.
 22 MR SEMENYA SC: Before we deal with the
 23 barbed wire and its presence there, what message is sought
 24 to be communicated by this display of force?
 25 MAJOR-GENERAL ANNANDALE: Chairperson, we

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1 were mindful of what had happened on the Monday when there
 2 was a police line that was behind a group of protesters and
 3 we also know the challenges, that once the protesters move
 4 in between police officers as they are positioned and then
 5 the difficulty to deal with individual confrontations,
 6 because the moment you have that you will have protesters
 7 and police officers and you will have them all mixed
 8 together. It then makes it extremely difficult for police
 9 officers to use aspects like CS gas or that they use stun
 10 grenades or even rubber because there will be just police
 11 officers and people mixed. So the intention was to create
 12 a physical barrier but also a psychological barrier, that
 13 we can indicate that this is where the line stops, this is
 14 police area, this is a no-go area.
 15 MR SEMENYA SC: That tactic,
 16 historically, what result has it yielded for public order
 17 management?
 18 MAJOR-GENERAL ANNANDALE: Chairperson,
 19 the deployment of barbed wire is known as a defensive
 20 measure. It is used and has been used successfully in
 21 terms of protecting assets, be it a key point, an
 22 identified key point or in this case then human resources.
 23 And I'm not personally aware of any historical data that
 24 police or that people, protesters, tend to move towards
 25 that. People normally move away from that, whether it's a

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1 barricade that you put, whether it's a road block, whether
 2 it's a closure of a road – which we have done on thousands
 3 of occasions – people do not want to enter into that area
 4 because they see that as a police action and the barricade
 5 that's erected, people traditionally move away from that.
 6 We saw it in that sense but we also made sure that we had a
 7 distance of approximately 80 metres away from the
 8 protesters at the koppie.
 9 [10:23] MR SEMENYA SC: Okay, now that we're
 10 talking about the barbed wire, what distance does that,
 11 when deployed, give the police and protesters in this
 12 example?
 13 MAJOR-GENERAL ANNANDALE: Chairperson,
 14 let me just understand the question, what distance does it?
 15 MR SEMENYA SC: The barrier that is
 16 created by the barbed wire itself, what distance would that
 17 create between the police line and the protesters?
 18 CHAIRPERSON: Are you interested in the
 19 measurement? How far would the police be from the
 20 protesters after the barbed wire was in place, is that the
 21 question?
 22 MR SEMENYA SC: That is the question,
 23 properly phrased there, Chair.
 24 MAJOR-GENERAL ANNANDALE: Chairperson,
 25 the closest police officers were then approximately 80

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1 metres from the smaller group. There were two distinct
 2 groups, a bigger group and then a smaller group.
 3 MR SEMENYA SC: What was the thinking
 4 behind that strategy?
 5 MAJOR-GENERAL ANNANDALE: It was
 6 initially that when we deploy that, that it's not deployed
 7 directly in front of them so that the people can see that
 8 there's a distance still kept and it was also communicated
 9 because I must just indicate that at around 11 o'clock
 10 there was a small group, that smaller group moved their
 11 position and they positioned themselves in front of the
 12 sixth Nyala that was slightly towards the west. Then there
 13 were also specific threats made to say that we should move
 14 those Nyalas and they are not going to ask again. It was
 15 then explained by the negotiators to Mr Noki but it was
 16 explained over the public address system for obviously
 17 everybody to hear what the purpose of the wire was, that
 18 the wire is positioned there exactly for the protection of
 19 the police, to indicate that's the police neutral area. So
 20 that was the initial thinking, that we can keep it away so
 21 that we can just deploy that without raising alarm and then
 22 the people starting, responding to that. I can then
 23 mention, based on that threat we moved that Nyala, that
 24 sixth Nyala then back more to the eastern side, more to
 25 enclose the police officers.

<p style="text-align: right;">Page 8283</p> <p>1 COMMISSIONER HEMRAJ: General, you say it 2 was explained by the negotiators, the purpose of the barbed 3 wire? 4 MAJOR-GENERAL ANNANDALE: Chairperson, 5 yes. The feedback that we received from the command Nyala 6 to the joint operational centre was that – and we also 7 received a picture that was sent by Colonel Vermaak from 8 his Blackberry device to indicate this smaller grouping 9 that have now positioned themselves in front of that 10 specific Nyala. And then there was, Mr Noki came forward 11 and he said that what is this wire doing here, it must be 12 removed and we're not going to ask again. And then it was 13 explained what the purpose of this barbed wire is. 14 CHAIRPERSON: What time was that, 15 General? 16 MAJOR-GENERAL ANNANDALE: Chairperson, 17 that must have been around between 11 o'clock and 11:20. 18 Maybe 10 to 11 and 11:20 if I can remember. 19 MR SEMENYA SC: We will later, General, 20 deal with what actually happened. For now I just want us 21 to understand what the plan contemplated. 22 CHAIRPERSON: Sorry, before we move on 23 though, this discussion that you've mentioned between Mr 24 Noki and – would it have been Brigadier Calitz or whom did 25 he speak to, or was it Lieutenant-General Macintosh?</p>	<p style="text-align: right;">Page 8285</p> <p>1 was between 11 and 11:20. 2 MAJOR-GENERAL ANNANDALE: Yes, sir. 3 CHAIRPERSON: But is it possible that it 4 was later? 5 MAJOR-GENERAL ANNANDALE: It is possible, 6 Chairperson, yes. 7 CHAIRPERSON: Can I ask a question? 8 There was a recording clerk, was there, in the JOC? 9 MAJOR-GENERAL ANNANDALE: That's correct. 10 CHAIRPERSON: Responsible for keeping the 11 occurrence register? 12 MAJOR-GENERAL ANNANDALE: That is 13 correct, Chairperson. 14 CHAIRPERSON: Sorry, did I say – it's 15 called occurrence register – 16 MR HANABE: Occurrence book. 17 CHAIRPERSON: Occurrence book, ja. And 18 that's the document we have, FFF25, am I right? 19 MR SEMENYA SC: General, let us – 20 CHAIRPERSON: There is a note, I notice 21 now, in support of what you say at page 23 of exhibit 22 FFF25. 11:20, it's note number 998 and it says, "Situation 23 report Papa 1" – you'll tell us in a moment who Papa 1 was 24 – 25 MAJOR-GENERAL ANNANDALE: That is</p>
<p style="text-align: right;">Page 8284</p> <p>1 MAJOR-GENERAL ANNANDALE: Chairperson, it 2 was with Macintosh and I'm not 100% sure but I think he was 3 at this stage in the same Nyala of Brigadier Calitz. It 4 might be that it was in any of the other five so-called 5 monitoring Nyalas. 6 CHAIRPERSON: You see, the only reason I 7 ask the question is, this is a detail which is not in 8 exhibit L at all. It doesn't mean it isn't correct but 9 it's just not in exhibit L. There is mention of two later 10 exchanges involving Mr Noki at slide 192, one being at 11 13:40 when Noki apparently approached the Nyala – I think 12 that's the negotiation Nyala – and he said he can see the 13 SAPS are making ready for war and then that goes on. And 14 then there's a subsequent exchange according to slide 192 15 at 15:49 but the exchange you're now talking about, it was 16 an earlier one you say, somewhere between 11 and 11:30AM. 17 Do I understand you correctly? 18 MAJOR-GENERAL ANNANDALE: Chairperson 19 yes, I'm under correction. It can be 11 to 11:20 but it 20 can also be that exchange and that the 11, 11:20 was when 21 there was the positioning in front of the Nyala and then 22 based on that then we moved the position of the Nyala. I 23 think that Brigadier Calitz and/or Colonel Macintosh will 24 be able to give exact detail in terms of the time. 25 CHAIRPERSON: I understand. You think it</p>	<p style="text-align: right;">Page 8286</p> <p>1 Brigadier Calitz. 2 CHAIRPERSON: "- reported that the group 3 are moving towards the Nyala. The group leader" – that 4 must be Noki, I take it, "asked the police official to 5 remove their wires and he said he's not going to ask them 6 again as he's also aggressive. About 3 500 people 7 gathered." That's note number 998. So that's obviously 8 the piece of evidence that you're busy with at the moment, 9 is that correct? 10 MAJOR-GENERAL ANNANDALE: That is the 11 part and as I remember it, that it was at that time, yes, 12 Chair. 13 CHAIRPERSON: And that was recorded 14 presumably contemporaneously by the recording clerk in the 15 occurrence book, exhibit FFF25. Is that – do I understand 16 it correctly? 17 MAJOR-GENERAL ANNANDALE: Yes, sir. 18 CHAIRPERSON: Thank you. And you were 19 going to tell me who Papa 1 was, if you remember, otherwise 20 Mr Semenya will have to tell us. 21 MAJOR-GENERAL ANNANDALE: Papa 1 was the 22 overall commander, Brigadier Calitz. 23 MR SEMENYA SC: General, let me invite 24 you again to step back and we examine what it is that the 25 plan contemplated before we deal with the actuals. You</p>

<p style="text-align: right;">Page 8287</p> <p>1 have referred earlier to the use of barbed wire as a 2 defensive measure. What do you mean by that? 3 MAJOR-GENERAL ANNANDALE: Chairperson, 4 defensive measures are not concerned as part of the 5 deployment of the continuum of force. So you will have 6 defensive measures and then you will have offensive 7 measures and with offensive measures then you'll start with 8 the first level of potential, or the use of the minimum 9 force continuum. 10 MR SEMENYA SC: That's pretty technical. 11 Let's try to simplify it. You would remember around the 12 use of barbed wire is an accusation that one cannot deploy 13 it before you announce its deployment, do you remember 14 that? 15 MAJOR-GENERAL ANNANDALE: I remember 16 that, yes, Chairperson. 17 MR SEMENYA SC: Please explain the 18 defensive deploy – strategy and offensive strategy in 19 relation to at which point does one make the announcement 20 and at which point does one not make the announcement. 21 MAJOR-GENERAL ANNANDALE: Chairperson, I 22 see the advocate wants to turn me into a public order 23 policing expert, which I'm not, but I have a good 24 understanding in terms of the processes. The defensive 25 measures would be a number of measures, for instance</p>	<p style="text-align: right;">Page 8289</p> <p>1 point and at what point would the announcements be made? 2 MAJOR-GENERAL ANNANDALE: Chairperson, on 3 the completion of the deployment of the barbed wire then 4 there will be an announcement made, as per requirement, 5 that it should be in two of the official languages and also 6 if possible in a third language that is mostly understood 7 by the people in the specific area. That warning should be 8 audible, making use of the equipment available at the time. 9 That will be typically on a public address system or a 10 megaphone. Then the protesters would be informed in terms 11 of the actions the police intend to take. They will be 12 given a reasonable time, so the overall commander in his 13 discretion or her discretion will then go and decide, this 14 is reasonable given the size of the group and then the 15 specific environment and indicate that dispersal actions 16 will then follow on failing to disperse. 17 MR SEMENYA SC: Just so that we 18 understand the configuration as contemplated by phase 2 of 19 the plan, shall we look at slide 191 of exhibit L? Do you 20 have the – that slide? 21 MAJOR-GENERAL ANNANDALE: I do have the 22 slide, yes, Chairperson. 23 MR SEMENYA SC: Is that what was 24 contemplated about the positioning of the police service, 25 the Nyalas, et cetera?</p>
<p style="text-align: right;">Page 8288</p> <p>1 patrolling, that is seen as a defensive measure. It can be 2 isolating a specific area to prevent people from having 3 access to a specific area. It can be cordoning a specific 4 area, also have negotiations that you're doing. So you do 5 not require, it's not a police action that would be seen of 6 having the potential that you have to use any form of 7 force. If I deal specifically with the deployment of 8 barbed wire as a defensive measure, it is not appropriate 9 to go and give a warning prior to deploying that because 10 then you can find a group of people that, knowing that 11 you're going to do that, to move exactly into that area 12 that you want to enclose or cordon off. It's also not a 13 requirement that any such warning has to be given, not in 14 terms of the Regulation of Gatherings Act, nor in the 15 standing order 262. The warning that's referred to is 16 warnings that you must give prior to implementing offensive 17 measures, so basically before you would start with 18 dispersal actions. 19 MR SEMENYA SC: So if you're going to put 20 a road block, you don't tell people I'm going to put a road 21 block. 22 MAJOR-GENERAL ANNANDALE: No, I haven't 23 done it in my career, no. 24 MR SEMENYA SC: So the plan in phase 2 25 would have had the barbed wire rolled out at a particular</p>	<p style="text-align: right;">Page 8290</p> <p>1 MAJOR-GENERAL ANNANDALE: Chairperson 2 yes, the only difference was that initially that sixth 3 Nyala that you will now see that is basically close to 4 where it says 50 metres, that initially in terms of the 5 planning would have been in a position, if you take the 6 fifth Nyala and you will basically take that same angle and 7 that same distance and you just move it towards the west, 8 that is the only difference in terms of the initial 9 contemplation but the plan was adapted after the specific 10 threat that was made to that sixth Nyala. The rest of that 11 is in terms of the distances, the positioning of the 12 negotiators and the monitoring group Nyalas behind it and 13 then in terms of the distance where the TRT members were 14 deployed. You will also then see that they are covering 15 the rear flank of the Nyalas, the negotiators' Nyalas as 16 well as there you have a northern flank, a side flank in a 17 sort of an L, that they are also providing protection on 18 that open side. 19 MR SEMENYA SC: So Nyala 6, according to 20 plan, would have been as depicted on slide 160 of exhibit 21 L, would it? 22 [10:43] MAJOR-GENERAL ANNANDALE: That is the 23 planning and that is the position, yes, Chairperson. 24 MR SEMENYA SC: And can we now go and, 25 again in broad terms, explain what was contemplated by</p>

