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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 93 16 MAY 2013 PAGES 9888 TO 9994

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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[PROCEEDINGS ON 16 MAY 2013]
[09:36] COMMISSIONER: The commission resumes. Generaal-Majoor u is nog steeds onder eed.
GENERAAL-MAJOOR ANNANDALE: s.o.e.
CHAIRPERSON: Mr Jele, you have still got some questions.
MS JELE: Thank you, Chairperson. Just to finalise a few points we were dealing with yesterday prior to the adjournment. General, if I might ask you, you indicated that in your position as what is referred to in exhibit L, slide 67 chief of staff as it were, it was your responsibility to be second in command whilst General Mpembe might be attending to other duties such as for example the discussions between AMCU and NUM, is that correct?
GENERAAL-MAJOOR ANNANDALE: Goeie môre, dis korrek, Voorsitter.
MS JELE: Thank you, General. Just to obtain clarity so that we have a very clear picture of who was empowered to make what decision at what time. During the time that General Mpembe might have been unfortunately incommunicado due to the communication difficulties that have been dealt with. Would it have fallen upon you to make any decisions and or give any instructions that he might be unfortunately not in a position to communicate?

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GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.
MS JELE: And would everyone else in the field have been aware of the fact that if they hear from you they have to follow whatever instructions provided, everyone I mean everyone in the field, unit commanders, individuals for example like Brigadier Calitz, Brigadier Fritz, General Naidoo and so on.
GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.
MS JELE: If I can just take you to exhibit SS3 and if you wouldn't mind looking specifically at the slides on my page 23 it's specifically the slide that's entitled command and signal.
GENERAAL-MAJOOR ANNANDALE: Voorsitter, as ek net kan vra watse gedeelte, my SS3 is ongelukkig nie bladsy genommer nie. Ek het die twee contingency beplannings, die een van die 10de en die 13de en dan die een wat Operation Platinum gedoop is.
COMMISSIONER: SS23 has got a number of, SS3, has got a number of documents all bundled together, various plans, two or three I think and the pages aren't numbered. So it's a bit of a mission to find the relevant page. So he wants you, he's asking for further particularity so he can identify the document you're

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referring to.
MS JELE: I'm happy to assist, Chairperson, I actually have in the top right hand corner which would be essentially the bottom of the slide if one has it in front of one, the numbers in sort of grey print, 001720. They are the numbers in the police hard drive, I thought that would be one element. 001720 is the number at that corner. The slide is titled Command and Signal, it has four bullet points of text. The one before that is entitled administration and logistics and after that begin the annexures to the plan of the 10th of August on our electronic copy of SS3. Still seem to be struggling, perhaps at some point we might paginate SS3. I'm afraid I can't assist any further in terms of finding it because I have it on that electronic version. I understand that Ms Sello has found it for Mr Semenya, General, have, are we winning.
GENERAL-MAJOR ANNANDALE: I have a slide that says Command and Signal.
MS JELE: And the first bullet point says the overall commanders (PC and Major General) exercise control from the JOC.
GENERAL-MAJOR ANNANDALE: I'm also indebted to the, Commissioner, for making this available, thank you ma'am, yes.

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MS JELE: Alright. The reason I want to refer specifically to this slide is as I understand it, it is a slide that directly relates to the command structure during the course of the operations and it refers to overall commanders. I want to be absolutely sure to the extent that you've indicated what your role was and what General Mpembe was is there a risk that there might have been a number of individuals, especially under circumstances where General Mpembe was incommunicado who would have been in a position to give instruction without the input certainly of the overall commander, is there is a risk that not everybody knew where which instruction would come from?
GENERAAL-MAJOOR ANNANDALE: Voorsitter, nee die beginsel in die polisie werk sodanig dat as die bevelvoerder nie beskikbaar is nie, dan gaan dit outomaties oor op die volgende senior rang. U moet ook besef dat met uitsondering van die pertinent die Woensdag was Generaal Mpembe deurgaans of teenwoordig of in radio kommunikasie en dan pertinent op die 16de. Verder, Voorsitter, was daar ook dan in die JOCOM vergadering was almal teenwoordig. So almal het presies geweet wat die plan behels en met die terugkeer van Generaal Mpembe op die Woensdag is hy, as hy uit die JOC uit was dan het ek hom behoorlik toegelig of selfs as ek nie teenwoordig was nie, was ons deur die

operasionele kamer, Brigadier Pretorius ingelig in terme van wat gebeur het of daar's SMSe gestuur of selfoon kommunikasie.

MS JELE: Thank you, General. We will be dealing with the issue of mobile phones at some point during the course of the day. I'd like to turn now to the next issue. There has been –

COMMISSIONER: Before we move on, before we move on. This document that we're looking at, the first bullet that was read, the overall commanders (PC and Major Generals) exercise control from the JOC relieving each other as other commitments are dealt with. I see the first overall commander listed in the passage in the section in brackets is the provincial commissioner, is that correct?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, nee dis verkeerd. Nie die overall commander in die konteks van die operasie of in die konteks van staan order 262 nie.

COMMISSIONER: But the document says, this what the document says. It's the overall commanders exercised in JOC and it tells us in brackets who the overall commanders are and the first one listed is PC which is the provincial commissioner, unless the document was wrong, was wrongly drafted incorrectly states the position that's what it says, is that not so?

GENERAAL-MAJOOR ANNANDALE: Voorsitter,

dis hoekom ek sê die verwysing in die dokument is verkeerd. Die verwysing na overall commanders dis nie bedoelende soos in die konteks van staan order 262 nie.

COMMISSIONER: Who drafted the slide? Who drafted that slide, who's responsible for the wording?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, op die einde van die dag is dit deur ons almal goedgekeur maar dit sou waarskynlik Kolonel Visser of Luitenant Kolonel Scott gewees het. Voorsitter, enkele bladsye verder weerspreek ons eie voorlegging, waar ons dan by command and signal ook verwys na overall commander en dan pertinent die naam noem van Majoor-Generaal of Generaal-Majoor Mpembe.

COMMISSIONER: Can you give us the police hard drive reference to the slides which you're now referring.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, dit blyk te wees 000418.

COMMISSIONER: Thank you. I see this document has as you correctly say the reference in the top right hand corner 418, 000418 we don't, it's not apparent what the date of this document is and how it fits in, in the sequence but presumably that would be explained in due course. Thank you.

MS JELE: General, on the 16th of August

did it actually occur that in Major General Mpembe's absence that you had to give any orders with regards the exercise or the plan that was being executed?

GENERAAL-MAJOOR ANNANDALE: Kommissaris, die oggend van die 16de was beide ek en Generaal Mpembe nie teenwoordig nie maar ons was in selfoon kommunikasie in die JOC.

COMMISSIONER HEMRAJ: Apologises, General, just to ensure the interpretation. You mentioned you were in cell phone communication –

GENERAL-MAJOR ANNANDALE: With the JOC.

COMMISSIONER HEMRAJ: Understood, thank you.

GENERAAL-MAJOOR ANNANDALE: Kommissaris, en dan die middag wat Generaal Mpembe in die helikopter was, was hy in radio kommunikasie gewees, hy het presies dieselfde boodskappe ontvang as wat ons in die JOC ontvang het. Ons het geen verdere detail ontvang as wat hy self ontvang het nie. Maar, Kommissaris, ek was by volle magte om 'n besluit te neem in sy afwesigheid sou dit blyk dat hy nie in kommunikasie is of nie iets pertinent opgetel het om te reageer op nie.

MS JELE: The question was did you in fact on the 16th give any orders in the absence of General Mpembe?

GENERAAL-MAJOOR ANNANDALE: Ek is jammer, Kommissaris, nee ek het nie.

MS JELE: The next item I would like us to turn to, if you might be of assistance, General, is the issue of briefing and the use of video operators. Now I know it's been dealt with to a certain extent by some of my colleagues. So I will limit my questions to those that have not as yet been dealt with and that are of direct interest to us. The first, with respect to briefing, might I ask you to look at a short video, it is as we understand it from our records a briefing conducted during the course of the 18th. There are a number of videos of briefings conducted during the course of the 18th, the 19th and the 20th we choice a short segment simply to use it as an example and what I would like you to do please is to look at the video and tell me is this what a briefing looks and or sounds like and perhaps identify the individuals whose giving that briefing. I'd appreciate it if my colleagues upstairs could have the video ready to play. Would it require an exhibit number at this stage because as I understand it this particular videos have not as yet been played. They're part –

COMMISSIONER: If it's going to be part of the record, shown during the sitting of the commission it's got to have an exhibit number and as far as I can see

the next exhibit will be GGG30.

MS JELE: Could we entitle it Calitz's briefing 18th because we believe that Brigadier Calitz but I'm sure the General will be able to confirm that for us. Briefing 18 August 2012. As you're aware, Chairperson, a number of operations were continuing days after the 16th.

COMMISSIONER: What I'm saying wasn't recorded. So exhibit GGG30 it will be Calitz briefing 18/8/2012, the video.

MS JELE: Thank you Chairperson. Could it play at this time.

[VIDEO SHOWN]

[09:55] MS JELE: There seems to be a dual sound, I'm just worried about that. I'm focussing on what the person's microphone or loudhailer is saying.

[VIDEO SHOWN]

MS JELE: Thank you. I don't know whether the interpreter wants to interpret at all. He indicates he does. General, is that an example of a briefing?