<p style="text-align: right;">Page 8291</p> <p>1 phase 3?</p> <p>2 MAJOR-GENERAL ANNANDALE: Chairperson,</p> <p>3 once the stage 3 deployment was necessitated, it would have</p> <p>4 gone over to stage 3 but it all started with phase 1</p> <p>5 obviously which was in position and then the phase 2</p> <p>6 deployment as I've explained and then only stage 3.</p> <p>7 CHAIRPERSON: Where is phase 3 in the</p> <p>8 document, in exhibit SS3 which we've been looking at, which</p> <p>9 is the Operation Platinum document – or is it not there?</p> <p>10 It appears to be the fifth page from the end, is that the</p> <p>11 part of the document which sets out what you're now going</p> <p>12 to deal with?</p> <p>13 MR SEMENYA SC: Are you, General, at that</p> <p>14 document but a slide dealing with stage 3 and the word</p> <p>15 "Mission?"02-28</p> <p>16 MAJOR-GENERAL ANNANDALE: Chairperson, I</p> <p>17 have in exhibit SS3 close to the end, there's a heading</p> <p>18 that says "Operational overview of stage 3."</p> <p>19 CHAIRPERSON: That appears to be the</p> <p>20 penultimate page of the exhibit SS3, second last page.</p> <p>21 MAJOR-GENERAL ANNANDALE: Chairperson,</p> <p>22 I'm missing that part.</p> <p>23 CHAIRPERSON: The last page is headed</p> <p>24 "Stage 3 operational overview" and the page before that is</p> <p>25 headed "Operational overview of stage 3" and then the page</p>	<p style="text-align: right;">Page 8293</p> <p>1 kill them."</p> <p>2 MAJOR-GENERAL ANNANDALE: That is indeed</p> <p>3 so, yes, Chairperson.</p> <p>4 MR SEMENYA SC: Also reports from the</p> <p>5 negotiations Nyala are that they have received threats from</p> <p>6 the protester representatives.</p> <p>7 MAJOR-GENERAL ANNANDALE: Indeed so, yes,</p> <p>8 Chairperson.</p> <p>9 MR SEMENYA SC: Also reports from the</p> <p>10 police on the frontline are that the group is still</p> <p>11 militant.</p> <p>12 MAJOR-GENERAL ANNANDALE: That is indeed</p> <p>13 so, yes, Chairperson.</p> <p>14 MR SEMENYA SC: Also the media have</p> <p>15 picked up that there is a restlessness amongst the</p> <p>16 protesters and have been shown a firearm wrapped in a</p> <p>17 blanket.</p> <p>18 MAJOR-GENERAL ANNANDALE: Yes,</p> <p>19 Chairperson.</p> <p>20 MR SEMENYA SC: Also the deadline to lay</p> <p>21 down arms at the morning of the 16th has not been honoured.</p> <p>22 MAJOR-GENERAL ANNANDALE: Yes,</p> <p>23 Chairperson.</p> <p>24 CHAIRPERSON: This document can't be part</p> <p>25 of the original written plan as it existed in the morning</p>
<p style="text-align: right;">Page 8292</p> <p>1 before that is headed the "Strategic guidelines" and the</p> <p>2 page before that is headed "Risk assessment."</p> <p>3 MAJOR-GENERAL ANNANDALE: That's right.</p> <p>4 CHAIRPERSON: And the page before that</p> <p>5 has got the police logo and then the words "Operation</p> <p>6 Platinum, Lonmin Mine, Marikana, 16 August 2012 stage 3."</p> <p>7 That's followed by "Current information," do you see?</p> <p>8 That's where we are now.</p> <p>9 MAJOR-GENERAL ANNANDALE: Chairperson,</p> <p>10 yes, I have the page that says "Strategic guidelines" and</p> <p>11 then the second slide on that page starts with the</p> <p>12 operational overview of stage 3.</p> <p>13 MR SEMENYA SC: That plan records,</p> <p>14 General, that if we start with the page with the police</p> <p>15 logo on it, "The current information that was available at</p> <p>16 that time on the 16th of August 2012," correct?</p> <p>17 MAJOR-GENERAL ANNANDALE: That is</p> <p>18 correct, Chairperson.</p> <p>19 MR SEMENYA SC: The document, the plan</p> <p>20 had noted that the threat level is increasing.</p> <p>21 MAJOR-GENERAL ANNANDALE: It is noting</p> <p>22 that, yes, Chairperson.</p> <p>23 MR SEMENYA SC: And minuted there is</p> <p>24 that, "The media reported to Captain Adriaio the crowd have</p> <p>25 identified the SAPS video operators and are threatening to</p>	<p style="text-align: right;">Page 8294</p> <p>1 because it appears from slide 170, the incident with the</p> <p>2 video operators appears to have occurred at 13:25. So this</p> <p>3 document we have before us now, the slide headed "Current</p> <p>4 information" must have been compiled at some time after</p> <p>5 13:25. So is there a document anywhere which sets out</p> <p>6 stage 3 as it was envisaged on the morning of the 16th</p> <p>7 before these things started happening?</p> <p>8 MAJOR-GENERAL ANNANDALE: Yes,</p> <p>9 Chairperson, there is a document to that extent.</p> <p>10 CHAIRPERSON: Do you know whether it's in</p> <p>11 SS3 or whether it's somewhere else?</p> <p>12 MAJOR-GENERAL ANNANDALE: Chairperson,</p> <p>13 the specific slides as it was reflected during our planning</p> <p>14 is contained in SS3 but then there's other slides that were</p> <p>15 prepared for the Commission in terms of reflecting that</p> <p>16 detail. So it is contained here, yes.</p> <p>17 CHAIRPERSON: I suppose it's unfair for</p> <p>18 me to throw the question at you now. Possibly at some</p> <p>19 stage in one of the adjournments you can endeavour to find</p> <p>20 the actual formulation of stage 3 as it existed on paper,</p> <p>21 as it were, at the beginning of the 16th and then we can</p> <p>22 take it further but I don't want to interrupt you in any</p> <p>23 way. It's not fair to expect you to hunt around looking</p> <p>24 for the document at this stage, unless you can lay your</p> <p>25 finger on it immediately.</p>

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1 MAJOR-GENERAL ANNANDALE: I will
 2 endeavour to find such a document, Chairperson.
 3 MR SEMENYA SC: Of course, General, SS3
 4 as it looks, it is slides emanating also from the
 5 compilation of the preparation for the Commission.
 6 MAJOR-GENERAL ANNANDALE: Yes,
 7 Chairperson.
 8 CHAIRPERSON: At the moment, you
 9 understand, I'm interested in the actual plans as they were
 10 at the time. I'm not interested in documents that were
 11 prepared later because, without wishing to reflect on the
 12 people who prepared them, it's obviously safer for our
 13 purposes to look at the original documents, not filtered
 14 through interpretations that come from hindsight from
 15 things that happened thereafter. Anyway, but at some stage
 16 you can draw our attention or one of your assistants can
 17 draw our attention to the document as it existed in the
 18 morning and then there was a revision, I think, at 2
 19 o'clock that afternoon but that's something that you'll get
 20 to later, I take it.
 21 MAJOR-GENERAL ANNANDALE: I understand,
 22 yes, Chairperson.
 23 MR SEMENYA SC: General, I admonish
 24 myself. I'm seeking really to have us discuss stage 3 as
 25 contemplated in the plan, not the actuals. How would that

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1 unfold if it went according to plan?
 2 MAJOR-GENERAL ANNANDALE: Chairperson, I
 3 must state that that was always, stage 3 was always
 4 considered as a last resort, when there was a total
 5 breakdown in dialogue and communication and negotiation and
 6 if the protesters failed to lay down their weapons. The
 7 way we intended it to unfold started off with that, after
 8 the pre-positioning of the stage 2 and of the deployment of
 9 the barbed wire as a defensive measure, then the moving
 10 forward of the last of the reserves in terms of a maximum
 11 deployment on the show of force. Then after that the
 12 warning would be given, time would be allowed for the
 13 people to disperse. In that time then the chopper would
 14 have also then, the second chopper would have joined. The
 15 air force chopper with the additional 12 NIU members would
 16 have been airborne. We expected that the majority of the
 17 people would, out of their own accord at that stage
 18 themselves would disperse. Should there then be people
 19 that do not disperse, a second warning would have been
 20 given, in that process also to convince the people again to
 21 lay down their weapons. Then the forming up in terms of a
 22 line with Nyala vehicles, that would have been the command
 23 group, Lieutenant-Colonel Mere and the monitoring Nyalas
 24 with Brigadier Calitz, five of them joined by the
 25 additional Nyalas of Lieutenant-Colonel Pitsi who has moved

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1 forward with his four Nyalas as well as one Casspir
 2 armoured vehicle and then the two water cannons would have
 3 been positioned just directly behind that line of Nyalas.
 4 The TRT members that were positioned 100 metres back would
 5 have then formed up behind that line and then the dispersal
 6 action would have started, aimed at those people that still
 7 remained and did not want to disperse on their own accord,
 8 by moving this line out on the side of our barbed wire that
 9 was deployed, so to the northern side, then move forward
 10 towards that specific group that remained. They will then
 11 start with the deployment of the water cannons and then,
 12 depending on their response, then they would go to the next
 13 levels in terms of the use of force. In this case it
 14 excluded police officers that will use shields and tonfas
 15 because those shields can just not provide the protection
 16 to that sharp-edged weapons that we have seen that were in
 17 the possession of the protesters.
 18 Apart from that we have also noted what has
 19 happened on the Monday and that the people had two weapons,
 20 a lot of them had two weapons. So a typical attack would
 21 be that you go low and that you go high at the same time
 22 and that you will just not be able to protect yourselves.
 23 So that part, in terms of the whole force of continuum,
 24 that part was excluded.
 25 The next phase would have been the utilisation of

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1 pyrotechnics which consist basically of what is known as a
 2 stun grenade. A stun grenade is an acoustic device that
 3 would give, after a delay of 1.5 seconds, it would give a
 4 double bang. Apart from the high frequency of the noise
 5 also in terms of, it would have the effect in terms of
 6 disorientating an individual. And then also CS gas that
 7 will then have been used to get the people to then move
 8 away and break into smaller groups. Should it then still
 9 have been required and that does not have the desired
 10 effect and as a last resort in terms of the crowd
 11 management principles of applying force, it would have been
 12 the utilisation of shotguns with double ball rubber
 13 cartridges. At that stage we had the firm belief that we
 14 would have broken up this group into much smaller,
 15 manageable groups.
 16 Chairperson, I think I must pause here just to
 17 give you an explanation that in terms of our analysis we
 18 never thought that we would have to deal with the bigger
 19 3 000 group because there were two distinct groups. The
 20 bigger group were mostly armed with what is known as
 21 traditional weapons whilst they were loosely basically
 22 positioned on a bigger koppie area and the smaller group
 23 were about 400 people, were totally different. They had
 24 sharpened rods, pangas, spears, they were differently
 25 dressed, they were always operating in a group. They had

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1 definite leaders in their group and they were extremely
 2 disciplined in their behaviour in terms of they would not
 3 act unless they would get a command from some of their
 4 leaders. It was noted that they would sit together, that
 5 they would stand up together and that there were certain
 6 hand signals that were made in terms of them to get a
 7 specific response.
 8 So our deployment was in line with this smaller
 9 group in terms of that there was an expectation that they
 10 would be the ones that would not necessarily want to go or
 11 disperse out of own accord and that was also the ratio of
 12 our human resources and the equipment that we've deployed
 13 there. It was also never intended to try to arrest that
 14 big a group, not even the full 400 because we also expected
 15 that once we start with the dispersal action, should it
 16 have been necessary, that even this group, that some of the
 17 people will leave out of own accord. If I can then
 18 continue in terms of how we will break up this smaller
 19 group that remained in their movement.
 20 [11:03] CHAIRPERSON: That's a topic you can deal
 21 with after we've taken the tea adjournment, if that's
 22 convenient.
 23 MAJOR-GENERAL ANNANDALE: That would be.
 24 CHAIRPERSON: We'll take the tea
 25 adjournment.

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1 [COMMISSION ADJOURNS COMMISSION RESUMES]
 2 [11:29] CHAIRPERSON: The Commission resumes.
 3 Majoor-Generaal, u is nog steeds onder eed.
 4 CHARL ANNANDALE: s.o.e.
 5 CHAIRPERSON: I'd like to ask you a
 6 question, if I may, before you carry on. You were
 7 explaining to us what you envisaged would happen and how
 8 the plan was drafted, and so on, and there was going to be
 9 a show of force and various things were going to follow
 10 after that. Did you know that – or I must put it on the
 11 basis of an allegation. It is alleged that some of the
 12 strikers, possibly all the hard group had received "muti"
 13 which was designed to make them invisible, invincible, and
 14 invulnerable. That's an allegation; it's denied, but this
 15 was apparently police information – we've got slides which
 16 appear to indicate people undergoing some kind of ceremony
 17 of some kind. Were you aware of that when the plan was
 18 drafted? Maybe I should formulate the question more
 19 carefully. At the moment it's an allegation, but what
 20 we've been told is that this was information – whether
 21 correct or not is another matter – this was information
 22 which the police had received. Were you aware that that
 23 information had been received when the plan was drafted?
 24 MAJOR-GENERAL ANNANDALE: Chairperson, I
 25 was aware of four incidents that is relative to what you

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1 have mentioned, that on the Saturday the – what's it? –
 2 the 11th, as well as the Sunday the 12th, that there were
 3 rituals performed, and I've also seen photographs that were
 4 taken by one of our choppers in terms of naked men that
 5 were forming a line, and then again on Tuesday and
 6 Wednesday. The administering of "muti," I do not know, I
 7 first saw it as the Saturday and Sunday that that was just
 8 rituals, not necessarily the administering of "muti," but
 9 on the Tuesday and/or the Wednesday it was reported that
 10 there's a vehicle that is bringing buckets and that there's
 11 a substance that they are sprinkling, or administering.
 12 CHAIRPERSON: In particular this is dealt
 13 with in slide 85 and following of exhibit L, where this,
 14 what is specifically dealt with is what was reported as
 15 having happened from, it looks like some time after half
 16 past 3, there's a time at top of slide 85, 15:23, but I see
 17 from my notes that was corrected in relation to slide 86 as
 18 being 16:21, but anyway, it's round about middle afternoon
 19 on the 14th. Now my question is, had you already received
 20 that information when the plan, as you have described it to
 21 us, was drawn up?
 22 MAJOR-GENERAL ANNANDALE: Yes,
 23 Chairperson.
 24 CHAIRPERSON: Was any allowance made for
 25 the fact that the protesters – if one can call them that –

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1 might not have been deterred by a show of force because
 2 they would believe, if this information is correct of
 3 course, they would believe that the bullets will bounce
 4 off, that they have nothing to fear from a show of force,
 5 members of the police service armed with R5s and so on,
 6 because it can have no effect on them? Was that taken into
 7 account when the plan was drafted? In fairness to you I
 8 think I should ask you first, was your information that the
 9 people had received "muti" which they believed – or so it
 10 is now alleged, they believed would render them invincible
 11 and invulnerable?
 12 MAJOR-GENERAL ANNANDALE: Chairperson,
 13 can I just ask, there's – it seems to be a technical glitch
 14 on our system here. I do not know if the rest of the house
 15 experience the same, so we really struggle to hear.
 16 CHAIRPERSON: Let me ask the question,
 17 raising my voice somewhat. The question is this; when the
 18 plan was drafted had you already received information to
 19 the effect that the – or so it is now alleged, whether it's
 20 true or not is not the purpose of the question. The
 21 question is your information. Had you received information
 22 already when the plan was drafted that the protesters, or
 23 some of them at least in the hard group had received "muti"
 24 which they believed, or allegedly believed would render
 25 them invisible, invulnerable, and – ja, well that's enough.