GENERAAL-MAJOOR ANNANDALE: Dit is ook toeligting, dit is korrek.

MS JELE: So you mentioned also a briefing, what is it beside a briefing?

GENERAAL-MAJOOR ANNANDALE: Voorsitter,

ons het nie 'n sjabloon in terme van hoe 'n toeligting moet wees in die polisie nie. So uiteraard het toeligting te doen met die omstandighede en die informasie op die stadium, maar dit is 'n tipiese toeligting.

MS JELE: While I appreciate that you have stated you were under the impression that the video operators were working, with respect to the issue of their safety concerns, with respect to a briefing, certainly if it were to be videoed, they wouldn't have any such concerns, seemingly within this scenario, they would be amongst SAPS and there wouldn't be any risk to their lives if they were to choose to video a briefing or at the very least record it, as is required in standing order 262, even though it doesn't specifically require it being videoed.

GENERAAL-MAJOOR ANNANDALE: So 'n toeligting is in beheerde omstandighede, so daar sal uiteraard nie 'n bedreiging wees nie, op sodanige persoon se lewe nie. Dit is korrek. Maar u is reg, daar is geen vereiste dat toeligting moet opgeneem word nie.

MS JELE: To the extent that you mentioned that were a number of steps that should be taken with respect to video operations and so on, I understand, and I don't wish to refer to it in detail, that you were one of those that approved a document and its specific directive that deals with video operation specifically.

I'll just get the title for you. The reason I'm referring to it and want to refer to it is that obviously you would be in a position over and above the suggestions that you made yesterday about improvements in regard to the use of video operation, to also give input on whether or not a particular directive that might ask for consistent videoing of briefings to be made, and I would ask you whether or not you wouldn't think that, considering what we've just seen in terms of records, lessons learnt for future, if it wouldn't be something that the SAPS could or would contemplate.

The document that I am referring is entitled "Video Administration Directive, POP Division ORS," and I see you name at the bottom of it. So I'm assuming you were part of the command that had to approve this document. It can be found in the SAPS bundle 279. To the extent that it deals with the fact that video operators account to their unit commanders, I don't want to deal with the details of it with you, but to the extent that you have contributed to it and –

CHAIRPERSON: Seeing you quoted it, I suppose we should see it, because – do you know the date of the document? Is it before or after 16 August 2012?

MS JELE: I have no idea, unfortunately.

CHAIRPERSON: I see. Well, maybe the

witness can help us. Do you recall the document to which counsel is referring?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek hoop regtig my naam is weer misbruik in 'n dokument nie, maar, Voorsitter, dis een van die vele konsep dokumente wat ons aan werk. Sedert ek betrokke geraak het by die divisie, operasionele reaksiedienste, het ons met 'n verskeidenheid van direktiewe begin. So dit is 'n konsep direktief. Hy is nog nie afgeteken nie.

CHAIRPERSON: He said but it's not been signed off. I was interested in the date.

MS JELE: General, you're referred to as Brigadier in this particular document and –

CHAIRPERSON: - it was before the 1st of August 2012, if he's referred to as a Brigadier, and in fact -

MS JELE: I thought that would help. How much before, I have no idea.

CHAIRPERSON: No, it doesn't matter, it's before the 16th. So is that right? It's a draft, was drafted prior to the events of the 16th. And there's evidence by the fact that your name, whether misused or not, was given with the rank of brigadier and not yet major-general. Is that a fair inference in the circumstances?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, dis korrek, en daar behoort nie 'n datum te wees nie, daar is gewoonlik 'n weergawe – a version – en hy word voorberei uiteraard vir die handtekeninge wat moet volg. So ek dink nie daar sal 'n pertinente datum op hom wees nie, want hy is nog nie afgeteken nie, maar dit was verseker in die tyd voor my aanstelling as generaal-majoor.

GENERAAL-MAJOOR ANNANDALE: As generaal-majoor, ja.

CHAIRPERSON: I wasn't listening to the interpreter, but I understand the word concept – konsep in Afrikaans is draft in English. That's the word that he is using, and he means a draft.

MS JELE: My last question on this is, considering the fact that I'm going to assume your name was not misused and you have a certain amount of knowledge in this field, and thanks to your input yesterday on the specific issue, in your experience, in a gathering of a size that there was at Marikana during the course of that week, how many video operators would you have expected to find on duty and available on any given day, and I do mean the day shift, not the night shift, General?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, dis moeilik. Ons het gewoonlik het ons net een, miskien maksimum twee video operateur tydens 'n openbare protes, en

ek praat nou van die geskiedenis. Ek het gedink dat die vyf wat ons beplan het sou genoeg gewees het, as ek nou moet kyk in retrospeksie.

CHAIRPERSON: I'm not sure that I heard correctly. I understood the witness to say, I thought the five we planned were enough, but did I understood you correctly?

GENERAAL-MAJOOR ANNANDALE: Yes.

CHAIRPERSON: So despite the fact that they normally only have one or two, on this occasion, regard obviously to the magnitude of the operation, you planned for five, is that – I understand that to be your evidence, and you thought, and probably still think that that was enough, provided they all stayed at their posts, or at least moved to other posts from which they could operate their equipment. Would that be fair?

GENERAAL-MAJOOR ANNANDALE: Behalwe, Voorsitter, in retrospek dink ek is dit dalk selfs vyf was nie genoeg gewees nie, al sou hulle almal ten volle gefunksioneer het. Waarskynlik, gegewe so 'n operasie, dalk selfs meer.

MS JELE: And, sorry, General, those five would have had SAPS equipment available to them - the same SAPS equipment. They would have been responsible for checking and maintaining and so on?

GENERAAL-MAJOOR ANNANDALE: Net voor ek dit antwoord, Voorsitter, wil ek net meld dat om toeligting sessies af te neem, self in die toekoms, is problematies. En daardeur verwys ek nie na die groot aanvanklike parade soos wat Brigadier Calitz gedoen het met die groter groep lede nie, maar ek kan dink dit sal net nie haalbaar wees as ons opbreek en verdere toeligting wat die bevelvoerders direk vir hulle kleiner seksies gee, en dit kan dalk soveel as 15 of 20 sulke kleiner toeligting wees nie.

CHAIRPERSON: All taking place simultaneously, I assume, which means you would have had to have 15 videographers – I think is the right word – videographers present recording each one, which would be totally impractical –

[10:15] GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter. In terme van hierdie vraag, elke operateur is verantwoordelik vir die hantering en instandhouding en versorging van sy of haar pertinente uitgereikte video toerusting.

MS JELE: General, can I ask you to have a look a the warning statement of Warrant Officer Ndlovu which was also distributed by Ms Hardy during the course of the day on Monday. It's a warning statement that has a case number at the top and has a number of short paragraphs on its first page. It's just two pages long. GGG31 I

presume, Chairperson. Ndlovu, Warrant Officer Ndlovu.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, die verklaring wat ek van A Ndlovu het wys nie dat dit 'n waarskuwing verklaring is nie.

MS JELE: Can I ask my colleagues to get you a copy of the document that we specifically are looking at so that I'm sure you do have it? I hope the Commissioners do have the document that has at the top of it Warning Statement.

CHAIRPERSON: Yes we have.

MS JELE: Thank you Chairperson.

CHAIRPERSON: That's a typed document. Attached to it is another document which is handwritten and I take that that's the document that the witness is referring to. That's simply headed Statement Under Oath.

MS JELE: That is also my understanding, Chairperson, and I wish to refer to paragraph 6 of the typed document if I might. You'll notice that Warrant Officer Ndlovu is one of this individuals who had to withdraw because he feared for his safety. What I would like to look at specifically is the very last sentence of that paragraph. He indicates that the camera belonged to Lonmin, the camera that was in his possession. Based on what you've just said it would have been appropriate and you would have expected somebody in his position to have a

SAPS camera that he's responsible for and that he can account for, not so?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, dis korrek hy het egter nie 'n kamera tot sy beskikking gehad nie, dis die addisionele kameras, ons het twee addisionele kameras gereel.

MS JELE: You would agree, General, that that is not the best case scenario and that you would prefer making sure that your personnel have their equipment that they can account for and that SAPS also can account for.

GENERAAL-MAJOOR ANNANDALE: Dit is ongetwyfeld so.

MS JELE: I now would to turn to an entirely different topic, General, if I might.

CHAIRPERSON: - that topic. Can I ask a question or two? It appears from this statement, by the way the handwritten statement is exactly the same as the typed one. It's just the typed one is headed "Warning Statement," the handwritten one isn't but its content appears to be the same. If he was using a Lonmin camera, I don't know the technical term, but presumably there's a - is it a hard drive or a soft drive or a skyfie of some kind that's in the camera on which the material is recorded. What do you call the thing that's in the camera on which

the recording takes place?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, dit sal waarskynlik of 'n SD kaart of 'n mikrokaart of dan 'n harde skyf wees, hard-drive or a SD card.

CHAIRPERSON: Okay well let's stick to hard drive. Do you know whether the hard drives or the hard drive, taking the singular, which was in the camera that Warrant Officer Ndlovu used was a Lonmin hard drive or a SAPS hard drive?

GENERAAL-MAJOOR ANNANDALE: Voorsitter ek is 99% seker die betrokke kamera is net soos hy ontvang het as 'n eenheid, dis nie 'n polisie -

CHAIRPERSON: After the operation presumably the SAPS would have wanted a copy at least of what had been recorded because the whole purpose of videographing these operations is for the SAPS to have a video record of what happened. So I take it we can assume that what was on the Lonmin hard drive would have been copied onto a hard drive for SAPS. I take it that's a fair inference is it?

GENERAAL-MAJOOR ANNANDALE: Dis korrek, dit is not so afgelaai oor -

CHAIRPERSOON: Downloaded.

MS JELE: Thank you, Chairperson. The next general theme I'd like to deal with, for lack of a

better heading I'd like to refer to as accounting and disclosure I suppose and I'd like to deal with it in two separate phases. The first being what we would refer to as the full record that might be available, taken during the course of the operation. I'm speaking now of any information that might have been kept between the 10th and the 16th, well actually all the way up till the 20th or the 22nd exactly of August of last year when the operations ended. And my first question on that score to you, General, is whether or not you had taken any contemporaneous notes during the course of that week and whether or not we could have a gander at them.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het nie.

MS JELE: Have you taken any kind of notes, even shortly thereafter with respect of operation and we'll talk about Potch in a moment but did you take any kind of notes in order to recall specifically any acts, moments, instructions, any of the like. Perhaps shall we go up to a week, two weeks thereafter?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het notas geneem in konsultasie met ons regspan.

MS JELE: It seems as though an operation of this magnitude there'd be a lot of information to keep in and absorb without at the very least scribbling

something into one's pocket book for example. Would you not have expected at least some of the senior officers perhaps to have taken some contemporaneous notes even though you did not?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, kommissie offisiere dra nie 'n sakboek nie of hulle is nie verplig om 'n sakboek te dra nie. Ek sou sekerlik verwag dat daar seker lede is of offisiere wat notas gemaak het. Ek het nie daaroor gehoor nie. As ek net kan sê dat ek verstaan "contemporaneous notes" as notas nie gemaak in 'n amptelike register nie, so 'n sakboek sal 'n amptelike register wees of 'n dagboek sal 'n amptelike register wees, so ek weet nie of ek verkeerd is in hoe ek dit verstaan nie.

CHAIRPERSON: Contemporaneous are simply notes made at the time, whether official or unofficial.

GENERAAL-MAJOOR ANNANDALE: Maar daar sal verseker wees, Voorsitter, in die die voorvalle boek, in sakboeke, en in dagboek van offisiere.

MS JELE: Just to confirm that everybody on duty actually did have those pocket books with them, we have a few examples in the IPID file provided to us. One or two examples I believe were made available to all. It is within the IPID file for documents A165 to A191 and file A199. I believe there should be one such document or at

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the very least an example of it, in front of you. It's the report by Section Commander and it seems to be a list of members on station, on duty and lists not only their name, rank, the time at which they came on duty but also the equipment that they might have had with them.

GENERAAL-MAJOOR ANNANDALE: Ekskuus ek kry dit nie tussen my notas nie, as u net vir my kan verwys -

MS JELE: We would have made copies of any of the files just because we wanted to use just one as an example that are marked A165 in handwriting at the top right-hand corner all the way to A191 or A199.

CHAIRPERSON: Have we been given copies of these documents?

MS JELE: I understood Ms Hardy to have provided at least one copy of these during the course of Monday. It would be a two page document, it might be confused with the documents that we referred to that highlighted the debriefing officers, the Health and Wellness officers but they are entirely separate documents.

CHAIRPERSON: I don't remember it but that doesn't mean that I didn't it, but if you have another copy for us, if you're going to hand it in you can give it to me now so I can mark it as an exhibit.

MS JELE: Fortunately Ms Hardy is present

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I see, it's always nice to have her, I'm sure she'll find them. Thank you, Chairperson. If you could just bear with me and give me a few moments to make sure she does. I would like to finalise this issue first.

CHAIRPERSON: Do you intend to ask the witness any further questions about his own notes or lack thereof?

MS JELE: No I'm not.

CHAIRPERSON: Alright, well perhaps I can ask a question while Ms Hardy's doing what she's been asked to do. Major-General I take it, it must have been apparent to you on the 16th that there was going to be proceedings of some kind relating to what happened on the 16th and with you'd be an important witness.

GENERAAL-MAJOOR ANNANDALE: Dis reg, Voorsitter.

CHAIRPERSON: And in those circumstances it's normally sensible to - while things are still reasonably fresh in one's memory to make some kind of notes to enable one, not contemporaneous notes but later while things are still reasonably fresh in one's memory. So to enable one to give accurate evidence when called upon to do so, would you agree with that?

GENERAAL-MAJOOR ANNANDALE: Dit kan verseker help, Voorsitter.

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CHAIRPERSON: I see your statement that we have which is exhibit GGG1 is dated the 12th of November. Did you make any notes, drafts or preliminary memoranda for yourself or for others before the 12th of November setting out what you could remember, the events of the day? Essentially from the 12th I suppose through to the 16th.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, alhoewel my verklaring geteken is en beëdig is op die 12de November het ek reeds by Potchefstroom on die 27ste begin werk op my verklaring. Voorsitter, en ek het my konsep verklaring klaar gemaak voordat ons vertrek het in Potchefstroom en ek ook in die tyd - die eerste keer het ek gekonsulteer met ons regspan en ek het taamlik notas gemaak tydens die konsultasies. Voorsitter, die omgewing was so besig gewees nog tot die 25ste, die Saterdag wat ek onttrek het, elke dag was ons nog besig gewees. Dit was 'n baie moeilike tyd gewees die week na die geval op die 16de en ons was net die heel tyd besig nog steeds om voort te gaan met polisiëring ek het nie eers daaraan aandag gegee nie.

CHAIRPERSON: Thank you. I see we've now been given a document but before we look at that my colleague, Advocate Hemraj, wants to ask a question.

COMMISSIONER HEMRAJ SC: General, there is a very extensive document on the police hard drive which is the narrative, the police narrative. Was that compiled

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as a result of written statements handed to somebody, notes handed to somebody or just as a result of verbal input?

GENERAAL-MAJOOR ANNANDALE: Kommissaris, dit was 'n kombinasie van verklarings wat reeds afgelê was byvoorbeeld aan IPID maar ook individuele mondelingse insette wat gelewer was deur die bevelvoerders. [10:35] Voorsitter, Kommissaris, en dan is daar wegbreekgroepe en van hulle het gebruik gemaak van blaaiborde, flipcharts, en dan baie van hulle het nadat hulle so ‘n wegbreekgroep gehad het, ‘n teenwoordiger van die groep het dan gestaan by Kolonel Visser en by Luitenant-Kolonel Scott, en dan terugvoer gegee in terme van pertinente aspekte.

CHAIRPERSON: I have marked this document, which we have been handed, which is headed “Report by Section Commander”, and has a date stamp on 21st August, I have marked it “GGG32”.

MS JELE: Thank you, Chairperson. You mentioned the stamp. I would like to just to turn to the date as is handwritten at the top of that document.

CHAIRPERSON: Yes, I just said that to identify the document.

MS JELE: I appreciate that, Chairperson. General, as I understand this document is a log of which officers were on duty and what equipment they had with

them, what cars they would have been responsible for and so on, is that correct?

GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.

MS JELE: And certainly this one handwritten says 16 August, so it would refer to whichever section commander this was specifically filled by and his record of those members that he is responsible for, names, firearms and equipment available, correct, on that date?

GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.

MS JELE: Would you be so kind as to turn the page over, just the second page that has, for example, at the top of it a table marked "Particulars of Vehicles" and the second table, which is what I would like to turn your attention to, marked "Equipment of Members". If one looks at the second column marked "pocket book", it's ticked. That would mean that all of those members would actually have confirmed that they had their pocket books with them, correct?

GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.

MS JELE: I understand that you have been provided with two such examples, there are quite a number as I refer to "A165" to "A191" of IPID and "A199", all of

these are similar and confirm that the members had their pocket books. General, you mentioned that there was a possibility that members of that level might have taken notes during the course of this operation, at the very least all the way from the 10th to the 22nd, in these pocket books. Is that a possibility?

GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.

MS JELE: Chairperson, at this stage, my difficulty is that we have been informed by the SAPS that these pocket books are not available. We made numerous discovery requests for these pocket books, because we thought that these notes might be, at the very least, relevant to the proceedings before this Commission. We understood that it might be quite an exercise to obtain all of these pocket books, especially since individuals are in posts in different corners of the country, but as things currently stand, the last date we've been promised them was March 15th. That has come and gone, and as far as we are told, we are, at our last correspondence, not anticipating that these pocket books will be provided, and I would urge the Commission to ask that they kindly be provided by the SAPS.

CHAIRPERSON: Did you raise this matter with Mr Semenya this morning before we started, because we

did indicate that this kind of matter should best be dealt with outside the formal sittings of the Commission by interchanges between practitioners preparing for various parties. I am sure if you had spoken to Mr Semenya this morning or yesterday, we might have an up-to-date report. Anyway, Mr Semenya may well not be able to deal with the matter now, because you haven't alerted it to him. But I take it, Mr Semenya, you will be able to go into the matter.