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1 And invincible, sorry. Invincible, the three in-Vs;
 2 invisible, invincible, and invulnerable.
 3 GENERAAL-MAJOOR ANNANDALE: As ek dit reg
 4 het, is dit onsterflik, onoorwinbaar, en onsigbaar.
 5 VOORSITTER: Heeltemal reg.
 6 GENERAAL-MAJOOR ANNANDALE: Dankie,
 7 Voorsitter. Chairperson, no, we did not get that
 8 information specifically as that this is how they would
 9 feel, but we discussed it in the JOCOM and in, during the
 10 JOC in terms of experiences of police officers in terms of
 11 typically what the "muti" would do, and the question of
 12 invincible came up in terms of certain AMT – not ATM, cash-
 13 in-transit interactions that the police had that the people
 14 would stand in line and that they would have this feeling
 15 of invincibility, and we considered that, Chairperson, as a
 16 specific risk and it was built in our plan in terms of
 17 certain specifics that we've built in; part of that the
 18 positioning and the deployment of the barbed wire, as well
 19 as then the distance we kept and the deployment of the
 20 front line officers in armoured vehicles, but we were
 21 confident that the moment we break up that cohesive group
 22 into smaller groups, that even although the potential was
 23 there that people will resist when we try to arrest them,
 24 and that they would refuse to lay down their specific
 25 weapons that they have in their possession, we saw that

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1 more as isolated incidences and that our ratio of
 2 deployment at that time would be such that our police
 3 officers from the TRT with the specific skills that they
 4 hold in their training, that they will be able to perform
 5 an arrest and that they would be able to then – om so 'n
 6 aanval af te weer.
 7 CHAIRPERSON: Ward of such an attack.
 8 MAJOR-GENERAL ANNANDALE: Thank you, Sir.
 9 CHAIRPERSON: Was it envisaged that that
 10 might not be entirely successful and that some of the
 11 warriors - if one can call them that – in the front, might
 12 be killed.
 13 MAJOR-GENERAL ANNANDALE: Chairperson, it
 14 was never envisaged that – we did not foresee it, and we
 15 did not plan for that that person would be killed.
 16 CHAIRPERSON: I didn't say "would be," I
 17 said "might be." Was it foreseen that some small number
 18 perhaps of the members of the front group might in the
 19 process be killed?
 20 MAJOR-GENERAL ANNANDALE: Chairperson,
 21 no, not in the way that we intended the plan to roll out
 22 because there would have been a line of armoured vehicles
 23 and that the people would have been broken down into such
 24 small groups that they will be able to deal with that
 25 without loss of life.

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1 CHAIRPERSON: Thank you. I must report
 2 that when I turn my microphone off it – when I turn it on
 3 it seems to be alright, but when I turn it off the light
 4 flickers and it makes a scratching noise [inaudible]. When
 5 I turn it off, when it's on, it's on now, when it seems to
 6 be in order, but when I turn it off the light flickers
 7 around where the light normally is, and it makes a scratchy
 8 kind of sound. Does that mean there's something wrong with
 9 my microphone? Adv Tokota has got a similar problem, I
 10 understand.
 11 MR HANABE: And also the interpreter's
 12 mike, I cannot hear at all, Commissioner.
 13 CHAIRPERSON: As long as I don't say
 14 anything it doesn't matter, but is the interpreter's
 15 microphone now working properly?
 16 MR HANABE: No, it's having this
 17 distorting sound, Commissioner.
 18 CHAIRPERSON: Can you really not hear me
 19 when I speak loudly?
 20 MR HANABE: I can hear only when I'm
 21 looking at you, then I can hear what you are saying.
 22 MAJOR-GENERAL ANNANDALE: Chairperson, we
 23 can hear you over the mike, but it's making such a noise
 24 here that -
 25 CHAIRPERSON: I think what you're saying

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1 is not being recorded. What you've just said is that the
 2 problem is if you turn the machine off you can hear my
 3 unamplified voice, but if it's turned on then there's
 4 distortion and disturbance and static almost, as if it was
 5 a radio breakup, which makes it difficult to hear. Is that
 6 what you're saying? The trouble is we can't turn it off
 7 because then what is being said is not recorded. Is there
 8 anything that can be done to solve the problem? Should we
 9 take a short adjournment for five minutes to enable you to
 10 address the problem? Because obviously it may affect the
 11 quality of the recording; it may be difficult for the
 12 transcribers to transcribe, or to hear and then thereafter
 13 to transcribe what's being said, and this evidence, like
 14 all the other evidence of this witness, is important. So
 15 I'll adjourn for five minutes, or rather more accurately,
 16 I'll adjourn until you report to me that we can continue.
 17 [COMMISSION ADJOURNS COMMISSION RESUMES]
 18 [11:49] CHAIRPERSON: The Commission resumes.
 19 Are we now in a situation where we're back on the air
 20 without static? Is that correct?
 21 MR HANABE: Yes, Commissioner.
 22 CHAIRPERSON: Alright, well let's proceed
 23 on that basis. You're still under oath, Major-General.
 24 CHARL ANNANDALE: s.u.o.
 25 CHAIRPERSON: Mr Semanya, in a static-

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1 free atmosphere, would you like to proceed?
 2 EXAMINATION BY MR SEMENYA SC (CONTD.):
 3 Indeed, Chair. The subject we have been dealing with now,
 4 General, can I invite you to exhibit FFF25? At page 14
 5 there is all the recordings of the 15th of August.
 6 MAJOR-GENERAL ANNANDALE: Chairperson, I
 7 see that in front of me.
 8 MR SEMENYA SC: And on page 17 against
 9 the hour 14:00, entry 192 –
 10 MAJOR-GENERAL ANNANDALE: I see the
 11 entry, yes, Chairperson.
 12 MR SEMENYA SC: It is reported there that
 13 “Pappa 1 reports that there is a Toyota bakkie, white in
 14 colour, drove towards the group at koppie to deliver
 15 buckets of ‘muti’ (suggest so) and lot of people moving
 16 back from the village to the koppie.”
 17 MAJOR-GENERAL ANNANDALE: Yes,
 18 Chairperson.
 19 MR SEMENYA SC: That’s what you were
 20 referring to?
 21 MAJOR-GENERAL ANNANDALE: Yes,
 22 Chairperson.
 23 MR SEMENYA SC: On page 18 against the
 24 time 16:10, entry 204, there is also a situation report
 25 indicated there.

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1 MAJOR-GENERAL ANNANDALE: That’s correct,
 2 Chairperson.
 3 MR SEMENYA SC: And the entry reads,
 4 “Situation report, chopper 2 reported that approximately
 5 800 people are at the back of the koppie, all undressed,
 6 and the traditional healer is busy with them and the white
 7 Toyota bakkie bringing water in buckets.”
 8 MAJOR-GENERAL ANNANDALE: That is
 9 correct, Chairperson.
 10 MR SEMENYA SC: That information is also
 11 captured in the various slides running from 85 of exhibit
 12 L, as the Chair had indicated.
 13 MAJOR-GENERAL ANNANDALE: I see that,
 14 yes, Chairperson.
 15 MR SEMENYA SC: Now General, we were
 16 discussing stage 3. Can I invite you to look at exhibit L
 17 from slide 78? Is that the plan as summarised in those
 18 slides?
 19 MAJOR-GENERAL ANNANDALE: That is
 20 correct, Chairperson.
 21 MR SEMENYA SC: So for the record, the
 22 plan deals with negotiations, engagement of stage 3 where
 23 negotiations are deemed unsuccessful.
 24 MAJOR-GENERAL ANNANDALE: That is
 25 correct, Chairperson.

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1 MR SEMENYA SC: Or where they are no
 2 longer feasible and the tactical option needs to be
 3 employed.
 4 MAJOR-GENERAL ANNANDALE: That’s correct,
 5 Chairperson.
 6 MR SEMENYA SC: As bullet point 3
 7 indicates, “The dispersion strategy would enable the police
 8 to deal with more manageable disorganised groups.”
 9 MAJOR-GENERAL ANNANDALE: That is
 10 correct, Chairperson.
 11 MR SEMENYA SC: You had already indicated
 12 that there was no plan to arrest 3 000 people.
 13 MAJOR-GENERAL ANNANDALE: I have, yes,
 14 indicated that, Chairperson.
 15 MR SEMENYA SC: The fourth continuum that
 16 you testified about is also captured in slide 79 of exhibit
 17 L. Am I correct?
 18 MAJOR-GENERAL ANNANDALE: That is
 19 correct, Chairperson.
 20 MR SEMENYA SC: And for the record, it
 21 refers to the giving of verbal command at the commencement
 22 of the offensive action.
 23 MAJOR-GENERAL ANNANDALE: That is
 24 correct, Chairperson.
 25 MR SEMENYA SC: The use of water cannon.

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1 MAJOR-GENERAL ANNANDALE: Yes.
 2 MR SEMENYA SC: Teargas.
 3 MAJOR-GENERAL ANNANDALE: Yes.
 4 MR SEMENYA SC: And rubber rounds.
 5 MAJOR-GENERAL ANNANDALE: Yes.
 6 MR SEMENYA SC: Can we now go back to
 7 your statement, exhibit GGG1?
 8 CHAIRPERSON: What paragraph are you
 9 looking –
 10 MR SEMENYA SC: Against paragraph –
 11 CHAIRPERSON: What page, what paragraph?
 12 MR SEMENYA SC: Paragraph 17.
 13 CHAIRPERSON: Thank you.
 14 MR SEMENYA SC: On page 6. There,
 15 General, you begin to deal with Thursday, 16 August 2012,
 16 at 6:00 hours where you’re chairing the JOCOM meeting.
 17 MAJOR-GENERAL ANNANDALE: That is
 18 correct, yes, Chairperson.
 19 MR SEMENYA SC: What do you say happened
 20 there?
 21 MAJOR-GENERAL ANNANDALE: Chairperson, we
 22 started the meeting where we left off the previous evening
 23 when we informed the group of commanders in terms of the
 24 situation and the feedback on the meeting that we had with
 25 AMCU and NUM, and then also with the facilitation of the

<p style="text-align: right;">Page 8311</p> <p>1 Lonmin, and we gave them that feedback. We repeated it 2 again that we are waiting for that, that at 9 o'clock 3 there's the potential that the people will disarm and 4 disperse on their own accord.</p> <p>5 MR SEMENYA SC: General, let me interrupt 6 us here and step back. According to the plan, what was to 7 happen with the video recording of the stage when 8 implemented? What provision was made for video capturing 9 of the operation?</p> <p>10 MAJOR-GENERAL ANNANDALE: Chairperson, we 11 had two video operators from Public Order Policing. They 12 were operating in the Nyalas in the command line, one of 13 those five Nyalas. We also then had two water cannons that 14 are fit, or equipped with a camera system. We also then 15 had the additional arrangement that we made with 16 Lieutenant-Colonel Botha that was made through the 17 intervention of Brigadier Van Zyl, that he should be 18 airborne at the time that the dispersal action starts and 19 also then make video recordings. That is just referring to 20 the video recordings, not to the still cameras.</p> <p>21 MR SEMENYA SC: And can we then proceed 22 with the morning of the 16th of August 2012? We now know 23 that the belief that the people will disarm proves 24 incorrect.</p> <p>25 MAJOR-GENERAL ANNANDALE: Chairperson, I</p>	<p style="text-align: right;">Page 8313</p> <p>1 eastern side, and then the report that I referred to 2 earlier that it was reported by Brigadier Calitz at around 3 11 o'clock that the leader group approached them and said 4 that the wire must be removed and that they're not going to 5 ask again. He also reported the behaviour of the leader in 6 terms of being aggressive.</p> <p>7 CHAIRPERSON: I'm sorry to interrupt you. 8 You mentioned observers who were placed near the smelter, I 9 think you said. Now if one looks at page 22 of exhibit 10 FFF25, that's the occurrence book, there is an entry 11 numbered 978 at 9:45 which says, "Situation report, OP1 12 reported 600 people arriving at the koppie, heavily armed; 13 lot of people still was coming from eastern side." Is OP1 14 reference to those people who were near the smelter?</p> <p>15 MAJOR-GENERAL ANNANDALE: Chairperson, 16 yes, it stands for observation post 1.</p> <p>17 CHAIRPERSON: Thank you.</p> <p>18 MR SEMENYA SC: You have also made 19 reference to the media briefing. What in broad terms was 20 that about?</p> <p>21 MAJOR-GENERAL ANNANDALE: Chairperson, it 22 was a media briefing that was called by the Provincial 23 Commissioner of North West, Lieutenant-General Mbombo. It 24 was decided that we go and brief the public in terms of the 25 happenings in the Marikana area that was basically a build-</p>
<p style="text-align: right;">Page 8312</p> <p>1 would not say proved incorrect because we still had the 2 understanding that potentially at 9 o'clock when Mr 3 Mathunjwa will go back, that even although they're armed at 4 that stage, that they will lay down their arms, but we were 5 concerned because as I've mentioned earlier, why would you 6 then go this heavily armed if in any way you intend to just 7 lay down your arms then at 9 o'clock?</p> <p>8 MR SEMENYA SC: And after 9 o'clock?</p> <p>9 MAJOR-GENERAL ANNANDALE: Chairperson, I 10 left at around 8:30, just after 8:30, with Lieutenant- 11 General Mbombo to go to a press briefing and I only 12 returned to the JOC after that media briefing. The media 13 briefing was not held at the general area where the JOC was 14 situated. On my return I received an update in terms of 15 some of the aspects that have transpired during our absence 16 - because it was also General Mpembe was present in that 17 media briefing, so both of us were away at the time - 18 basically touched on a number of aspects; at about 9 19 o'clock the helicopter reported that there were people 20 moving in the streets and that people are moving to the 21 koppie, also that the two Special Task Force members that 22 were posted on the observation post on the BMR smelter 23 reported that they noticed about 600 people arriving at the 24 koppie and that they are all heavily armed, and that more 25 people are on their way to the koppie from specifically the</p>	<p style="text-align: right;">Page 8314</p> <p>1 up from the 10th. The media briefing from the police's side 2 was attended by General Mbombo, as I've indicated, and then 3 also myself and Major-General Mpembe, and we also had 4 Captain Dennis Adriaio from our Communication Services 5 present. General Mbombo then in a release in her briefing 6 she informed the media that, she gave the history in terms 7 of what has happened.</p> <p>8 She gave an overview in terms of the happenings 9 on the Friday that there was a march, then on the Saturday 10 there was the conflict between NUM, as well as AMCU, as 11 well as the events on the Sunday where there were two 12 security officials that were killed. She made mention of 13 the intimidation, the assaults, damage to property, 14 specifically, if I can recall, referring to a number of 15 vehicles that were burned.</p> <p>16 She indicated that the escalation in terms of the 17 violence necessitated that there will, that more police 18 officers were to be deployed in the Marikana area, in terms 19 of the police's responsibility to maintain law and order, 20 public order.</p> <p>21 She gave a short overview in terms of the 22 incident on the Monday. She indicated that there was a 23 specific negotiation with a group of protesters that were 24 armed, and that they refused to disarm, and that there was 25 an incident where there then were two police officers</p>

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1 killed, as well as a further police officer that was
 2 seriously injured, and she indicated that three other mine
 3 employees also died during this whole situation.
 4 [12:09] She indicated that there was a further escalation
 5 in terms of police resources, that we also have the support
 6 from other provinces, and there was already reports in the
 7 media that the National Defence Force is deployed, and she
 8 explained that the people that is generally referred to as
 9 National Defence Force, that they are members from the
 10 South African Police Service Special Task Force, and they
 11 wear a different uniform, which might be perceived as being
 12 National Defence Force.
 13 She also explained that there's a, the only asset
 14 and the support that we have from the National Defence
 15 Force is through the South African Air Force, through their
 16 provision of an Oryx helicopter. She indicated that
 17 there's discussions between ourselves and the unions in an
 18 attempt to ensure that there's, there would be a peaceful
 19 resolution to this, and that she's confident that we will
 20 be able to end this today.
 21 Chairperson, the, I think there were then
 22 questions and some of the questions, if I can remember
 23 people asked in terms of the wellbeing of the officer that
 24 was injured. They have asked in terms of the, if there
 25 were any arrests performed and carried out, and she

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1 mentioned that there were already six people suspected to
 2 be involved in some of the murder cases, that were
 3 arrested, not necessarily relating to the police officers
 4 but in terms of the nine people that already died.
 5 CHAIRPERSON: Am I correct in thinking
 6 that the media briefing is available on video? Slide 155,
 7 is that right, Mr Semenya? Or is it only, I think we saw a
 8 small part of it because if we have it available on video
 9 you don't have to take us through it fully because we will
 10 have it, but let's just check that that's correct. Am I
 11 correct, Mr Semenya?
 12 MR SEMENYA SC: Not in full. Slide 155,
 13 it does not depict in full what the General –
 14 CHAIRPERSON: Yes, yes, I understand, but
 15 – no, I understand that, thank you, but apart from what we
 16 were shown is the whole media briefing available on a video
 17 clip? Because if it is then we can save time by not going
 18 through the detail.
 19 MS PILLAY: It is an exhibit, Chair,
 20 FFF18.
 21 CHAIRPERSON: Is that the whole media
 22 briefing?
 23 MS PILLAY: I'm not sure it's the entire
 24 media briefing, but it is Lieutenant-General Mbombo's
 25 address during the media briefing.

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1 CHAIRPERSON: I see, thank you.
 2 MR SEMENYA SC: We saw it; it's not a
 3 complete footage of the media briefing.
 4 CHAIRPERSON: Yes, okay. If you consider
 5 it necessary that the Major-General should give the
 6 evidence about material that's not available on the video,
 7 then obviously he must proceed. I just thought if there's
 8 stuff that's available on video we can save time by passing
 9 over it fairly quickly.
 10 MAJOR-GENERAL ANNANDALE: Chairperson,
 11 that's about all I can remember of that specific media
 12 briefing in anyway. Chairperson, I would expect that it
 13 would be available somewhere on video because there were a
 14 number of media houses present.
 15 MR SEMENYA SC: On page 7 of your
 16 statement at the top you address the situation if the group
 17 did not keep true to laying down their arms.
 18 MAJOR-GENERAL ANNANDALE: Chairperson
 19 yes, I refer to a contingency that must be in place and
 20 that contingency was the repositioning of the barbed wire
 21 trailers that was positioned, but not deployed, but that
 22 can do a rapid deployment in the case of an aggressive
 23 action towards the police. But I reiterated that we will
 24 still continue with negotiations; we will still try to find
 25 a solution in terms of the peaceful resolution of the

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1 event.
 2 MR SEMENYA SC: You also deal with the
 3 deployment of various personnel there.
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 yes, it was basically the same as per the previous day, on
 6 the Wednesday, with deployment, the front deployment, the
 7 positioning of the wires and the backup in terms of that
 8 deployment, and then the forward holding area 1 under the
 9 command of Major-General Naidoo, with the assistance of
 10 Lieutenant-Colonel Gafley. He had a reserve in terms of a
 11 small number of Public Order Policing members, Tactical
 12 Response Team members, National Intervention Unit members,
 13 Detective Services, a few detectives – I think there were
 14 four detectives or so, a few members from the Local
 15 Criminal Record Centre, also K9 handlers and their dogs.
 16 He had a number of Mounted Unit members and horses, and
 17 then they had the assistance of the Lonmin Mine's disaster
 18 unit, if I can call it that, in terms of fire brigade. I
 19 think there were – and then contracted, and that's my
 20 understanding, contracted 911 medical personnel, contracted
 21 by Lonmin in terms of their normal agreement that they
 22 have.
 23 Then also a forward holding area 2, Lieutenant-
 24 Colonel Pitsi was in command of that holding area. He had
 25 a bigger deployment available in terms of a reserve for

<p style="text-align: right;">Page 8319</p> <p>1 Public Order Policing. He also had TRT members. He had a 2 bigger grouping of TRT members because of a specific key 3 point that we wanted to provide a protection to. It's an 4 informal settlement or a village more to the south-western 5 side of the koppie, and he had a small deployment of K9 6 handlers.</p> <p>7 Then we had the Special Task Force, two 8 groupings, or two teams in terms of counter sniper that 9 were deployed with the Nyalas of Lieutenant-Colonel Mere, 10 and then the Special Task Force, two members on the 11 observation post. Then we had the 12 members from NIU that 12 were kept back at the bigger area of the JOC to be deployed 13 with the South African Air Force Oryx helicopter. Then 14 that is what I referred to as the, let's call it the 15 frontline operational deployment, which was then probably 16 close to 600 personnel. Then we had the intelligence 17 analyst and gatherers, other detectives, 10 members from 18 the Mobile Operations unit, which I explained yesterday 19 would be there for escorting; also if we would make arrests 20 and trucks would go to the police stations, the JOC 21 personnel, and representatives, and then also, let's call 22 it generic operational support people in terms of supply 23 chain management, the issuing of radios and just people 24 that we have for that purpose. What I left out is we had 25 five trucks available, referred to as prisoner transport</p>	<p style="text-align: right;">Page 8321</p> <p>1 to earlier that the observation post also then reported the 2 600 people. There was a further report that the helicopter 3 crew reported that there were a, what was referred to, I 4 referred to it as a warrior group that were moving up and 5 down, and that there was still consistently people that 6 were joining the people on the koppie, and the report by 7 Brigadier Calitz in terms of the approach with, by that 8 leader group, where the leader indicated that the wire must 9 be removed and that they are not going to ask again.</p> <p>10 MR SEMENYA SC: And under paragraph 20 of 11 course you deal with the fact that the belief that the 12 people would lay down their arms comes short.</p> <p>13 MAJOR-GENERAL ANNANDALE: That's correct, 14 yes.</p> <p>15 MR SEMENYA SC: And you deal with the 16 contact between General Mbombo and the president of AMCU, 17 Mr Mathunjwa.</p> <p>18 MAJOR-GENERAL ANNANDALE: Chairperson, 19 yes, after the press briefing that we had, we returned to 20 the JOC and we were under the impression that at 9 o'clock 21 when we were to have the, or at the same time that we had 22 the press briefing, which actually started after 9, that Mr 23 Mathunjwa would then honour his commitment that he will be 24 back at the koppie, speaking to the people, only to find 25 that he did not go to the koppie.</p>
<p style="text-align: right;">Page 8320</p> <p>1 trucks, and there were 10 people allocated to them from 2 Visible Policing, which would be the local Marikana police 3 station and probable support from another police station, 4 and two teams of water cannon operators, I think they were 5 two-two, maybe two-three, I'm not too sure, Chairperson. I 6 think that was the deployment.</p> <p>7 MR SEMENYA SC: That deployment, General, 8 is also captured in exhibit L from slides 136 to slide 147.</p> <p>9 MAJOR-GENERAL ANNANDALE: Chairperson, 10 yes, I see on slide 146 I did not mention the two police 11 choppers in terms of the deployment on that, as reflected 12 under slide 146, and slide 147, but that is a reflection of 13 the deployment.</p> <p>14 MR SEMENYA SC: And the commanders are 15 obviously indicated in each slide who was responsible for 16 what type of deployment. Correct?</p> <p>17 MAJOR-GENERAL ANNANDALE: Commanders as 18 reflected in the respective slides, yes, Chairperson.</p> <p>19 MR SEMENYA SC: Against paragraph 19 of 20 your statement you then deal with what happens next after 21 the media briefing.</p> <p>22 MAJOR-GENERAL ANNANDALE: That is 23 correct, Chairperson.</p> <p>24 MR SEMENYA SC: Can you tell us?</p> <p>25 MAJOR-GENERAL ANNANDALE: I have alluded</p>	<p style="text-align: right;">Page 8322</p> <p>1 COMMISSIONER HEMRAJ: What time did you 2 return after the media briefing?</p> <p>3 MAJOR-GENERAL ANNANDALE: Commissioner, 4 that must have been around 10:30, I reckon, maybe slightly 5 after that. General Mbombo then spoke to Mr Mathunjwa on 6 her cellular telephone. I mention in my statement that the 7 assumption was that it was on his cell phone, but I can 8 also remember that potentially it was on somebody else's 9 cell phone, maybe Mr Mokwena's cell phone, because we did 10 not have his number at – or I'm not too sure, but she spoke 11 to him over her cell phone, but potentially it could have 12 been on somebody else's cell phone. It was then reported – 13 she asked him why didn't he go to the koppie as he has 14 promised. He then indicated that he was at Lonmin and 15 Lonmin do not want to commit to further negotiations, but 16 he indicated to her that he will come to the JOC and then 17 he will speak to her in person.</p> <p>18 He arrived at the JOC shortly after that, 19 probably within 15 minutes, Chairperson, and General Mbombo 20 wanted to know from him why did he go back on his word and 21 why is he not accepting the responsibility as a leader to 22 honour his commitment that he would actually go and do 23 that, and she reminded him how important this was, because 24 we were all in the belief that there would be a lay-down of 25 weapons at 9 o'clock, and she indicated to him that it's</p>

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1 critical that the people lay down their arms.
 2 [12:29] He responded and then he said that he had a
 3 meeting that morning at the same time when we had the press
 4 briefing, he had a meeting with representatives from
 5 Lonmin, I do not know if it's part of the management but he
 6 had a meeting with a person or persons at Lonmin, and he
 7 wanted to have some commitments there – that was my
 8 understanding in terms of the process of further
 9 negotiations, which I assumed was then between AMCU and
 10 Lonmin, and he said it's because of that reason that he did
 11 not go to the koppie, because he needed that commitment
 12 before he can go and address the people at the koppie. He
 13 was reminded by Lieutenant-General Mbombo that her concern
 14 is with finding a peaceful resolution and that he must live
 15 up to his responsibility in addressing the group and
 16 convince them to lay down their arms. Chairperson, he was
 17 not too happy with that because he says that he has reasons
 18 why he didn't go there, and he referred to Lonmin in terms
 19 of that he do not get their commitment and that they do not
 20 want to get onboard, but he said he will go to the koppie
 21 now. He then asked us that we should provide transport for
 22 him and his delegation to go there, and I indicated to him
 23 that we do not have transport readily available at that
 24 moment. He then showed me the two Vitos, the Vitos that
 25 was used on the Wednesday to go to the koppie. He

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1 indicated but there are those same Vitos that took us –
 2 Vito is a Mercedes Benz minibus – that took us there, so
 3 they are available there, and I indicated to them yes, the
 4 vehicles are there but the personnel, the members from the
 5 Special Task Force are already, everyone is deployed, but I
 6 then in anyway, I think I asked Colonel Scott or Brigadier
 7 Tsiloane to go and see if we can make arrangements that we
 8 can still take him to the koppie. He then left, and it was
 9 my understanding that he left then with his own vehicle,
 10 and he left the rest of the delegation, he travelled on his
 11 own. He left the delegation behind and then he went on his
 12 own; that must have been just prior to 12 o'clock.
 13 MR SEMENYA SC: So he was not refused
 14 transport to go to the koppie; it was explained why that
 15 was not practically feasible.
 16 MAJOR-GENERAL ANNANDALE: Chairperson,
 17 no, after he left, Brigadier Tsiloane came back and he
 18 indicated to me that he has arranged now for the members of
 19 Mobile Operations to take him through to the forward
 20 holding area 1, but then he has already left.
 21 MR SEMENYA SC: In paragraph 21 you deal
 22 with the report you receive about Mr Mathunjwa being at the
 23 koppie.
 24 MAJOR-GENERAL ANNANDALE: That is
 25 correct, Chairperson.

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1 MR SEMENYA SC: What was the report?
 2 MAJOR-GENERAL ANNANDALE: We received a
 3 JOC report that he arrived shortly after he left, probably
 4 10 minutes or so, he arrived then at the koppie in his own
 5 vehicle. If I can remember, it's a report that's a Toyota
 6 Fortuner. They also reported that there were a number of
 7 speakers, people addressing the protesters at the koppie,
 8 but on his arrival he did not directly address the people
 9 at the koppie, but he had a meeting with some of the media
 10 people that were standing around and he addressed the media
 11 then specifically, and that later on, probably – I do not
 12 know – in the area of 1 o'clock or so, it might have been a
 13 bit later, he then in turn also addressed the protesters.
 14 I did not get the detail in terms of his address, apart
 15 from the commander who reported that the people, there was
 16 a change in behaviour after his address to them; he said
 17 there was a noticeable change – he used the word, if I can
 18 remember, that the people were unhappy when he left.
 19 MR SEMENYA SC: That is recorded in slide
 20 161 of exhibit L. Am I right?
 21 MAJOR-GENERAL ANNANDALE: Ja, I see that,
 22 yes, Chairperson.
 23 MR SEMENYA SC: At around 13:30 there is
 24 a special JOCOM meeting called, as you deal with it against
 25 paragraph 22.

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1 MAJOR-GENERAL ANNANDALE: That is
 2 correct, Chairperson.
 3 MR SEMENYA SC: Can you tell us more
 4 about it?
 5 MAJOR-GENERAL ANNANDALE: Chairperson,
 6 prior to that meeting at 13:30 Major-General Mpembe briefed
 7 the Provincial Commissioner, General Mbombo. I was
 8 partially present during that briefing, but he, and she was
 9 also there from time to time, so she was aware of a number
 10 of the happenings. It was not as if she's now receiving
 11 the first information of what has transpired on that day,
 12 but he indicated the feedback that we received from the
 13 operational commander. He indicated the change in
 14 behaviour of the people. He indicated the threats that's
 15 been made by the leadership of the protesters to the
 16 police, and he indicated that there's a real risk
 17 associated if we would not take action to disperse the
 18 people. The risk was discussed without much detail, but it
 19 basically boiled down to the fact that if this disgruntled
 20 group of people, that we all had the impression that they
 21 would lay down their arms and that they would disperse
 22 peacefully, that that didn't happen and seems like the,
 23 even the president of AMCU, that he cannot control the
 24 members, he cannot convince them to actually lay down, and
 25 that the real risk is here that these people would go back