MS JELE: If I might, Chairperson, I appreciate the Chairperson's comments that perhaps Mr Semenya and I can have a chat during the course of the tea break. We have been making these requests since January 18th, and there is practically –

CHAIRPERSON: I understand that you say the last feedback you got was 15th March. The real question is, what the position is now and, if you had asked Mr Semenya earlier, then he could be able to tell us now. Anyway that is water under the bridge there, I am sure that will be dealt with. I notice that all the people in your second document, apparently, had pocket books, except, as is to be expected, the first person who was an officer, Captain Fourie, he had a diary. So, I don't know how these things work, but I would imagine it's probably easier to find the diaries of officers than to find the pocket books

of –

MS JELE: Our discovery request encompassed all contemporaneous notes, Chairperson.

CHAIRPERSON: Yes, in the past, I think I have had the experience that, somehow the officers, it's easier for them to produce their diaries than for the constables to produce their pocket books, but others may have had different experience. However, the point of the story is that Captain Fourie, who in fact is the member in charge, listed on this document, you record that he, himself, had a diary, but the other ones who, to which you refer, are pocket books but Mr Semenya, I am sure and those assisting him will go into the matter. We will have a report on the status of your discovery request sooner rather than later. Is that correct, Mr Semenya?

MR SEMEYA SC: Yes, Chairman.

CHAIRPERSON: Sorry, Ms Jele, may I just ask you this? I understand you want these documents. I take it the documents themselves, when you and if you finally get them, aren't necessarily going to be of any use in cross-examining this witness. They may well be of assistance in cross-examining others, or am I incorrect?

MS JELE: My anticipation was that this witness would confirm that they, at the very least, would be available and might have information that would be

relevant. I just wanted to make that he can confirm that.

CHAIRPERSON: Alright, okay well put that question to him, and then Mr Semenya and those assisting him will endeavour further to assist you.

MS JELE: I understood the witness to have stated that it was likely that members might have taken contemporaneous notes, I didn't think I needed to ask him that any further, but perhaps he can be of assistance and confirm that.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja die sakboek is 'n tipiese inskrywings wat sal begin met die dag van, wat jy sal melt "Duty On".

MS JELE: Sorry, I didn't understand the interpretation. Could you re-interpret it, if you don't mind.

CHAIRPERSON: - a particular entry in a pocket book would begin with the date entry, and then I think the witness hasn't told us that you have a little, you have something like "Came on Duty" and then you would have short little description normally, in my experience, of the nature of the work done that day.

MS JELE: And the entry into the pocket book, that was my confusion it's fine, thank you Chairperson.

CHAIRPERSON: He can tell us more, I am

perhaps using knowledge that I acquired which is not necessarily accurate and may not coincide the event with his.

GENERAAL-MAJOOR ANNANDALE: I can only confirm what the Chairperson says. It will start with "Duty On", it will allude to the specifics in terms of posting, if a person is posted on a vehicle it will mention that I am the driver or the crew of the vehicle or I am posted in the following capacity. The person would normally have to mention the firearm, that he is on duty with a firearm, if it's a vehicle, he would mention the SAP number of the vehicle and then typically when a member – it's let's say of a visible policing and they would attend to a complaint, then they will mention the detail "I responded to the following complaint at the time", they will give a short synopsis in terms of what the complaint entailed. In terms of reposting it's important that they have to mention when there is a reposting, so in terms of Marikana I am sure that you will find a lot of the people will refer to being posted on duty and then they will mention when they were posted off duty. There is an expectation that they would reflect, if they used their firearm, that you would expect that a member would complete because it's something out of the ordinary. Some members will obviously show more detail and others not. It also

depends in terms of the time and the circumstances that you cannot make the entry at the time, so it might mean that only afterwards that you will go and complete the actual pocket book, but there will be reference. It will at least show that the members were on duty, it will at least show where they were posted, the time that they went off duty that would be reflected.

CHAIRPERSON: All three of us Commissioners have had experience of reading pocket books in the past, and I don't know whether our experiences are the same as yours, but normal you get very cryptic notes like, something like "besig met onderste beheer", that would be a sentence which covers the events of a whole afternoon, for example. In other words, I don't want to go on a wild goose chase looking after, looking for pocket books which are all going to contain cryptic information that doesn't help anybody, but is that the kind of note that you expect, or do you sometimes get more detail than that?

MS JELE: General, before you answer that, I understand pocket books don't really contain a narrative of the events.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, Kommissaris, nee, nie noodwendig nie, en party mense sal, of meestal sal waarskynlik kripties notes maak, maar dan

sal ook die perfeksioniste onder ons wat sal 'n meer volledig inskrywing maak, maar weer eens het dit te doen met die tyd beskikbaar. Voorsitter, as ek verder mag help, het een van die bewysstukke wat sy beskikbaar gestel het was 'n dagboek afskrif van 'n, en ek kan nie die kaptein, ek dink dis 'n kaptein, se naam onthou nie.

GENERAAL-MAJOOR ANNANDALE: I saw it with the exhibits that you asked that we have to go through, and that is a typical example in terms of an officer that went into detail. It was in a diary. I picked up that he even mentioned the six stages in terms of when he received the briefing, and he mentioned a lot of detail, so you will get that, but you will also get others that will just show a reflection on and off duty, so maybe if we can have that one, you will see that it's quite-

CHAIRPERSON: We can compare it with Brigadier Mkhwanazi's diary which he gave us, which is an exhibit, I can't remember the number, which is more of the cryptic variety, so you will have the perfectionist type ones which you have referred, and then you will have Brigadier Mkhwanazi's, I think it's probably more typical, which is fairly cryptic little notes.

MS JELE: Perhaps - could point me to that document, so that we know exactly how to recognise that particular document, because we probably wouldn't have

known that –

CHAIRPERSON: He says that the, one of the documents that Ms Hardy produced, was a diary extract, was an extract of diary, he thinks a Captain, and my recollection is that Brigadier Mkhwanazi produced his diary for the relevant period, and it's an Exhibit. When Ms Pillay returns she will tell us what the Exhibit number is, because I haven't got a note of it. But those are typical examples of what you get. But perhaps I should ask one more question. I understand the pocket books are, when they are completed, are handed in and are stored. Is that correct?

GENERAAL-MAJOOR ANNANDALE: Dit is korrek. Dit word in die argiewe gehou, Voorsitter.

MS JELE: Just for the sake of completeness, we have been talking about pocket books, General would an officer's diary contain more information or less? Could you give us just an idea of what information might be contained in an officer's diary?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, daar sal waarskynlik minder wees omdat dit meer verwys na vergaderings bygewoon en tipies hoe die uitleg van 'n dagboek is, beperkte spasie en terme van net een bladsy of 'n halwe bladsy. Voorsitter, dan het ek die betrokke dagboek opgespoor, dit is onder die discover response by

the SAPS to request by the SAHRC, dated 22 April and it says, "contingency notes, pocket books and diaries. There is one of a Matebela.

CHAIRPERSON: We commissioners haven't got that, but presumably Ms Hardy will remedy that omission as well.

MR JELE: It might be easier for the SAPS team to do so, or alternatively for the evidence leaders, Chairperson, just because we would not have actually looked to having that particular document available. Our records is that we have two or three examples of such documents.

COMMISSIONER: I understood the Major-General to say that, that was a document that we got the other day as part of the distribution of documents before your cross-examination. If I misunderstood him then –

MS JELE: She would be referring to Molewetse's statement. Warrant officer Molewetse's statement and to annexures thereto, if I am not mistaken. General?

GENERAAL-MAJOOR ANNANDALE: It is under your paragraph 26, where it says discovery response by the SAPS to request by the SAHRC dated 22 April 2013. And that was apparently one of the documents that was made available based on that discovery request.

CHAIRPERSON: General, do I understand

correctly that you were handed some documents before Advocate Jele cross-examined you, which you were asked to peruse to be – so you wouldn't be taken by surprise when you were questioned about particular matters, was the document to which you are now referring an extract from the diary of the captain, one of those documents?

GENERAAL-MAJOOR ANNANDALE: Chairperson, we received a list and our nodal point compiled the exhibits in terms of, or the documents, in terms of this reference. So I did not receive it from Ms Hardy, so I do not know –

CHAIRPERSON: You received a reference to it, in effect?

GENERAAL-MAJOOR ANNANDALE: Yes, Sir.

CHAIRPERSON: Anyway, we didn't get them, it is an omission which I am sure will be remedied and, Ms Jele, if you need these documents before us, before you proceed with the cross-examination, the way to solve the problem is we take tea five minutes earlier and that will give Ms Hardy an extra five minutes to do the necessary. Is that a suggestion that finds favour with you?

[10:55] MS JELE: Otherwise I would move to another topic so that seems entirely convenient, Chairperson, thank you.

CHAIRPERSON: If you have got a five

minute topic we can do that, otherwise –

MS JELE: I don't believe I have any five minute topics, apologies Chairperson.

CHAIRPERSON: What depressing news, we will take the tea adjournment until quarter past eleven.

[COMMISSION ADJOURNS COMMISSION RESUMES]

[11:30] CHAIRPERSON: The commission resumes. I was asked not to come back at the appointed time because extra time was needed for the documents to be prepared. Are the documents that we asked for now ready?

MR SEMENYA SC: At least apropos the pocket books.

CHAIRPERSON: No, no before we get the pocket books. There was a document, I'll ask you about the pocket books in a moment. Ms Jele, Ms Hardy was going to get us some documents, our question is now answered.

MS JELE: If I might just address the question of the pocket books. With respect to those documents that the General was referring to he showed them to me, they are part of a set of examples of pocket books set to us as I understand it from the legal team on the 14th of May and within these sets are examples of pocket books that were chosen by the SAPS as being relevant to this commission. We are now seeing them for the first time, we would appreciate the opportunity to look through but we

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would also ask that all of the copies of what I understand, are the 500 pocket books currently sitting in this building be provided for the benefit of the commission to the extent that –

CHAIRPERSON: Where are these documents that, these pocket books at the moment?

MS JELE: Downstairs as I understand it.

CHAIRPERSON: Oh they're in the building here?

MS JELE: They're in the building here, Chairperson, as I understand the SAPS went through them, we would consider it appropriate for the benefit of the commission that all of these might be provided so that we have the benefit of going through them as well.

CHAIRPERSON: Well I thought, the way forward would be for you people to inspect them, go through them because you'll probably find an enormous amount of them don't really take us any further at all. So the practical way forward would be, I understand that these are selected by the police, you would like to take your own selection, I understand that, but the sensible thing to do if I may say so is for you people to go through them here and then if there are any that you want then you can obviously copy them but, and presumably they would be available also to the other parties also because they're

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here and I'm sure that, that's the attitude of the police. But anyway it sounds as if we can't do much about that at the moment because you've only learnt about their, where they are and you haven't had a chance to look at them before the, is that correct?

MS JELE: Indeed, Chairperson. I'm sure we'll make arrangements for the practicalities of looking at these with the assistance of the SAPS legal team and the evidence leaders.

CHAIRPERSON: Now are you going to a memorial service this afternoon?

MS JELE: I had not intended on –

CHAIRPERSON: No that's fine. We're adjourning at half past 2. So that gives you time from half past 2 this afternoon to –

MS JELE: I was hoping that at half past 2 you will no longer have needed to hear my voice, at the very least the General won't, that is my intent.

CHAIRPERSON: Yes well we won't go into that and then, Mr Semenya is there anything you want to add on the subject of the pocket books?

MR SEMENYA: Nothing beyond saying I've invited Ms Jele to inspect them during lunch.

CHAIRPERSON: Okay. So that's now disposed of for the moment.

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MS JELE: It is, Chairperson, thank you.

CHAIRPERSON: Now the other documents that you were dealing with, referring to in cross-examination are you now ready to proceed and if there's a document that you want me to mark as an exhibit.

MS JELE: The only other document that I understood was that referred to by the General which purported to be a copy of a pocket book, our understanding is that it was in fact one of these documents that we've just referred to and we obviously are not in a position to deal with these at this time. I would like to go to another topic if that might be feasible and convenient, Chairperson.

CHAIRPERSON: The documents that Ms Hardy has spent the lunch hour copying for us don't have to be –

MS JELE: Tea time.

CHAIRPERSON: Sorry, sorry tea time I beg your pardon. She spent the tea time copying for us, we don't have to refer to it at the moment, we don't have to give them exhibit numbers because I see there's several actually in this bundle.

MS JELE: Indeed. There seem to be several copies and examples of various pocket books and I believe one officer's diary.

CHAIRPERSON: Whatever.

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MS JELE: I'm not sure, I obviously haven't –

CHAIRPERSON: Okay, alright so we won't deal with them at the moment. You'll proceed with your cross-examination on this other topic to which you alluded before we took the adjournment which is going to last more than five minutes.

MS JELE: Thank you, Chairperson.

VOORSITTER: Generaal-Majoor, u is nog steeds onder eed.

MS JELE: General, the next topic I'd like to talk about, it has been talked about, it probably will be again in Potchefstroom. You mentioned for starters to my colleague Mr Burger that there was no agenda for Potchefstroom and that the structure of the discussions followed a chronological order. General, we've been informed that there were specific break off commissions, what exactly was the work done by each of those commissions, could you enlighten us specifically on that to the extent that a chronological process doesn't seem to fit.

CHAIRPERSON: I'm not sure if commission is the correct word. My understanding it was more breakaway groups but that's, or committees perhaps. But any way it's a matter of terminology.

MS JELE: That would –

CHAIRPERSON: Let's ask the Major-General what description was used. Were these breakaway commissions or committees or groups, what were they?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, wegbreek groepe, breakaway groups.

CHAIRPERSON: What you're going to be asked next is what, how many were there and what topics did each one have to deal with?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek sal nie vir u presies kan sê nie maar ek sal 'n goeie aanduiding kan gee soos ek dit onthou. Voorsitter, daar was 'n groep bevelvoerders van die 13e so dit sou pertinent Generaal Mpembe, ek aanvaar Lieutenant-Kolonel Vermaak, Brigadier Calitz waarskynlik, video operateur, ek is nie seker of die video operateur van die betrokke dag in die groep was nie. Dit sou enkele ander bevelvoerders wie teenwoordig was dan hetsy van Openbare Orde of Nasionale Intervensie Eenheid of die Taktiese Reaksie Eenheid sou dit ingesluit het. So pertinente bevelvoerders wie teenwoordig was by Potchefstroom en wat teenwoordig was op die 13de. Voorsitter, dan tipies sou die speurtak en die intelligensie bymekaar gesit het in terme van die geskiedenis van geweld en kriminele sake wat geopen is.

MS JELE: Sorry, General, just to shorten

time. We're aware of certainly who was invited and who was present based on the attendance register. My question specifically focuses we understand that not everybody was sitting in plenary session and that for example one group might have gone there to discuss a topic. If you could speak specifically to the topics that might have been discussed that would be of assistance to us, General.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja die 13e sou die gebeure van die 13de wat plaasgevind het. Die speurders dan die ontleding van al die sake wat hulle op hand het in terme van die geskiedenis van geweld beide in Implats en dan ook Marikana die aanloop. Dan is daar byvoorbeeld 'n groep, Kolonel Makhubela en sy bevelvoerders met die ses Nyalas wie verantwoordelik was vir die uitrol van die defensiewe lemmetjies draad. So ook Luitenant-Kolonel Mere en sy groep wat dan nou verantwoordelik was of deel van Brigadier Calitz se uiteendryf aksie groep. Voorsitter, dan sou tipes forward holding area 1 Generaal Naidoo met sy bevelvoerders en dan so ook Luitenant-Kolonel Pitsi met sy bevelvoerders van forward holding area 2. Maar dan sal u onthou dat op 'n stadium het Kolonel Pitsi, het hy vorentoe beweeg met net lede van openbare orde met vier Nyalas en een Casspir vanaf die forward holding area 2. So dit was dan nou weer 'n pertinente groep in terme van hulle handeling. Voorsitter,

dan tipes K9 groep STF groep, beide in terme van hulle eie pertinente rolle maar ook waar hulle saam met ander gewerk het, byvoorbeeld Kaptein Kit met lede van TRT wat by forward holding area 2 was, maar ook dan Kaptein Tupe, ek dink dis Nhlati en Luscht in terme van wie die TRT lede wat op die voorste linie ontplooiing was. Voorsitter, en dan die berede eenheid ek dink daar was 'n Luitenant Kolonel Stapelberg, sy insette en dan individuele insette soos byvoorbeeld van die water kanon operateurs in terme van Luitenant-Kolonel Botha wat nie noodwendig in groeperings was nie. Apologises, Chair, Botha did not report to the water cannons, the water cannon operators on their own, video operators on their own and Botha for instance on his own.

MS JELE: I suppose added to that would have been the input that we discussed a couple of days ago from the commanders on whatever information they had garnered from the debriefing that they had with their junior officers or members, you mentioned that they were unlikely to have taken notes but I suppose that they would have provided that input to the meeting during the various sessions, committees, breakaway groups?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja ek aanvaar so, die, na die wegbreekgroepe het individuele verteenwoordiger of 'n teenwoordiges van die

groepe het dan gaan staan by Kolonel Visser en Luitenant-Kolonel Scott en dan hulle weergawes gee. So dit was nie in 'n plenary sessie noodwendig sodanig weer gegee nie.

CHAIRPERSON: So it wasn't a plenary session? Plenary, after the breakaway groups commanders would go to Colonel Visser and Scott report what would come out of their groups but it wasn't a plenary session.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ekskuus ek het vergeet, daar was ook 'n groep wat gedeel het met beleidsdokumente, voorlegging, PowerPoint voorlegging wat, ek dink dis gedoen deur Brigadier Breytenbach in terme van die opleiding van die verskillende eenhede, relevante wetgewing wat dit konsolideer het en bymekaar gekry het.

MS JELE: If we could just have a look at GGG3, General. Exhibit GGG3 which is the, and specifically just the cover letter of the invitation sent to all those that attended at Potchefstroom.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het myne nie saam gebring nie, daar was soveel aanhangsels dat dit net nie my lêer gepas nie, maar u kan my net verwys daarna.

MS JELE: I'm going to hand you a copy –

COMMISSIONER HEMRAJ: I'm hoping your assistants behind you might actually find a copy. It's

very kindly -

MS JELE: Thank you, Commissioner. I will focus on two elements of this invitation. The first if I might refer you to paragraph 3.5 which is on the first page. Stationary: attendees must ensure that they bring sufficient stationary. Do you see that sentence?