<p style="text-align: right;">Page 8327</p> <p>1 from the koppie, all of them in that group, armed as they 2 were, that they would move into the neighbourhoods and the 3 villages and then we will have incidents again of serious 4 intimidation, of assaults and murders, and damage to 5 property. Chairperson, we're only too mindful what has 6 happened in Implats earlier in the year where there were 7 several cases reported in terms of exactly the risk that we 8 feared. My only experience in that regard is that it's 9 extremely difficult to control any such groupings once they 10 break up into literally tens of smaller groupings, and 11 people go into the neighbourhoods and then you cannot 12 control individual actions.</p> <p>13 In Sasolburg in Zamdela is a recent specific 14 reference to what I'm referring to because that started 15 with a small group of about 100 people; they were joined 16 with a number more and then the people took to the streets. 17 Chairperson, in that process there were more than 32 shops 18 that were looted and about 180 foreign shops but we've 19 experienced that in my years that you will get, the moment 20 you break up such a group and those groups go back, then 21 they will loot and they will intimidate and they will 22 attack and people can get killed.</p> <p>23 The Provincial Commissioner in terms of that 24 briefing then said that we should go over on a stage 3 25 deployment and based on that I called a special JOCOM</p>	<p style="text-align: right;">Page 8329</p> <p>1 the warning that they should just lay down their arms where 2 they are seated and then leave on their own. It was agreed 3 that should dispersal still be necessary, that it will be 4 aimed against those people that remain and that do not lay 5 down their arms out of own accord, and then in the process 6 dispersal to isolate the people into smaller manageable 7 groups, confiscate the specific arms, and to perform 8 arrests, and after that there will be a further sweeping of 9 the area for weapons and that would entail the involvement 10 of the TRT on the smaller koppie adjacent to the big 11 koppie, and NIU and Special Task Force on the bigger 12 koppie, and then bringing the K9 as well as the Mounted 13 Unit.</p> <p>14 Lieutenant Scott then did an official 15 presentation on a PowerPoint format. He indicated that it 16 was already decided, and we have already repositioned the 17 sixth barbed wire trailer to basically form an enclosure on 18 the side of the police neutral area where the media is also 19 situated, and then he gave an overview in terms of the 20 three phases under stage 3, first one being the deployment 21 of the barbed wire, phase 2 being the two lines that we 22 will form with the Public Order Policing members in the 23 armoured Nyala vehicles and the water cannons in the 24 middle. He reiterated the force in continuum – 25 MR HANABE: He reiterated?</p>
<p style="text-align: right;">Page 8328</p> <p>1 meeting because even although stage 3 was always part of 2 the plan from the Tuesday, during the morning JOCOM meeting 3 we did not go into the detail of that planning because we 4 were still confident that there will be a lay-down of arms.</p> <p>5 We started with the special JOCOM meeting at 6 13:30. Present was Provincial Commissioner Lieutenant- 7 General Mbombo, the overall commander Major-General Mpembe, 8 myself as the chairperson, we had Brigadier Fritz, 9 Brigadier Tsiloane, Brigadier Van Zyl from the Detectives, 10 Colonel Isaacs from Intelligence, and we had Brigadier 11 Pretorius as the operational room commander, and Adv 12 Moolman from the Police Legal.</p> <p>13 We started the meeting by Lieutenant-General 14 Mbombo giving an overview of the happenings of that morning 15 in terms of specifically her discussions with Mr Mathunjwa, 16 and in terms of his failures to go back and to be able to 17 convince the bigger group to actually lay down their arms. 18 She indicated that we go over to the stage in terms of the 19 dispersal and then the disarming and the arrest. We then 20 went into some detail of the plan and we agreed that the 21 overall commander will again attempt to communicate and see 22 if he can pick up again the negotiations. We were still 23 hopeful that the people will, when he announces that, when 24 he starts giving the warning, that the people will still 25 lay down their arms, and it was communicated when he gives</p>	<p style="text-align: right;">Page 8330</p> <p>1 MAJOR-GENERAL ANNANDALE: The force in 2 continuum process which started off with a warning and then 3 the advance line moving forward, utilisation of water 4 cannons, the stun grenades and the CS gas, and then the 5 rubber bullets, Chairperson, also then the TRT to be 6 deployed as a backup for Public Order Policing during the 7 dispersion, and with the specific responsibility that after 8 this group would be broken into smaller manageable groups, 9 that they will clear high ground and that they will 10 actually perform these arrests.</p> <p>11 The phase 3 of that was then the actual 12 encircling, so the prior was the sweeping of the closest 13 koppie, and then the phase 3 in terms of where we would 14 actually encircle the people and carry out the – I then 15 indicated that Colonel Scott, accompanied by Brigadier 16 Pretorius, must travel to the forward holding area and that 17 they should go and personally brief the commanders in the 18 forward holding area.</p> <p>19 [12:49] I did not want to do it over the radio, the one 20 side because information gets lost in terms of trying to 21 explain that, but we were also mindful of the police radio 22 that was robbed on the Monday. If I can remember, 23 somewhere on Tuesday there was a report made by a police 24 officer that he heard somebody trying to speak over the 25 police radio network and he said it was just clear to him</p>

<p style="text-align: right;">Page 8331</p> <p>1 that this was not a police officer.</p> <p>2 The reason why I've sent Brigadier Pretorius as</p> <p>3 the operational room commander to accompany Colonel Scott</p> <p>4 was so that she can also be totally familiar in terms of</p> <p>5 the deployment, that she can again confirm the call signs,</p> <p>6 and I've instructed Colonel Scott to take aerial</p> <p>7 photographs, or in a Google format, so it's actually not an</p> <p>8 aerial photograph, a Google format of the area, where he</p> <p>9 indicates in graphics in terms of how this deployment will</p> <p>10 unfold. I indicated to them that they must be back at</p> <p>11 quarter past 3 as I was mindful, or I indicated to them</p> <p>12 that I want to start the operation at 15:30. Chairperson,</p> <p>13 I was mindful of the fact that around quarter to 6 at</p> <p>14 latest the, it would be the setting of the sun, and that I</p> <p>15 do not want the operation to go into the dark hours because</p> <p>16 that presents its own challenges.</p> <p>17 Chairperson, before, after the initial</p> <p>18 presentation by Colonel Scott, the Provincial Commissioner</p> <p>19 departed. She left to go and visit Lieutenant Baloyi, who</p> <p>20 was still recovering from his injuries sustained on the</p> <p>21 Monday. After she left, I just continued with a checklist</p> <p>22 where I indicated that the commanders must make sure in</p> <p>23 terms of certain things to be in place, and then the</p> <p>24 meeting concluded at 14:00 and Colonel Scott and Brigadier</p> <p>25 Pretorius then left a couple of minutes later.</p>	<p style="text-align: right;">Page 8333</p> <p>1 indicated to me that it's his understanding that Mr</p> <p>2 Mathunjwa is upset. I then asked the joint operational</p> <p>3 centre, I think I asked Brigadier Pretorius, or it might</p> <p>4 have been one of the radio operators, to speak to Major-</p> <p>5 General Naidoo at the forward holding area 1 and see if he</p> <p>6 cannot intercept Mr Mathunjwa on his way to the koppie so</p> <p>7 that he can have a discussion with him and indicate the</p> <p>8 SAPS availability so that whatever he would then go and</p> <p>9 speak to the people, that he would be not still upset in</p> <p>10 terms of when he speaks to the people, and I left it at</p> <p>11 that. It's my understanding later on that they did not</p> <p>12 manage it. He drove past that forward holding area; he did</p> <p>13 not go through that area, took another route, and they saw</p> <p>14 him as he approached the actual koppie again with his</p> <p>15 vehicle.</p> <p>16 MR SEMENYA SC: Chair, may we perhaps</p> <p>17 deal with what then happens after lunch?</p> <p>18 CHAIRPERSON: Very well. We will take</p> <p>19 the lunch adjournment and resume at 2 o'clock.</p> <p>20 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>21 [14:02] CHAIRPERSON: The Commission resumes.</p> <p>22 You're still under oath, Major-General.</p> <p>23 CHARL ANNANDALE: s.u.o.</p> <p>24 CHAIRPERSON: Mr Semenya, I take it</p> <p>25 you've got some more questions.</p>
<p style="text-align: right;">Page 8332</p> <p>1 MR SEMENYA SC: You also deal with the</p> <p>2 contact you would have had with Mr Mathunjwa via SMSes.</p> <p>3 MAJOR-GENERAL ANNANDALE: Chairperson,</p> <p>4 that is correct, yes. At 14:15 I received an SMS from Mr</p> <p>5 Mathunjwa and if I can just read the exact details of the</p> <p>6 SMS. The SMS indicated, and I quote, "Since no person who</p> <p>7 is available to give feedback to, we are going back to</p> <p>8 employees to inform them that no-one is available. We have</p> <p>9 tried our best, without cooperation from anyone. Let peace</p> <p>10 prevail." This SMS concerned me, Chairperson, and I found</p> <p>11 Major-General Mpembe was just standing outside of the joint</p> <p>12 operation centre and I discussed it with him, and he</p> <p>13 indicated that he also received such an SMS. He indicated</p> <p>14 to me that he tried on a number of occasions after</p> <p>15 receiving that SMS to see if he can get hold of Mr</p> <p>16 Mathunjwa on his cell phone, but he did not succeed.</p> <p>17 I then at 14:28 I replied also by SMS, and I</p> <p>18 quote, "SAPS is available at exactly the same spot as we</p> <p>19 had our earlier discussions. We are always available and</p> <p>20 willing to have discussions towards finding an amicable and</p> <p>21 peaceful solution." I did not receive a response from him</p> <p>22 and it was my understanding from Major-General Mpembe that</p> <p>23 some of his delegation, of the AMCU delegation, indicated</p> <p>24 that Mr Mathunjwa was at the JOC area, and that must have</p> <p>25 been the time when we had the special JOCOM meeting, and he</p>	<p style="text-align: right;">Page 8334</p> <p>1 EXAMINATION BY MR SEMENYA SC (CONTD.):</p> <p>2 Indeed, Chair. Before the break for lunch we had just</p> <p>3 dealt with the SMSes and what they were saying, and you had</p> <p>4 dealt with paragraph 24 of your statement.</p> <p>5 MAJOR-GENERAL ANNANDALE: That's correct,</p> <p>6 Chairperson.</p> <p>7 MR SEMENYA SC: Can you tell us what you</p> <p>8 have under paragraph 25?</p> <p>9 MAJOR-GENERAL ANNANDALE: Chairperson,</p> <p>10 from, or at 15:30 when I wanted the operation to start, Mr</p> <p>11 Mathunjwa was at the koppie and he was busy, so the</p> <p>12 operation commander reported that back, and based on that</p> <p>13 he was obviously given permission to continue with the</p> <p>14 process of allowing him to conduct his, address his</p> <p>15 members, and then just around 15:40 the, Brigadier Calitz</p> <p>16 indicated that he's busy, or that they're busy deploying</p> <p>17 the wire, and from there on there was continuous feedback,</p> <p>18 or continuous discussions between Brigadier Calitz and</p> <p>19 Lieutenant-Colonel Vermaak, and they occupied most of the</p> <p>20 discussions over the radio for a good half an hour. It was</p> <p>21 indicated, and what we heard over the radio, that when the</p> <p>22 police started deploying the wire, that there was a</p> <p>23 movement from the group on the koppie towards the police</p> <p>24 line. Further reports indicated that the police line came</p> <p>25 under attack.</p>

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1 It was further indicated - and I cannot really
 2 recall whether it was Vermaak or whether it was Calitz at
 3 specific times - that people are moving, that the police
 4 officers have deployed teargas and stun, and rubber. I can
 5 also remember that it was mentioned that there were people
 6 standing around in the villages, that the veld was set on
 7 fire, that people are moving, that Brigadier Calitz
 8 indicated that the water cannon should move, and he also
 9 remarked that where's the TRT line, the TRT line must move,
 10 and from the chopper that Colonel Vermaak indicated
 11 direction that people must move. There was a stage where
 12 Brigadier Calitz indicated that the people must not engage
 13 unless you're being engaged, or words to that effect.
 14 There was a stage where he mentioned that people must get
 15 out of the Nyalas and that they must perform arrests. I
 16 can also remember that he said, "Take the panga; take the
 17 panga." I can remember Colonel Vermaak mentioned that
 18 there are bodies lying down and that he indicated that the
 19 water cannons, that the water cannons must split, that the
 20 one must be on the other side.
 21 It was also indicated to a group of officers, I
 22 think it was to TRT members, a direction that they should
 23 move, and it's indicated that there's a gap or an area
 24 where the people will go through and he indicated then that
 25 the water cannons must stop spraying, which Brigadier

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1 Calitz then repeated and he said "Water cannons, stop
 2 spraying," and that the group, or the people, that they are
 3 encircled, and Brigadier Calitz indicated that the people
 4 must get out and perform arrests. That is the flow, not
 5 necessarily in that order, Chairperson.
 6 MR SEMENYA SC: Can we, General, break
 7 this into the scenes as we now are told that is scene 1 and
 8 scene 2? Shall we start with scene 1? What are the
 9 reports that you received around what happened at scene 1?
 10 MAJOR-GENERAL ANNANDALE: Chairperson,
 11 the picture I had in my mind whilst it was unfolding was
 12 that there was, all of these are happening within the area
 13 of the koppie and that when the people were regrouping and
 14 that the people at the koppie, I saw then that the people
 15 then basically moved back to that koppie area, the bigger
 16 koppie area. In terms of the feedback I received and what
 17 has happened at, now known as scene 1, that when the barbed
 18 wire was deployed there was a movement of a sizeable group
 19 of protesters, probably around 400 plus, and the –
 20 MR SEMENYA SC: Shall we break it a
 21 little bit there, and General, perhaps – unless there are
 22 objections that will come, I would wish to solicit your
 23 evidence in relation to the video material that you have
 24 had an opportunity to see as well, and can we do this also
 25 in relation to slide 152 so that we are able to follow your

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1 evidence -
 2 MR BUDLENDER SC: Chair, I don't want to
 3 interrupt my learned friend. Can I suggest it might be
 4 helpful for the Commission and for all of us if the General
 5 first described what was in his mind at the time from what,
 6 from the reports and information that he's receiving, and
 7 then deals separately with what he described from videos
 8 which he subsequently saw, because otherwise it will be
 9 difficult to know what he knew and what he did at the time,
 10 unencumbered by subsequent discoveries.
 11 CHAIRPERSON: It seems sensible, Mr
 12 Semenya. I think you'd agree with that.
 13 MR SEMENYA SC: Except, Chair, as the
 14 witness was testifying, from the information related then
 15 there's no scene 1, scene 2. That's why I attempted to
 16 break it, otherwise he'll be speaking as though he's
 17 speaking about scene 2 when I'm trying to focus his
 18 attention on scene 1, but just tell us what you were told
 19 and then we'll go back to where I think we should.
 20 MAJOR-GENERAL ANNANDALE: It was
 21 indicated that whilst the wire was being deployed, and it
 22 was up to the third Nyala that has deployed and at the
 23 position of the fourth Nyala, that this group tried to go
 24 in front of the Nyala before it deployed, to access into
 25 that neutral area, that there was the first incident of

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1 where the police then responded in terms of utilising
 2 rubber and stun and CS, if I'm not mistaken. This Nyala
 3 then proceeded with deploying the wire and managed to
 4 prevent this group from actually entering at that position
 5 of the first incident.
 6 There was then a second incident in terms of this
 7 same group a minute or two later where they then basically
 8 just moved back and moved forward again to a further point
 9 in line with the deployment of the wire, and that that was
 10 close to the one side of a kraal. I say the one side, the
 11 more southern side of that kraal, that this Nyala, this
 12 Nyala 4 then continued, he did not go as per the deployment
 13 of wire to the next position where 5 would then move to 6,
 14 and 6 would move onwards. He continued driving and he then
 15 drove right into the side of that kraal to cut them off
 16 again from going into the neutral area. They indicated
 17 that there's some group, that the majority, if not all of
 18 the people, had dangerous weapons, specifically sharp-edged
 19 weapons, pangas, spears, with them, and that there was also
 20 shooting from this group at the police line, indicate that
 21 the same group then basically went back and then went
 22 around the kraal to the northern side of that kraal, and
 23 that the Public Order Policing members of the reserve that,
 24 as they, the incident 1 unfolded and so on, that they moved
 25 towards that flank and then the members were outside of the

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1 Nyalas, some of them; others were still inside the Nyalas,
 2 and that they were responding again with stun grenade, CS
 3 gas, as well as then rubber rounds. They indicated that
 4 none of these had any effect on this advancing group, that
 5 this group was still continuing forward into this
 6 unprotected – if I can call it unprotected area, because
 7 there was no wire on that side, that they, as they entered
 8 into the space between the Nyalas where the Public Order
 9 Policing members were, a number of these Public Order
 10 Policing members then retreated back into the Nyalas and
 11 that the group continued, they went into that policing
 12 area, and they indicated that members reported that a
 13 number of members fired rounds with a combination of 9mm
 14 and R5 assault rifles, and that the members reported that
 15 they did so in defence of their own and their colleagues,
 16 as well as then the media's lives.
 17 They also indicated – but these reports now come
 18 through probably after half past 6 – 4 o'clock, after half
 19 past 5, half past 4, 4:30, that then they started reporting
 20 that there's a number of people that's been injured, that
 21 there's also a number of people that have been killed.
 22 They indicated that was in that immediate area around the
 23 kraal where most of the people were that were found to be
 24 killed.
 25 MR SEMENYA SC: And what were the reports

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1 in relation to what we now have termed scene 2?
 2 MAJOR-GENERAL ANNANDALE: Chairperson, it
 3 was only in the explanations that we received and the
 4 feedback through Brigadier Calitz and Major-General Naidoo
 5 that we started getting an idea in terms of another koppie,
 6 because the whole time it was this big koppie with the
 7 adjacent koppie, that there's another koppie about 350, 400
 8 metres more to the west of the bigger koppie, and that the
 9 core of this group that formed the three advances on the
 10 police line, that they regrouped and moved back and that
 11 they first positioned themselves behind – I say behind, on
 12 the western side of the smaller koppie which is adjacent to
 13 the big koppie, that Brigadier Calitz with his Nyala
 14 groupings, that they were going on the, approaching from
 15 the north, basically from the northern side, going around
 16 to the, more towards the west, and that the TRT line that
 17 was supposed to follow up with that, remained behind, and
 18 Brigadier Calitz indicated that's why he was enquiring on
 19 the radio where's the TRT line that is supposed to move
 20 with his Public Order Policing members. As explained that
 21 that role was then taken over by the National Intervention
 22 Unit members, and that the Public Order Policing then with
 23 the water cannons then approached this group again to
 24 disperse them. This group then moved further to another
 25 koppie, the third koppie, the one that's more to the west.