GENERAAL-MAJOOR ANNANDALE: Ek sien dit, Voorsitter.

MS JELE: It could only be appropriate of us to assume that since individuals were asked to bring sufficient stationary it was anticipated they would need to take notes and that those notes would actually be contained on that stationary, General, are we correct in that reasonable assumption?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek weet nie wat die bedoeling van die skrywer was nie, maar ek dink dis redelik.

MS JELE: Certainly in relation to the reports that each of the breakaway groups that you described would have provided to the plenary session there might have been some record for whomever was responsible for the report back to make sure they kept everything in line when they got back to Lieutenant-Colonel Scott.

[11:49] GENERAAL-MAJOOR ANNANDALE: Dit is verseker ‘n redelik aanname as jy terugvoer gee vir ‘n

groep moet jy sekerlik -vir ‘n groep moet jy sekerlik notas gevat het of ‘n flipchart of iets.

MS JELE: In addition, we were informed in one of the responses to our requests for discovery that Brigadier Calitz had actually liaised with the different commanders to furnish information that was eventually collated for the presentation, which I presume is exhibit L, that too, I imagine, Brigadier Calitz would have required some form of written writing in order to keep track of all of the information that was sent to him from these commanders.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, as hy dit saamgevoeg het, hulle insette, dan sou ek aanvaar het dieselfde sou gegeld het dat hy sou moes notas gemaak het, tensy die individuele bevelvoerders persoonlik terugvoer gegee het.

MS JELE: Sorry, I just want to make sure I got the interpretation correctly. The general was shaking his head, I want to make sure I got his answer.

CHAIRPERSON: As u, u antwoord kan herhaal, dan kan ons sien of die vertaling korrek was.

GENERAAL-MAJOOR ANNANDALE: Chairperson, I think that, ja, I said that if Brigadier Calitz indicated in terms of your correspondence that he collated it, the understanding is that he would have then captured the

different inputs from his commanders, or the other possibility is that him and his commanders gave individual feedback after the discussions, I obviously do not know.

MS JELE: To the extent that all this information was fed in with respect to events that had taken place a considerable amount of time earlier, we would assume that exhibit L would have been a summary condensation of all of that input, and that, that input, in and of itself, might contain information relevant to this Commission. To the extent that we have been informed that there are no such contemporaneous notes, based on your earlier answers just now, General, that seems rather odd.

CHAIRPERSON: - what you mean by contemporaneous notes. By contemporaneous notes, do you mean notes made at the time of the Potchefstroom meeting, or you mean notes made at the time of the events and the periods from say the 13th, or even before that, to the 16th August? What do you mean by contemporaneous notes?

MS JELE: Perhaps I should rather refer to them as Potchefstroom notes. Over a period of days, reports, discussions, all of which must be kept in mind and which eventually are collated. Surely there’s some documentary record.

CHAIRPERSON: Alright, so the simple point is that the letter in 3.5, effectively would tell to

people to bring paper. They call it stationery, but it’s paper. Now obviously they bring paper because they’re expected to write on it. I mean that’s the simple point, isn’t it?

MS JELE: Indeed, and the general had also referred to flipcharts earlier that might have been used during this process. That’s the kind of documentation we’re referring to, Chairperson.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek, persoonlik, het flipcharts waargeneem en daar was ook bevelvoerders wat gestaan het. Hulle het fisies gaan staan waar Kolonel Visser en Luitenant-Kolonel Scott was en hulle het papiere by hulle gehad. So of hulle dit ingehandig en of hulle net van dit af gelees het, dit weet ek nie.

MS JELE: I just want to flag, Chairperson, for the record, that’s a further request for discovery that the SAPS, I would hope, could comply with sooner rather than later.

CHAIRPERSON: Such bits of paper as were left over after the Potchefstroom conference. Was this an oral request that you’re making now?

MS JELE: The exact question was that in relation to the meeting held at Potchefstroom, if they could provide full list of invitees and attendees – that we have been provided. Copies of all letters and dictation,

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the agendas used – we now know there was no agenda. A description of the role of Luitenant Scott, General Mbombo, Brigadier Calitz, General Mpembe, General Annandale at the meeting. A list of groups and subgroups and their tasks and instructions. Documents, notes, draft statements or similar used to inform the meeting. Minutes and/or recordings of the meetings. Draft or final reports or plans or similar produced by groups or subgroups to inform the final presentation and any other relevant documentation. That was the specific request.

CHAIRPERSON: The question that I'd like to ask you is, is this the right witness to address these questions to? I understand that was the request you sent to the police, and presumably we will hear in due course, insofar the relevance, what the response was, but this particular witness wasn't the clerk of the papers at Potchefstroom, so you could only really ask him questions which help you to take the questions you're going to direct to other witnesses in this regard a bit further, is that correct?

MS JELE: In certain respects, the general has answered a number our queries to the extent that they are relevant to that request. He has also confirmed that these are pieces of paper, documents, potentially notes that might in fact exist, and it is for

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that reason that I ask this question of the general, since he was present at Potchefstroom. To the extent that we have not been provided any flipcharts, notes, etcetera, and we've been informed that none of those are available, or at the very least, whatever is available, has already been provided to the evidence leaders. On the basis of the evidence of the general, we would submit that there certainly must be more to those documents and/or notes, otherwise there's obviously a question as to how individuals would have kept all of this in memory during that process, where those –

CHAIRPERSON: These are arguments obviously that you'll make at the appropriate time.

MS JELE: Yes, Chairperson.

CHAIRPERSON: I'm just concerned that the questions you ask this witness should be capable of eliciting answers that will help us, but I'm not stopping you, I just raise a red flag in that regard – raise a cautionary note.

MS JELE: I certainly had finished questioning the witness on the specific issue to the extent that it's established what I've just mentioned.

CHAIRPERSON: So you're now going to move on to another topic?

MS JELE: I'll move on just to one more

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question about Potchefstroom about Potchefstroom, if I might, Chairperson.

CHAIRPERSON: Yes, fine.

MS JELE: You indicated, General, in your testimony that one of the individuals that had been invited to Potchefstroom, had been invited specifically because you wanted "an independent facilitator." Do you recall that portion of your evidence, General?

GENERAAL-MAJOOR ANNANDALE: Ek onthou dit, Voorsitter.

MS JELE: The person that ended up being referred to - I can't remember, I'm afraid, his name, if I might – is a member of the SAPS, am I not mistaken?

GENERAAL-MAJOOR ANNANDALE: Brigadier Van Graan van die polisie se regsafdeling, dis korrek.

MS JELE: To your knowledge, General, and that would be only to your knowledge, was anybody from IPID invited, and would you not have expected to see at the very least one face from IPID during the course of this process?

CHAIRPERSON: - perhaps he can – I don't normally allow double questions, but –

MS JELE: I did combine them, apologies, Chairperson.

CHAIRPERSON: Alright. Anyway, was anyone from IPID there?

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GENERAAL-MAJOOR ANNANDALE: Nee, Voorsitter.

MS JELE: Well, that settles that. Now, if we could look at 3.6 of GG3 of the invitation - cameras and evidentiary documents. It states that, "All officers, members, that took photos must bring their cameras/cell phones to the session, as well as the photos if not downloaded yet, all other evidentiary documents must be brought to the session." Now, before I go into the detail of this issue, might I ask you to enlighten us, General, on any protocol there is for officers' cell phones in use, potentially during the course of an operation or whilst on duty?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek weet nie of daar geskrewe protocol is nie, maar ons lei polisiemanne nie op om tydens 'n optrede en operasie met hulle privaat selfone en kameras fotos te neem nie. Daarvoor is daar amptelike fotograwe en persone amptelik getaak om opnames te neem.

MS JELE: To the extent that you've mentioned that there were some communications by SMS and cell phone during the course of those operations, and taking into account that we've established that there were certainly some communication problems generally, which, I would put, to you raises the possibility that there might

have indeed been quite a bit of communication by SMS and cell phone to the extent that that might have been the only communication available at certain points in time, is there a protocol by which officers would be obligated to provide a record of such communications, to the extent that they might, for example, contain instructions, General?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, nee, daar is nie so 'n pertinente protokol in die polisie nie.

MS JELE: Now, we know that certain phone footage certainly was made available, would it be fair to assume that there be more such information and/or SMS's, records available, with respect to communications that might directly relate to steps taken during the course of the week at Marikana?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het net verwys na die bevelvoerders wat hier teenwoordig was, Potchefstroom, en hulle het almal aangedui dat die wat dit nie gebring het nie, het dit – byvoorbeeld Kaptein Ryland, het dit later aan beskikbaar gestel. Ek kan nie sê dis nie redelik om te dink daar kan dalk een van die 600, 700 polisiemanne wat ook sodanige kommunikasie het nie, ek weet werklik nie.

MS JELE: Thank you, General, neither could we. If I might now turn to a different topic, still

under the headline of the issue of accountability and disclosure –

CHAIRPERSON: - moving away now from topics covered by paragraph 3 of the exhibit GGG3?

MS JELE: We are, Chairperson.