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1 It was also reported that more or less the, just
 2 shortly after the veld was set on fire, that General Naidoo
 3 started moving with some of these K9 members and that he
 4 responded to where he also heard the shooting, which was at
 5 the original koppie 1.
 6 [14:22] I think he also mentioned that he heard that
 7 there was a call for medical assistance and based on the
 8 veld that was set on fire, as well as the medical
 9 assistance required and the shooting that he heard, he
 10 first left the medical personnel that was at this holding
 11 area, who was now at the time at the, what is now known as
 12 the immediate reaction area 1 which was just behind the
 13 power station, indicated that they must remain behind so
 14 that he first go with police officers to go and see if the
 15 area is safe so that they can respond to the fire as well
 16 as to the medical. It was indicated that on his way there
 17 with these K9 members they had to move past, or in close
 18 proximity to this third koppie.
 19 MR SEMENYA SC: General, we will deal
 20 with the actual evidence with General Naidoo and the other
 21 members who were on the ground. I'm just trying to obtain
 22 your evidence in relation to your experience and what is in
 23 the documents. Can I now invite you to go to slide 152,
 24 exhibit L?
 25 MAJOR-GENERAL ANNANDALE: I have slide

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1 152 in front of me.
 2 MR SEMENYA SC: Would that be the
 3 formation that was conceived in the plan?
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 the formation, apart from that six Nyala again that should
 6 move to the other side, this was the initial formation
 7 which was then later changed after 11 o'clock when that
 8 Nyala moved.
 9 MR SEMENYA SC: I just want for now to
 10 solicit your opinion, your evidence in relation to the
 11 topography there. The topography is what was there at the
 12 time. Am I right, General?
 13 MAJOR-GENERAL ANNANDALE: That is
 14 correct, Chairperson.
 15 MR SEMENYA SC: According to plan, what
 16 would have constituted the positive attraction points in
 17 relation to that slide?
 18 MAJOR-GENERAL ANNANDALE: Chairperson,
 19 the positive attraction point would be the area to the
 20 west, so basically behind that koppie, away from the
 21 policing line.
 22 MR SEMENYA SC: In fact, General, my
 23 learned colleague says perhaps what would give us a better
 24 understanding, is slide 116, although it was the day
 25 before. Are you on that slide?

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1 MAJOR-GENERAL ANNANDALE: I am, yes,
 2 Chairperson.
 3 MR SEMENYA SC: So in relation to that
 4 slide your positive attraction would be where?
 5 MAJOR-GENERAL ANNANDALE: Positive
 6 attraction would be to the left of the slide in the area
 7 behind the, where the, we can see the people are gathering,
 8 but also to the top of the slide, which will be in a
 9 general northern direction.
 10 MR SEMENYA SC: Were you given
 11 information what would have happened to the 3 000 more
 12 people that were at the koppie at the time of the
 13 deployment of the wire? What happened to those people?
 14 MAJOR-GENERAL ANNANDALE: Chairperson,
 15 yes, it was confirmed, and I also saw that on pictures,
 16 that the vast majority, probably 90% of the total
 17 collective people gathered there moved away in that
 18 specific direction.
 19 MR BUDLENDER SC: Sorry, Chair, to
 20 interrupt. In what direction is the General talking about?
 21 In the north or, to the top or to the left, where he says
 22 the majority went?
 23 MR SEMENYA SC: General?
 24 MAJOR-GENERAL ANNANDALE: That would have
 25 been most of them going to the west, so to the left, but

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1 also a percentage, a good percentage, it was filter lines.
 2 It was groups of people, they were consisting smaller
 3 groups of people, but also going north and then going back
 4 sort of easterly direction into that, in that corner we can
 5 see it looks like a – I do not know if it's a squatter camp
 6 or whatever the case might be, or an informal settlement,
 7 but also moving from more of a northern, coming back, area,
 8 that there was indications of people.
 9 MR SEMENYA SC: Would the police line
 10 have prevented people moving in those directions you
 11 mentioned?
 12 MAJOR-GENERAL ANNANDALE: No,
 13 Chairperson.
 14 MR SEMENYA SC: Given your experience,
 15 what do you make of a version that says the, what you call
 16 the warrior group, the small 3 to 400 member group, were
 17 unable to go to the informal settlement except through the
 18 police line?
 19 MAJOR-GENERAL ANNANDALE: Chairperson,
 20 no, that's, that cannot be. There's, that police line was
 21 about not even 400 metres. That police line was five
 22 vehicles in a straight line with the sixth vehicle turned
 23 back towards the police. My experience in terms of any
 24 public order event and any major event where there's an
 25 obstruction placed by the police, is that people move away

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1 from that and not move towards that, and the area to the
 2 back, to the west is probably a couple of kilometres. It
 3 can be as far as four kilometres before you really go into
 4 real built-up neighbourhood areas, and also the width of
 5 that area, if you take it from north to south, is probably
 6 more than a kilometre. So it's a vast open area, just
 7 field and there's some pathways with short grass and then
 8 the few koppies, the three koppies that we can see in the
 9 area. Chairperson, even if you wanted to go to the eastern
 10 side, it just required that you move a couple of metres
 11 back towards the west and then you head north, and then you
 12 can enter into that, in that village area.
 13 MR SEMENYA SC: General, can I invite you
 14 to look at exhibit EEE14.1? Exhibit EEE14.1. Chair, this
 15 is the exhibit handed in by the evidence leaders during
 16 cross-examination.
 17 MAJOR-GENERAL ANNANDALE: I have exhibit
 18 EEE14.1, it seems like an aerial photo, in front of me,
 19 Chairperson.
 20 MR SEMENYA SC: This more or less
 21 represents what was seen from the helicopter on that day.
 22 MAJOR-GENERAL ANNANDALE: I take note,
 23 Chairperson.
 24 MR SEMENYA SC: What do we make of the
 25 evidence that when the barbed wire was deployed, it was

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1 going to encircle the protesters?
 2 MAJOR-GENERAL ANNANDALE: Chairperson,
 3 there was, there were six vehicles with barbed wire
 4 trailers, which are quite sizeable trailers with barbed
 5 wire on them, that was visible less than 80 metres from
 6 this gathering group. Chairperson, there was no other
 7 barbed wire standing behind that line. There was no other
 8 barbed wire that we had at the forward holding area. There
 9 was no other positioning of barbed wire available. It was
 10 in a clear line and it indicated the actual gaps between
 11 the vehicles, what would be the movement when they deploy,
 12 and it was also explained as such to the leadership
 13 element, that five representatives of the protesters, when
 14 they were told that these barbed wires that you see here,
 15 they are for the defence and for creating a specific area,
 16 a neutral area for the police. Chairperson, I can really
 17 not understand that, if you look of the vastness of that
 18 area, that you would think that you would be able to go and
 19 encircle that. If we would go around that koppie to
 20 encircle that koppie, it's probably 1.3 kilometre of wire
 21 that we will need.
 22 MR SEMENYA SC: In fact, when we look at
 23 EEE14.1, what would you say is the positive attraction
 24 there?
 25 MAJOR-GENERAL ANNANDALE: Chairperson, if

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1 we look to the top, slightly to the right top corner of the
 2 picture, and we take the whole line from the police, barbed
 3 wire and Nyalas, that's the position that we see three of
 4 them, and then we see another one that is at the first
 5 smaller kraal, and you take that whole area to that corner,
 6 but also to the right-hand side of the photo, Chairperson,
 7 then you will see what I meant when I said you can just
 8 move a couple of metres back towards the west and then you
 9 can move to the right of the picture, which would be the
 10 north area, and then you can enter that total area, because
 11 as we can see the people standing around, there's also
 12 roads, a number of roads that's leading into the area. So
 13 if you needed to go to that specific, more to the eastern
 14 side, then that was the way that you can still access that
 15 area.

16 MR SEMENYA SC: Do we also see the groot
 17 koppie there, the big koppie?

18 MAJOR-GENERAL ANNANDALE: Chairperson,
 19 yes, I see it close on the left-hand side, just to the left
 20 of that rotor blade of the helicopter, close to that power
 21 station.

22 MR SEMENYA SC: And behind that koppie
 23 there, movement would have been unimpeded?

24 MAJOR-GENERAL ANNANDALE: Behind and to
 25 the side of the koppie, to the right-hand side, as we

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1 looked at it.

2 MR SEMENYA SC: Can I invite you now to
 3 look at EEE14.2? With what we now know, that also shows
 4 the dispersal opportunity that was available for the people
 5 who were on the koppie.

6 MAJOR-GENERAL ANNANDALE: That's correct,
 7 Chairperson.

8 MR SEMENYA SC: For the record, to the
 9 entire right side of that frame there is an unimpeded
 10 opportunity for people to disperse in that direction. Am I
 11 right?

12 MAJOR-GENERAL ANNANDALE: That is
 13 correct, Chairperson.

14 MR SEMENYA SC: Also this frame, for the
 15 record, shows us a whole number of people who are seen at
 16 the bottom of that frame.

17 MAJOR-GENERAL ANNANDALE: That is
 18 correct, Chairperson, a grouping of people closer to the
 19 informal settlement area, plus then also more to the right
 20 of the picture.

21 MR SEMENYA SC: Also for the record, the
 22 informal settlement is accessible without the need to go to
 23 the police line.

24 MAJOR-GENERAL ANNANDALE: Yes,
 25 Chairperson.

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1 MR SEMENYA SC: Also evident, and for the
 2 record, is a distinct group of people going towards koppie
 3 2.

4 MAJOR-GENERAL ANNANDALE: Chairperson, I
 5 see – koppie 2 is the one that's adjacent to the bigger
 6 koppie?

7 MR SEMENYA SC: Indeed.

8 MAJOR-GENERAL ANNANDALE: I see them, ja,
 9 from the police line behind that koppie.

10 MR SEMENYA SC: General, I would want to
 11 deal with you with the various criticisms that have been
 12 made in relation to the operation by the police in Marikana
 13 now.

14 CHAIRPERSON: Have you now finished
 15 dealing with GGG1, or are you going to go back to the last
 16 part of paragraph 25?

17 [14:42] MR SEMENYA SC: Maybe let's finalise your
 18 statement, General. Are you there?

19 MAJOR-GENERAL ANNANDALE: I am, yes,
 20 Chairperson.

21 MR SEMENYA SC: You were still telling us
 22 your evidence in relation to paragraph 25.

23 MAJOR-GENERAL ANNANDALE: That's correct,
 24 Chairperson. Then General Naidoo said that the K9 members
 25 as well as the NIU members, members from TRT that responded

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1 from the forward holding area 2 side, that individual
 2 members came under individual attacks, that there were
 3 shots fired. He indicated that there was specifically a
 4 shot fired at him and that there was then response by a
 5 number of police officers, and that in the process there
 6 were a number of people that were shot and killed, and that
 7 there were also people that were injured. It was also
 8 later on confirmed as we received the figures that there
 9 were a number of people arrested - we only had the full
 10 figure much later on that evening - and that there were 259
 11 specifically arrested at the koppie area.

12 MR SEMENYA SC: And just for
 13 completeness, the National Commissioner arrived that
 14 evening in Marikana.

15 MAJOR-GENERAL ANNANDALE: That is
 16 correct, Chairperson.

17 MR SEMENYA SC: And as she testified, she
 18 received various briefings. Is that correct?

19 CHAIRPERSON: Can I ask – answer the
 20 question first and then I want to ask you a question before
 21 we – perhaps my question first before that. You mentioned
 22 what Brigadier Calitz told you and Lieutenant-Colonel
 23 Vermaak, and then you said later Major-General Naidoo also
 24 told you certain things. Now when exactly was that? When
 25 did Major-General Naidoo make that report to you that

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1 you've repeated to us?

2 MAJOR-GENERAL ANNANDALE: Chairperson,

3 the first report was a telephone conversation between

4 himself and me on our cellular phones where he gave an

5 overview, and then afterwards, much, much later that

6 evening in terms of when we were at the joint operational

7 centre.

8 CHAIRPERSON: Can you give an estimate of

9 the time, firstly the conversation you had on your cell

10 phones - I'm more interested in a ballpark kind of figure

11 than a precise one - and then later the meeting at the JOC,

12 was it, where you met him?

13 MAJOR-GENERAL ANNANDALE: Chairperson, I

14 know that the first conversation was whilst it was still

15 light. Chairperson, if I have to guess, it must have been

16 in the area of 5 o'clock maybe, and he, the report

17 afterwards, Chairperson, he was on the scene at IPID there.

18 He responded at the time for, to a scene where there were a

19 number of vehicles that were set alight. Chairperson, you

20 know at that time there's so many things that's happening,

21 and time at a stage feels as if it stands still. It could

22 have been 9 o'clock. It was probably later, but

23 Chairperson, I really cannot say.

24 CHAIRPERSON: At what stage did you

25 become aware that there were - it must have been earlier

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1 than that - that there were two scenes, as it were? You

2 know, we talk about scene 1 and scene 2. Presumably you

3 weren't aware of that in the JOC when you were just getting

4 messages over the radio, but obviously at some stage you

5 became aware of the fact that there was one particular set

6 of actions at what we call scene 1, and thereafter the

7 action moved, as it were, to scene 2. More or less when

8 did you become aware of that?

9 MAJOR-GENERAL ANNANDALE: Chairperson,

10 that was probably in the discussion I had with him over the

11 telephone, because I did not understand that, because in

12 our planning it was focussed mostly in terms of that bigger

13 koppie with the adjacent koppie, and then he said no,

14 behind that there's another koppie, so the people - so it

15 was probably there even although I still did not have a

16 proper visual in terms of that, and I looked then in terms

17 of a bigger aerial and then I saw the koppie, which was the

18 most likely koppie which it could have been.

19 CHAIRPERSON: So this was before sunset,

20 in other words, while it was still light?

21 MAJOR-GENERAL ANNANDALE: Yes, Sir.

22 CHAIRPERSON: You became aware that what

23 amounts to the division, I suppose - to use a loose word -

24 between the actions at scene 1 and the actions at scene 2?

25 MAJOR-GENERAL ANNANDALE: Ja, initially

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1 we thought that there was more than one incident where

2 there was - but it was in this very same, so I had the

3 picture that the people are moving around at this koppie

4 area, that there an incident that took place, that they

5 were moving behind people and dispersing them and that

6 there was another incident probably coming from that bigger

7 koppie area.

8 CHAIRPERSON: But you were disabused of

9 that idea at some stage in that telephone conversation.

10 MAJOR-GENERAL ANNANDALE: Yes, Sir.

11 CHAIRPERSON: Some time after 5 o'clock,

12 before sunset, anyway.

13 MAJOR-GENERAL ANNANDALE: Yes,

14 Chairperson.

15 CHAIRPERSON: Thank you.

16 MR SEMENYA SC: Exhibit FFF25 on page 27

17 has an entry against the time 19:20 reading, "Major-General

18 Naidoo confirmed four vehicles is burning and they cannot

19 get in the yard of mine premises as there is no access."

20 Does that refresh your memory?

21 MAJOR-GENERAL ANNANDALE: Chairperson,

22 yes, but that was after he already responded to that, so it

23 was a bit earlier where the report came through in the JOC

24 that they need assistance.

25 CHAIRPERSON: On the previous page

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1 there's a reference on page 25 to, or part of entry number

2 1018 at 16:10 the JOC, "Major-General Naidoo informed the

3 JOC that the medics must go to the kraal." That's

4 obviously earlier than that, isn't it? "Major-General

5 Naidoo informed the JOC that medics must go to the kraal

6 with [inaudible] where the bodies are lying. They will

7 need more EMS for assistance." That's obviously before the

8 conversation that you're talking about?

9 MAJOR-GENERAL ANNANDALE: Yes,

10 Chairperson, that was well before the conversation.

11 CHAIRPERSON: I see that there is an

12 entry, 17:40, a number of entries, but the last one is, "At

13 the small koppie/scene 2, 15 people wounded, 12 dead," and

14 it looks like 3 out of 15 are critically injured." So

15 already by 17:40 the record clerk is recording that there,

16 talking in terms of scene 2.

17 MR SEMENYA SC: Is there anything you

18 need to tell us before the arrival of the National

19 Commissioner at the JOC?

20 MAJOR-GENERAL ANNANDALE: Chairperson,

21 just that there was then deployment of additional

22 ambulances, that, and that was mostly done by the

23 assistance of the representative we had from Lonmin, a Mr

24 Dirk Botes. That was ambulances that needed to be

25 despatched, that hospitals were placed on standby. I know

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1 there was a chopper of Protea Coin that transported medics
 2 from the, our area to the scene, and there were reports
 3 coming through in terms of numbers, in terms of people
 4 being injured, in terms of people being, that was found to
 5 be dead, but at that stage we did not have confirmation in
 6 terms of the exact numbers. It was the IPID that was
 7 contacted. There were reports of groupings of people.
 8 There were reports of the vehicles that were burned, and
 9 generators that we moved, generators that the Lonmin Mine
 10 assisted us with that was moved to the koppie because it
 11 was now getting already dusk, and detectives and Local
 12 Criminal Record Centre members that need to be despatched.
 13 MR SEMENYA SC: And as the National
 14 Commissioner has testified, she arrived and she was
 15 briefed.
 16 MAJOR-GENERAL ANNANDALE: I take note,
 17 yes, Chairperson.
 18 MR SEMENYA SC: And that it was decided
 19 that a press briefing would take place the following day.
 20 MAJOR-GENERAL ANNANDALE: Chairperson,
 21 yes, the briefing, there were initial briefing when the
 22 National Commissioner arrived and then there was a meeting
 23 where the National Commissioner, the Provincial
 24 Commissioner, the overall commander at a later stage, and
 25 so on, were in a separate facility, not in the JOC area. I

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1 know that Lieutenant-General Mawela, the Divisional
 2 Commissioner for Operational Response Services was there.
 3 So they were in offices very close to the JOC, but not in
 4 the JOC, and I remained in the JOC, and then from time to
 5 time there would be communication where if we get more
 6 information that we have said that. So in terms of the
 7 press briefing decision, it was not made in the JOC. I
 8 assume it was made then at that briefing.
 9 COMMISSIONER HEMRAJ: Was the National
 10 Commissioner briefed by any one person specifically, or by
 11 everyone who was present?
 12 MAJOR-GENERAL ANNANDALE: Chairperson, I
 13 do not think at that time – General Naidoo was still in the
 14 field; Brigadier Calitz was still in the field. It would
 15 have been probably done by the Provincial Commissioner,
 16 because she was also in and out of the JOC during the time,
 17 so she received most of the reports that we received there,
 18 apart from that we filled her in at the time that she was
 19 on the telephone or outside.
 20 CHAIRPERSON: Did you assist Lieutenant-
 21 General Mbombo to brief the National Commissioner?
 22 MAJOR-GENERAL ANNANDALE: Chairperson,
 23 no, I did not brief the National Commissioner, even though
 24 I was present at the JOC area. At that time we were
 25 running around, specifically Brigadier Pretorius and myself

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1 in terms of the assistance that was needed.
 2 CHAIRPERSON: Did I understand you to say
 3 you were not present when the decision was taken to hold a
 4 press briefing the following day, or did I misunderstand
 5 you?
 6 MAJOR-GENERAL ANNANDALE: I was aware of
 7 that, Chairperson.
 8 CHAIRPERSON: It's one thing to be aware,
 9 but you weren't present when –
 10 MAJOR-GENERAL ANNANDALE: No, I was not
 11 present, but they consistently contacted me in terms of
 12 details that must be included in the press release in terms
 13 of number of people injured and so on, so as I got update I
 14 SMSed it or I would speak to General Mawela mostly, or to
 15 Colonel Scott who was busy, also sitting in that group.
 16 CHAIRPERSON: Now you say they constantly
 17 approached you, or contacted you for information. You used
 18 the plural, but was there one particular person who was
 19 sort of coordinating the receipt of information, or were
 20 there a number of people who asked questions?
 21 MAJOR-GENERAL ANNANDALE: Chairperson, it
 22 was General Mawela and it was, General Mpembe would ask for
 23 clarification and then Colonel Scott would get detail, so
 24 it was mostly between the three of them. Maybe there was
 25 somebody else, maybe the PC that have asked, but I can

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1 remember that I had specific discussions with General
 2 Mawela. He said that they need the information, but not
 3 also, not only for the press briefing, but they were busy
 4 compiling a report, because the President was out of the
 5 country at the time and they were busy compiling a report
 6 that they wanted to make available so that the President
 7 can get the information. So that was the initial focus.
 8 MR SEMENYA SC: Will this be a convenient
 9 stage, Chair?
 10 CHAIRPERSON: The Commission will now
 11 take the tea adjournment and resume just after quarter past
 12 3, if we can manage.
 13 [COMMISSION ADJOURNS COMMISSION RESUMES]
 14 [15:23] CHAIRPERSON: The Commission resumes.
 15 You're still under oath, Major-General.
 16 CHARL ANNANDALE: s.u.o.
 17 CHAIRPERSON: Mr Semenya?
 18 EXAMINATION BY MR SEMENYA SC (CONTD.):
 19 Thank you, Chair. The media briefing of 17 August by the
 20 National Commissioner, do you know how that was compiled?
 21 MAJOR-GENERAL ANNANDALE: Chairperson,
 22 no, I do not know the exact people that were involved, but
 23 I, it was my understanding that it was the same group of
 24 people that were with the National Commissioner that also
 25 compiled the report to the President, and that it was done

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1 that, late that evening, probably early hours of the
 2 Friday, and it could have been only completed maybe on that
 3 Friday morning, but I do not have that detail, no, Sir.
 4 COMMISSIONER HEMRAJ: Were you privy to
 5 the actual, the contents of the briefing before it was
 6 aired, either the briefing or the report to the President?
 7 MAJOR-GENERAL ANNANDALE: Chairperson,
 8 the President's one I think I saw a draft before it went
 9 out, in terms of confirming the number of deaths as well as
 10 the number of injuries that we had at the time. I do not
 11 know the one that I saw, if that was then the final
 12 product, and the press release I saw before it was actually
 13 released.
 14 MR SEMENYA SC: Like the National
 15 Commissioner, what did you understand to explain the police
 16 action resulting in the deaths and injuries of those who
 17 were affected?
 18 CHAIRPERSON: I don't understand the
 19 question. I don't know if the witness does. Did he say
 20 "Like the National Commissioner, what did you understand
 21 was the cause of the deaths?" I mean surely you must ask
 22 him what he understood to be the cause and then one can
 23 follow on from there. Or am I misunderstanding the
 24 question?
 25 MR SEMENYA SC: General, the National

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1 Commissioner was not there at the scene when these events
 2 took place.
 3 MAJOR-GENERAL ANNANDALE: No, she was
 4 not, Chairperson.
 5 MR SEMENYA SC: You were also not present
 6 where these events actually took place.
 7 MAJOR-GENERAL ANNANDALE: No, I was not,
 8 Chairperson.
 9 MR SEMENYA SC: There was an account
 10 given by the commanders in relation to what happened.
 11 MAJOR-GENERAL ANNANDALE: That is
 12 correct, Chairperson.
 13 MR SEMENYA SC: Through that account,
 14 what explanation was given to the National Commissioner in
 15 relation to the explanation for the various events
 16 resulting in the fatalities, as well as injuries?
 17 MAJOR-GENERAL ANNANDALE: Chairperson, it
 18 was reported by the commanders that there are individual
 19 accounts of the members that fired their weapons, that they
 20 fired their weapons in self-defence.
 21 MR SEMENYA SC: Or what is called private
 22 defence?
 23 CHAIRPERSON: You see, self-defence is
 24 you defend yourself. Private defence is you're under
 25 attack, I defend you. That's private defence. So what did

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1 they say? They acted in private defence or self-defence,
 2 or both?
 3 MAJOR-GENERAL ANNANDALE: Chairperson,
 4 the, most words were used in terms of self-defence, but
 5 there was also mention made in terms of private defence by
 6 some of the commanders.
 7 CHAIRPERSON: It may be, I suppose, the
 8 commander didn't quite know the distinction, but it's clear
 9 what they intended to convey, I should imagine.
 10 MAJOR-GENERAL ANNANDALE: Ja, I would
 11 hope that they would know, but there's confusion in terms
 12 of that still in our midst.
 13 MR SEMENYA SC: Now General, there would
 14 ordinarily have followed a debriefing after an event like
 15 this. What happened?
 16 MAJOR-GENERAL ANNANDALE: Chairperson,
 17 ja, there's, in our language there are levels of
 18 debriefing. The one would be where the members themselves
 19 will give an account in terms of what has happened to their
 20 commander, and then there would be a next level of
 21 debriefing where the overall commander would sit down with
 22 all of the commanders, and then there would be one where
 23 all role-players, also including the role-players that's
 24 not necessarily from the police, would sit in, in terms of
 25 a final debriefing. It is my understanding that the first

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1 level of debriefing that I described took place in terms of
 2 the members giving an account to their commanders, but a
 3 debriefing in terms of as it's prescribed in Standing Order
 4 262, we did not do such a debriefing. There was, however,
 5 a meeting that we had in Potchefstroom, that was from the
 6 27th of August until the 6th of September, excluding the 1st
 7 and the 2nd of September, which was a Saturday and a Sunday.
 8 That – yes.
 9 MR SEMENYA SC: Before we get to that
 10 debriefing, did a debriefing happen, the one you describe
 11 as between the commanders and their overall commander?
 12 MAJOR-GENERAL ANNANDALE: Chairperson,
 13 there was feedback given by the commanders in terms of our
 14 JOCOM meeting the following day. That evening there were
 15 groups that we relieved as they would come back, some
 16 people 11 o'clock, some people at 1 o'clock, because there
 17 were still regroupings; there was the vehicles that were
 18 set alight. There was still a lot of activities that went
 19 into that night. I think myself left something like
 20 quarter to 3 the next morning. So we did not have a sit-
 21 down with the commanders. There was individual accounts as
 22 the people came in, accounting for their members. But
 23 feedback took place, but that's not a debriefing in terms
 24 of our understanding of how a debriefing should be, because
 25 that would be a SWAT analysis that we would do in terms of