CHAIRPERSON: I'd like to ask a few questions before you move on. We know, of course, that the videographers, some of them, didn't take photographs or make video recordings after a certain stage, and we also know that there were no videographers, as far as I understand certainly on the ground, at scene 2, but it does look as if General Naidoo had information to the effect that there were, or might well be, officers or members who took photographs, because he specifically included this request in paragraph 3 of his letter. It's addressed to all officers and members who took photos and they were told to bring their cameras and cell phones, as well as the photos, if not downloaded. Did you have any information which indicate – or is it simply a question we must ask Major-General Naidoo – did you have any information about photographs being taken either with cameras or cell phones by officers and members who were on the scene, other than the official photographers and videographers?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, nee, ek het nie informasie gehad nie, maar my ervaring in

terme van groot gebeure in die polisie, is dat polisie beamptes wel hulle privaat fone gebruik om opnames te maak.

CHAIRPERSON: So this request was of course only directed to those persons who were invited to attend the meeting and in fact did so. Regard being had to the point that you've made about your experience, would not have been more sensible to have sent out a request to all persons who were involved in the operations – all 600 of them over the period - to produce photographs from cameras, if they had them, or from their cell phones, and not just limited the request to those who attended the meeting?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ons het dit gedoen, indien nie elke dag nie, meeste van die dae, vanaf die 17de, op die JOCOM vergaderings terwyl ons nog die groep mense daar gehad het, want ons het hulle so begin vervang in die week van die 20ste, het daar vervangings gekom. En dit was elke keer, was dit in die bevelvoerders, en elke keer as hulle die parade gehou het moes hulle daardie versoek gedoen het en vir ons terug gebring het om te kom aflaai.

CHAIRPERSON: The request was, they should bring their cameras, I take it, or their cell phones so that the photographs in question could be downloaded. Do you know whether that happened, whether a number, any of the members responded to this request? And whether

photographs were downloaded during that period up to the 20th?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek weet werklik nie. Luitenant-Kolonel Scott was aanvanklik die nodale punt in terme van enige sodanige aflaai. Hy sal, waarskynlik, kan lig werp daarop.

CHAIRPERSON: So, he is the person we can ask. Now, the other question I want to ask you in relation to 3.6 of the letter. Is there is a reference to what is described as all other evidentiary documents. So all the officers and members present were instructed to bring, what would be described as all other evidentiary documents, that is – from the photographs. What sort of documents were requested, what is this phrase, "other evidentiary documents," cover. Do you know? Or must I ask General Naidoo when he comes since it's his letter?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek kan probeer help, Generaal Naidoo kan waarskynlik meer lig werp. Dit was pertinent verklarings, is daar reeds verklarings van selfs die aand van die 16de, die 17de het IPID begin verklarings neem. So, as indiwiduele bevelvoerders afskrifte van hulle verklarings gehad het. [12:09] Voorsitter dit was die voorvalle boeke wat opgeskryf was, die rekords in die JOC en dan was dit direktiewe pertinente verwysing na die eenhede wat daar

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ontplooi was en dat vreeslik baie van uit my kantoor uit gekom, openbare orde, TRT, NIU, STF, ja ek dink dis uit my kantoor uit maar enige relevante beleidsdokument was ook dan deur gebring soontoe.

CHAIRPERSON: Thank you.

MS JELE: Thank you, Chairperson. The next questions I have for you, General, relate to the issue of minuting of JOCOM minutes. Now I understand that it's been dealt with to the extent that you've spoken with my colleague if I'm not mistaken, Mr Budlender about the details of what is or is not contained in those minutes. But it's with respect to when minutes are taken at all, the meeting firstly on the 13th, specifically at 11PM at which the National Commissioner attended were there any minutes taken of that meeting, General?

GENERAAL-MAJOOR ANNANDALE: Nee, Voorsitter.

MS JELE: Is there any specific reason why that specific, it was a JOCOM meeting was it not?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, nee dit was nie 'n JOCOM vergadering nie.

MS JELE: Is that also the case of the meeting that the National Commissioner referred to as having taken place on the evening of the 16th?

GENERAAL-MAJOOR ANNANDALE: Voorsitter,

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ek weet nie van die vergadering, die enigste vergadering wat ek weet is, ek het vroeëre verwys daarna, daar was in 'n aparte kantoor dan die JOC was daar 'n vergadering gewees wat die Nasionale Kommissaris en 'n verskeidenheid van senior offisiere teenwoordig was, ek was een of twee kere was ek in gewees om informasie te gee maar ek het nie besonderhede van die vergadering nie.

MS JELE: Noted, General, was the JOC still functional after the 16th, that is during the operations that took place 17th, 18th, 19th and following?

GENERAAL-MAJOOR ANNANDALE: Dit is korrek, Voorsitter.

MS JELE: Are there any minutes available to your knowledge of the JOCOMs that might have been dealt during that period?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek weet nie of daar pertinente notules beskikbaar is nie.

MS JELE: My apologies, perhaps it's something that was lost in translation. Are you suggesting that those minutes may not be relevant or that you don't know whether or not there are any, I'm just not sure, General?

GENERAAL-MAJOOR ANNANDALE: Latter.

MS JELE: Noted, thank you, General. Were there any other meetings that you attended, mention

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has been made in evidence before this commission of a meeting that might have taken place earlier October, it was a meeting at which the statement of Warrant Officer Myburgh was presented to the National Commissioner, were you present at that meeting, General?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het, ek kan nie onthou dat ek vir Myburgh pertinent ontmoet het nie. So ek was nie teenwoordig gewees nie, daar was 'n ondersoek gelas maar nee ek weet nie van die pertinente vergadering nie.

MS JELE: Then I need to ask you nothing further on the topic. I'd like to move now to another theme.

COMMISSIONER HEMRAJ: No, no before you do that. May I just explore something. Colonel, when you look at all the attendance lists of the debriefing sessions over all the days at Potchefstroom you will notice that on different days there's different numbers of people attending. Now is that an indication of the breakaway groups?

GENERAAL-MAJOOR ANNANDALE: Kommissaris, nee almal het begin die, elke dag as een groot groep en afgesluit elke dag as een groot groep en dan was die bywoningsregister was gesirkuleer. Kommissaris, daar kon mense gewees het wat teenwoordig was wat eenvoudig nie die

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bywoningsregister voltooi het nie. Maar daar was ook dae wat almal nie teenwoordig was nie, of party dae wat daar net addisionele mense deurgekom het vir 'n pertinent terugvoer of inset. Maar Brigadier Mkhwanazi, hulle was 'n spannetjie wat gekyk het na die opleidings curriculum en die samestel van die voorlegging en opleiding.

MS JELE: Thank you, Commissioner. Now before I dive into this next issue, General, throughout the operation that was conducted during the afternoon of the 16th you were in the JOC and I would say for example pertinent times being from 3:30 to say 5 o'clock, 5:30, were you inside the JOC throughout that period?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, met die uitsondering van twee of drie keer wat ek 'n selfoon oproep gehad het, kan ek sê ek was in die JOC gewees.

MS JELE: One of, my first question specifically relates to the issue of attraction points. Now my question relates specifically to the issue of the choice of positive or negative attraction points. I understand, General, that you would observe the layout, the movement of the various individuals engaged in a demonstration in order to determine for yourself where a positive attraction point was and where a negative attraction point was, such as for example noting where the

power plant was, that's the kind of information you would look at prior to setting up an operation in order to make those determinations, am I correct?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja daar's 'n verskeidenheid faktore, gaan kyk na geskiedenis van geweld, waar dit plaasgevind het en dan het ons swaar geleen op die informasie van mnr Botes van Lonmin in terme van waar tipies die groepering sal bly, byvoorbeeld watse hostelle is tipies 'n NUM hostel en watter hostel is tipies AMCU en dan uiteraard kyk ons ook na die topografie van die omgewing.

MS JELE: You've mentioned specifically the Lonmin footage and you also had mentioned earlier in your testimony that in your view the strikers arrived at the koppie from all directions. Now I don't want to canvas with you the issue of the route they might have taken or not taken at the time the barbed wire was being deployed. What I do want to canvas with you is whether or not the strikers did in fact come from what you termed all directions specifically as I presume it would have informed your understanding of where such attraction points were, it would have been one of the relevant factors.

GENERAAL-MAJOOR ANNANDALE: Dis reg ja, ek het verwys dat hulle van alle rigtings, alle wind rigtings het hulle gearriveer en dit is uiteraard 'n

faktoor wat ons in gedagte hou.

MS JELE: In relation to the arrival of the strikers at the koppie I'd like us to look at the, a video, General, Chairperson, the video is from one of the CCTV cameras titled camera 241. 241.

CHAIRPERSON: Is it an exhibit yet or is it going to be one now?

MS JELE: It would be one now, Chairperson.

CHAIRPERSON: Alright. So it would be GGG33. It's a video taken on the 16th I take it?

MS JELE: It's taken on the 16th and since it is a static video as you can see the image is coming up, what my colleagues have done is that they have speeded up the time in order that we not, need not look at it for to long and perhaps it can be played now.

CHAIRPERSON: It would be exhibit GGG33 and I've described it as camera 241 CCTV camera video taken on 16 8 12. All CCTV cameras were Lonmin cameras aren't they?

MS JELE: There were, Chairperson, yes.

GENERAAL-MAJOOR ANNANDALE: Chairperson, if I may suggest that it was on the Roland headgear, the position of the camera Roland Headgear.

CHAIRPERSON: Thank you very much.