<p style="text-align: right;">Page 8363</p> <p>1 the event and which that did not take place, no. 2 MR SEMENYA SC: Okay, now the meeting in 3 Potchefstroom, how did that come about? 4 MAJOR-GENERAL ANNANDALE: Chairperson, 5 would that be, this be an appropriate time that I can go 6 back to Afrikaans? Because it was easier with my statement 7 that's prepared, but – 8 CHAIRPERSON: No, no, I always understood 9 that we only asked you to speak in English on matters 10 covered by the statement because we thought you shouldn't 11 be uncomfortable about that, but you're entitled to speak 12 in your first language and I can't stop you, and if you'd 13 be happier, particularly dealing with this part of it in 14 Afrikaans, you must do so. 15 MAJOR-GENERAL ANNANDALE: Thank you, 16 Chairperson. 17 CHAIRPERSON: I think I have to ask the 18 two interpreters the way they did before, it's difficult 19 for one interpreter to translate into English and into 20 isiXhosa, so the way it was done previously, I think it 21 must be done again. I see we have both interpreters here, 22 so there won't be a problem. 23 GENERAAL-MAJOOR ANNANDALE: Dankie, 24 Voorsitter. Daar was 'n bespreking gewees tussen Generaal 25 Mbombo, Generaal Mpembe, Generaal Naidoo, en myself. In</p>	<p style="text-align: right;">Page 8365</p> <p>1 MAJOR-GENERAL ANNANDALE: Certainly. 2 MNR MAHLANGU: U het gesê daar was? 3 GENERAAL-MAJOOR ANNANDALE: Ingesluit in 4 die oproepinstruksie was 'n aantal name; dit was die meeste 5 bevelvoerders wat teenwoordig was op die betrokke, of op 6 die betrokke insident op die 16de, maar dit het ook 7 ingesluit 'n aantal regsbeamptes van die polisie se 8 regsafdeling. Ook was ingesluit die video-operateurs, die 9 twee video-operateurs van Openbare Orde Polisiëring, die 10 operateurs van die waterkanonne, Luitenant-Kolonel Botha, 11 wie dan die video-opnames gemaak het uit die helikopter 12 uit. In totaal was daar seker soveel as omtrent 40 13 offisiere en lede opgeroep. Ons het dan vermeld in die 14 oproepinstruksie dat alle lede enige videomateriaal, enige 15 fotomateriaal wat hulle mag in hulle besit hê, moet hulle 16 ook saambring. 17 Ons het dan ook die geleentheid gebruik – dit het 18 toe die Maandag begin - die Saterdag, die 25ste 19 klaargemaak, dan daardie eerskomende Maandag die 27ste het 20 ons toe in Potchefstroom begin, by 'n konferensiefasiliteit 21 bekend as The Roots. Die Provinsiale Kommissaris Generaal 22 Mbombo het die, die verrigtinge het sy geopen die eerste 23 dag, en sy het 'n oorsig gegee in terme van die kommissie 24 se "terms of reference," verwysingsraamwerk. 25 Ons het beskikbaar gehad 'n Kolonel Visser van</p>
<p style="text-align: right;">Page 8364</p> <p>1 die week wat – ons het eers onttrek op die 25ste Augustus 2 vanaf Marikana. As ek verwys na "ons," Voorsitter, dan 3 praat ek van die bevelstruktuur en dan ook 'n persentasie 4 van die lede wat daar ontplooi was het nie onttrek direk na 5 die 16de nie. 6 VOORSITTER: Ons moet die isiXhosa tolk 7 ook kans gee om sy werk te doen. 8 GENERAAL-MAJOOR ANNANDALE: En welwetende 9 dat daar 'n kommissie, 'n regtelike kommissie van ondersoek 10 aangestel was deur die President op die 17de, en ons net 11 eenvoudig nog nie geleentheid gehad het om te begin 12 dokumente te versamel en onself voor te berei om dokumente 13 te lewer aan die kommissie nie, synde dat ons steeds besig 14 was met 'n aktiewe protes omgewing in die tydperk aanlopend 15 tot die 25ste Augustus, het ons dit bespreek om bymekaar te 16 kom as bevelvoerders sodat ons kan inligting bekom en 17 versamel ter voorbereiding van die kommissie. Daar is toe 18 'n oproepinstruksie uitgereik uit die kantoor van die 19 Provinsiale Kommissaris Noord-Wes, waarin daar dan 20 vermelding gemaak was van die grootste aantal bevelvoerders 21 wat teenwoordig was op die dag, asook dan 'n aantal 22 addisionele persone wat meestal van die polisie 23 regsafdeling was. 24 MR MAHLANGU: Once again I'm going to ask 25 if the sentences should be made a bit shorter.</p>	<p style="text-align: right;">Page 8366</p> <p>1 die seksie Organisasoriese Ontwikkeling van die Noord-wes 2 provinsie, en ons het hom gevra om die informasie te 3 konsolideer [onhoorbaar]. Ons het dan ook vir Luitenant- 4 Kolonel Scott gevra dat hy vir ons moet 'n PowerPoint 5 voorlegging moet hy vir ons voorberei, so een dokument was 6 'n voorlegging, elektronies, en die ander een was dan die 7 narratiewe wat dan gepraat het met die voorlegging. 8 [15:43] MNR MAHLANGU: Kan vir voorsitter vir my 9 help? 10 MAJOR-GENERAL ANNANDALE: Narratives. 11 CHAIRPERSON: The one document was a – 12 MR MAHLANGU: The one document was a 13 narrative – 14 CHAIRPERSON: - was a narrative, and the 15 other one was an electronic presentation. 16 MR MAHLANGU: The other one was an 17 electrical presentation 18 CHAIRPERSON: Electronic. Electronic. 19 Is dit reg? Het ons dit korrek vertaal? 20 GENERAAL-MAJOOR ANNANDALE: Ja. I think 21 so – 22 VOORSITTER: Voorlegging synde 'n 23 "presentation," en daar was ook 'n, wat u as 'n narratiewe 24 deel beskryf het, klaarblyklik 'n "narrative section." 25 MAJOR-GENERAL ANNANDALE: Chairperson,</p>

<p style="text-align: right;">Page 8367</p> <p>1 yes, because in the presentation we would typically have 2 just bulleted points, so we just wanted a full description, 3 volledige beskrywing. 4 Voorsitter, dit was dan ook 'n geleentheid wat 5 ons gehad het, daar was 'n prokureursmaatskappy aangestel 6 intussentyd, synde dat die Onafhanklike Polisie Klagte 7 Direktooraat – 8 CHAIRPERSON: IPID. 9 MAJOR-GENERAL ANNANDALE: IPID, yes, Sir. 10 CHAIRPERSON: He's talking about IPID, 11 the Independent Police Investigation Directorate. 12 MAJOR-GENERAL ANNANDALE: Yes. 13 MR MAHLANGU: IPID should do what? 14 MAJOR-GENERAL ANNANDALE: They have 15 already started with their investigation. Die ondersoekers 16 het reeds, hulle was uiteraard die nag, die aand van die 17 16de was hulle reeds op die toneel en hulle het al op die 18 17de begin om waarskuwing verklarings te neem van 19 polisiebeampes, en met die aanwysing van die prokureur was 20 daar dan 'n ooreenkoms tussen die ondersoekers, asook ons 21 prokureur – 22 CHAIRPERSON: I think he means "the IPID 23 investigators and our lawyer." Is dit korrek? 24 GENERAAL-MAJOOR ANNANDALE: Dit is so. 25 Voorsitter, op daardie stadium het ons aangestelde</p>	<p style="text-align: right;">Page 8369</p> <p>1 GENERAAL-MAJOOR ANNANDALE: Ons het ook 2 gekyk na die videomateriaal wat geneem was deur een van die 3 Openbare Orde operateurs van die insident wat gebeur het op 4 die 13de waarby Generaal-Majoor Mpembe betrokke was. 5 CHAIRPERSON: It's one of the POP members 6 who was present at the time of the engagement on the 13th of 7 August, where General Mpembe was involved. So it's video 8 material taken by one of the POP members who was present at 9 the events of the 13th of August, where General Mpembe was 10 present. 11 GENERAAL-MAJOOR ANNANDALE: Ons het ook 12 gekyk na die video-opnames wat gemaak was op die 14de en 13 die 15de, en dan ook die 16de Augustus, soos gemaak deur 14 dieselfde twee video-operateurs – of nie dieselfde twee 15 nie; daar was 'n ander een gewees op die 13de, maar deur 16 die twee video-operateurs wat toegewys was aan die 17 operasie. 18 CHAIRPERSON: I think he said the third 19 one, the first one was on the 13th. Thereafter there were 20 two who took video material together, it seems, on the 14th, 21 15th, and 16th, all three being members of the POP. Is dit 22 wat u sê? 23 GENERAAL-MAJOOR ANNANDALE: Dit is 24 korrek, Voorsitter. 25 MR MAHLANGU: It was one on the 13th and</p>
<p style="text-align: right;">Page 8368</p> <p>1 prokureurs, het hulle nog nie die besonderhede gehad van 2 die verloop van die insident op die 16de nie. 3 CHAIRPERSON: It sounds as if they didn't 4 have a full account of the events, of what happened. The 5 lawyers didn't have a full account of what happened. Ek 6 neem aan u verwys na wat op die 16de Augustus en die dae 7 voor die 16de plaasgevind het? 8 GENERAAL-MAJOOR ANNANDALE: Absoluut. 9 Enersyds het ons ook die geleentheid gebruik om dan die 10 voorlegging voor te berei sodat ons dit ook aan hulle kan 11 bied sodat hulle kan makliker sien wat daar gebeur het. 12 Ons prokureurs was in 'n aparte fasiliteit by die 13 konferensie-fasiliteit, The Roots, en hulle het ook dan 14 begin om individuele verklarings voor te berei wat ook dan 15 moes beskikbaar gestel word aan IPID. Voorsitter, die hele 16 sessie, die werksessie, was gefasiliteer deur 'n Brigadier 17 Van Graan, wie vanaf ons Regsafdeling op hoofkantoor-vlak 18 is, en die formaat van die werksessie was tipies dat lede – 19 ons het eers het ons gekyk na die videomateriaal wat ons 20 gesien het wat beskikbaar was op die media wat algemeen 21 getoon was op TV-nuus. 22 CHAIRPERSON: I think he said "the media 23 video material that had been shown on the news." 24 MR MAHLANGU: I omitted that, yes. The 25 media video which had been shown on the news.</p>	<p style="text-align: right;">Page 8370</p> <p>1 then two additional others on the 14th and the 15th. 2 MAJOR-GENERAL ANNANDALE: Chairperson, 3 not additional. Daar was net twee gewees. Daar was een 4 gewees en toe 'n ander twee, dit was net in terme van die 5 video-opnames – 6 VOORSITTER: Ek dink hy bedoel 7 addisioneel tot die eerste lid wat teenwoordig was op die 8 13de Augustus wat die video-opname gemaak het van wat 9 gebeur het op die 13de naby die spoorlyn met Generaal 10 Mpembe. 11 GENERAAL-MAJOOR ANNANDALE: Dis reg. 12 Jammer, Voorsitter. Ons het ook na talle foto's gekyk wat 13 geneem was deur Luitenant-Kolonel Vermaak op 'n Blackberry 14 selfoon, en ook 'n ander kamera wat ook behoort, of tot die 15 beskikking is van Kolonel Vermaak. Voorsitter, ons het nie 16 gekyk na die video van Luitenant-Kolonel Botha nie want hy 17 het dit nie beskikbaar gestel nie. Ek het by hom verneem 18 hoekom is die video nie beskikbaar nie terwyl ons gesê het 19 dit moet beskikbaar wees dat ons daarna kan kyk. 20 Luitenant-Kolonel Botha het gemeld dat die video geneem is 21 vir IPID, of nie gemaak was vir hulle nie, maar dat dit nou 22 synde die ondersoek, dat dit nou die toestemming van IPID 23 moet hê as ons dit wil kry want dit sal 'n bewysstuk wees. 24 Een van ons regsbeampes het vir hom gesê dat die video 25 moet beskikbaar gestel word aan die kommissie en ons wil</p>

<p style="text-align: right;">Page 8371</p> <p>1 die video insluit, en hy het gemeld dat hy sal beskikbaar 2 stel en ons dit dan ook, na The Roots konferensie het ons 3 dit dan gekry toe dit beskikbaar gestel word. 4 Ons het ook nie gekyk na die opnames van die twee 5 waterkanonne nie. Daar was reeds aan ons terugvoer gegee 6 op die 17de Augustus deur die bevelvoerders van die twee 7 waterkanon operateurs dat die een het gesê die Noord-Wes 8 waterkanon, die operateur het gesê dat die sisteem nie 9 funksioneer nie en dat daar nie sodanige opname was nie. 10 Die Johannesburg water operateur het gesê dat hy nie 11 heeltemal vertrouwd was met die werking van die videostelsel 12 nie, maar dat hy geweet het dat jy moet, die hardeskyf het 13 beperkings op in terme van die opname, en dat hy dit self 14 moes aktiveer, dat hy dit nie net aansit as dit begin en 15 dit aan los nie, maar dat hy dit elke keer moes aktiveer, 16 en dan met die wat daar 'n aanval op die polisielyn was en 17 dat dit nie volgens die beplanning gegaan het nie, het hy 18 net nooit die – he forgot to activate it. Ek het eers 19 bewus geraak dat daar wel opnames was, ek dink dit was op 20 die 6de November van 2012 – 21 CHAIRPERSON: The 6th of November, the day 22 after Guy Fawkes, he became aware of it. 23 MAJOR-GENERAL ANNANDALE: - nadat daar 'n 24 berig aan my gemaak was terwyl ek teenwoordig was hierso by 25 die Burgersentrum, dat Kolonel Makhubela, wie ontplooi was</p>	<p style="text-align: right;">Page 8373</p> <p>1 by die polisie se Hawks-eenheid is, en die waterkanonne is 2 toe deur na Pretoria toe wat hy gesê het hy sal kyk, hy het 3 tegniese agtergrond in terme van sy – 4 [16:03] Die videomateriaal is toe, ek, die 11de of die 5 14de van November toe dink ek kon hulle daarin slaag om dit 6 af te laai, of oor te laai. Voorsitter, dan sien ek die 7 advokaat maak vir my ogies, so ek weet nie of dit nou 8 bedoel ons moet nou iewers breek nie. 9 VOORSITTER: Ek wil net vir u vra hoe 10 lank verder gaan u getuig, sover u weet? As dit vyf minute 11 is, dan kan ons by die einde kom van u hoofgetuienis, kan 12 ons 'n ekstra paar minute sit, maar as dit bietjie langer 13 as dit sal wees, dan sal ons more moet voortgaan. Wat stel 14 u voor, mnr Semenya? 15 GENERAAL-MAJOR ANNANDALE: Voorsitter, 16 vyf minute, as ons kan klaarmaak, asseblief. 17 MNR SEMENYA SC: Daar is nog steeds – 18 CHAIRPERSON: I'm misbehaving again. I 19 forgot to put my microphone on. If it's going to be a 20 couple of minutes before the end of his evidence-in-chief 21 we can do it, but if it's going to take a bit longer than 22 that, we'll finish his evidence-in-chief tomorrow. What do 23 you suggest, Mr Semenya? 24 MR SEMENYA SC: That we go up to 25 tomorrow, Chair. We're still a little while.</p>
<p style="text-align: right;">Page 8372</p> <p>1 op die 16de, dat hy op die betrokke dag vir sy mense gevra 2 het dat hulle vir hom moet wys hoe werk hierdie waterkanon 3 se, die hele stelsel, en dit was tydens hierdie opleiding, 4 as ek dit so kan stel, wat hulle vir hom gewys het hoe die 5 verskillende stelsels werk, dat hy waargeneem het dat daar 6 beeldmateriaal is van die Marikana omgewing. Ek het daarop 7 het ek gesê dat ons die, beide waterkanonne moet ons op die 8 volgende dag, die 7de November, moet hulle rapporteer 9 hierso in Rustenburg, en op die 7de was ek teenwoordig by 10 ons prokureurs, aangestelde prokureursmaatskappy, waarna 11 daar ook gevind was dat daar op die Noord-Wes waterkanon 12 ook beeldmateriaal beskikbaar is. Een van die operateurs, 13 of een van die opleiers in die hantering van waterkanonne 14 van Johannesburg Openbare Orde, Adjudant-Offisier – ek kan 15 nie sy van onthou nie – ek het hom gevra of die 16 videomateriaal kan afgelaai word sodat ons daarna kan kyk, 17 en hy het vir my gesê dit kan slegs waargeneem word, gekyk 18 word terwyl jy in die waterkanon sit. Hy het aangedui dat 19 dit 'n, ek dink dis Israeliese waterkanon, die, dis 'n BAT 20 Systems waterkanon, en hy het vir my gesê dat hulle net nie 21 die tegnologie beskikbaar het om dit af te laai sodat ons 22 dit op 'n gewone rekenaar kan kyk nie. Ek het toe begin 23 rond bel en ek het geskakel met ons Plaaslike Kriminele 24 Rekordsentrum, Pretoria, en ook Forensies, en ek het, ek is 25 verwys na 'n Kolonel Sales toe wat by die Onafhanklike, of</p>	<p style="text-align: right;">Page 8374</p> <p>1 CHAIRPERSON: Anyway, we will now adjourn 2 until tomorrow morning at 9:30. 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>

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