MS JELE: There are two different videos from CCTV camera 241, one of them specifically a Roland Headgear one. We identified this one as camera 241 because it's in that folder, just for the sake of facility, for our colleagues to be able to find it, General.

CHAIRPERSON: There's a suggestion that there are actually pictures taken from two particular vantage points or are they all taken from the CCTV camera which was mounted on the Roland Headgear?

MS JELE: They're all taken from –

CHAIRPERSON: The Roland Shaft isn't it, so I take it the headgear is above the shaft.

MS JELE: They're all taken from this particular camera. One of them shows the movements of the strikers as they reach the koppie and it's in a file called camera 241. The other one shows later images and is in a file called Roland Headgear.

CHAIRPERSON: - the camera was mounted on the Roland Head Gear all the time. So the description which –

MS JELE: Just to make sure my colleagues can find it, if they want to see it after today, Chairperson. Please have a look at those images, I appreciate that due to the fact that it's a CCTV camera that they are rather faint but what I'm looking at is the

movement of individuals during the course of the 15 to 20 minutes period that this particular video looked at.

CHAIRPERSON: That time is, shouldn't we be told that?

MS JELE: On the video it says around 10 if I'm not mistaken, Chairperson.

CHAIRPERSON: 10AM?

MS JELE: Yes, Chairperson.

CHAIRPERSON: Thank you.

MS JELE: From this point onwards the camera no longer moves around and I don't know if you can see it, General, but you can see the individuals at this very high speed coming to the koppie, amassing on the koppie and from this image, General, we can see that there are some individuals arriving from what I would call the top of the image, which I presume it's from Marikana informal settlement, but that individuals are not arriving from 360 degrees but rather in their vast majority are arriving from one unique direction. That being from Nkaneng and there you can see the cars of the officers arriving and that's where the video ends. It's playing again if you need to look at it again, General.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek's nie seker nie, dit lyk vir my asof dit van uit die westelike rigting afkom daai en dan potensieel van noord.

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MS JELE: Is the power plant not directly in front of it, at this stage, General?

GENERAAL-MAJOOR ANNANDALE: Dis korrek, as die kragstasie daar is en die kragstasie is suid, dan aanvaar ek die bo kant is noord en dan aanvaar ek die, so ons sal moet 'n foto kry laat ons net kan sien in terme van watse kant daai is. Voorsitter, daar's ook verskeie voorvalle boek inskrywings wat verwys na ander kante wat die mense vanaf kom maar dat die belangrikste is dat die hostel, Karee hostel wat hoofsaaklik AMCU beheerd is, is in die westekant en dan die Wonderkop hostel is in die ooste kant asook die NUM kantore en dan is die gebied waar daar ook dan die interaksie, die clashes tussen NUM en AMCU was op die Saterdag en dit het baie swaarder geweeg in term van die bepaling van die positiewe en negatiewe attraksie areas. Maar ook belangrik is die ruimte wat jy vir jouself toelaat in terme van enige uiteendryf aksie want hoe groter die ruimte is, hoe skrale is die kans in van in terme van dat mense mekaar sal vertrap. Voorsitter, en dan tot groot mates, soos ek getuig het was die posisieonering van die polisie bepaal deur die posisieonering van die groeperings van die stakers.

[12:29] MS JELE: General, I appreciate it's rather difficult to actually see from this particular viewpoint. I must say it appears much clearer on one's

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laptop directly in front of us. Might I show you a photograph in order, at the very least to establish the viewpoint of this camera and to show you where it is we were referring to the majority of individuals walking. My colleague Ms Hardy will distribute them, we had not anticipated that we might need them but it was signalled that we might rely upon them to all the parties. We certainly have colour copies which Ms Hardy is going to distribute at this time. If I might have the Commissioner's indulgence.

CHAIRPERSON: I just have to say we'll have to be given the exhibit numbers all right.

MS JELE: The bundle might indeed, we would only be referring to the last photograph of the bundle that Ms Hardy has provided.

CHAIRPERSON: It will be GGG34, bundle of photographs of what?

MS JELE: These are photos taken by Vermaak, Chairperson.

CHAIRPERSON: Photographs taken by - he's a Colonel isn't he? Taken by Lieutenant-Colonel Vermaak. Is that right?

MS JELE: Indeed, Chairperson.

CHAIRPERSON: Alright. That we will mark as I said GGG34. I see there are numbers in the top right-

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hand corner of each page and you are referring to, is it the last one which is -

MS JELE: The last one which is 4540, Chairperson.

CHAIRPERSON: Ja. That's not perhaps exhibit L, it does look a bit familiar but I suppose a lot of these pictures are familiar even if they're not in L.

MS JELE: I must confess, Chairperson, we fundamentally worked on the photographs as they were taken in order to have our own view of those photographs to the extent that in exhibit L they might be either smaller and or already marked.

CHAIRPERSON: You're addressing our attention or directing our attention rather, to the photograph marked 4540 which is the last photograph in the bundle, exhibit GGG34.

MS JELE: Mr Chairman, there's a sticker attached to the copy handed to me, I don't know if it's part of your instructions - apologies, Commissioner, those are probably our filing postings, apologies for that, Commissioner. I assure my colleagues that -

CHAIRPERSON: There's nothing incriminating on it as far as I can see.

MS JELE: Thank you Chairperson. From this photograph all I would like to point you to General is

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the fact that the path that goes from what I would describe as the bottom left-hand corner of photograph 4540, the last of this bundle heading towards the koppie is the path that this camera looks at and that we submit at high speed it becomes extremely clear that the vast majority, not all, I can see not all so the vast majority of individuals that were going to and from the Koppie, certainly that morning, were essentially along that line where you can see a number of individuals passing the crowd. And to the extent, if you were to accept that that was the case could we at least agree General that that would have informed the decisions you were taking in terms of what were or were not positive attraction points?

COMMISSIONER HEMRAJ: Just before you answer that. Ms Jele, what appears on the extreme left-hand side top corner of 4540?

MS JELE: That is the file number. It can be filed generally.

COMMISSIONER HEMRAJ SC: What is the structure that appears at the corner at the top left-hand side corner of the -

MS JELE: The power station as I understand it, Commissioner.

COMMISSIONER HEMRAJ SC: And where is it on that photograph, on that slide before us?

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MS JELE: Directly in front, below the camera. That's how we understand it, perhaps my colleague, Mr Semenya can deal with it in the examination if he wishes, if he sees it otherwise. But that's how we understand it.

CHAIRPERSON: The previous photograph, 4524 I think what is in the extreme left-hand corner, the top left-hand corner on 4540 is in the top right-hand corner on 4524. It doesn't look like what is below the camera in this video but I can't say -

MS JELE: General, can you help with, Chairperson, I don't understand all of these photographs to have been taken from the exact same vantage point.

CHAIRPERSON: No, no, no I understand that. I understand that we're trying to identify what we see, the top left-hand corner of 4540 and the top right-hand corner of 4524. The pictures are obviously taken I would think from different positions but we're trying to identify that and then see if we can find it on this video you see and then we can -

MS JELE: It might assist to consider the fact that this camera is extremely far from that location and it would be our submission that however much the distance that is the vantage point from which it is looking at and perhaps the water tower in the distance might be

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something that I would look to my team identifying for you in order to specify the direction, directional view of the CCTV camera.

CHAIRPERSON: I wonder whether one can't solve the problem by getting a map you know, an ordinance survey map or a surveyor-general office map which shows these areas points that we can see here and also gives us the compass points. Because once we've got that we'll then be able hopefully to perform the exercise you want performed. Do you have to put it to this witness? I take it that other witnesses will come as well to whom you can put the point. I understand it's relevant for the attraction points but this isn't the only witness on attraction points is it?

MS JELE: It is indeed not the only witness, we had hoped to canvass with the Major-General because he had referred to the provenance of all the strikers. It is an issue that we intend to canvas with other witnesses and perhaps that clarification can be worked on by my team in order to canvas it in detail with other witnesses. Would that be acceptable, Chairperson?

CHAIRPERSON: I don't want to stop from putting it to this witness if you want to do so. I'm merely suggesting we may be able to use the time more profitably if the questions are put to another witness

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who's equally able to deal with it and you can do so in focussed directed way once we know exactly what is depicted on this photograph, where it was taken from, where true north is and so forth. But you must follow your own course, I can't dictate to you, you must do your cross-examination.

MS JELE: I accept that, Chairperson, thank you. My team will certainly work on a further and more detailed presentation on these specific to another witness. This might be the appropriate time to deal with my next point, Chairperson.

CHAIRPERSON: So effectively you're holding this point over for one of the other witnesses called by the police and I suppose if somehow you find it unavoidable that the question must be put to the Major-General he may have to come back. But it sounds as if you'll able to deal with the point with other witnesses without troubling him to come back again.

MS JELE: Might this be another one of those issues that was dealt with the General during the course of his examination in chief but that he may not able to attest to pertinently and that would be best and more pertinently attested to someone else and that we might put on the record that we disagree with his evidence that the strikers arrived from 360 degrees of all corners. Would

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that be the appropriate way to deal with it, Chairperson?

CHAIRPERSON: I would have thought so, but this video itself you don't have to know where the compass points are to be able to say that according to this video it looks as if most of the people came from one particular direction and others to come from other directions. But certainly 360, there are not 360 specific directions from which the witnesses come. So that one we can see for ourselves. Perhaps you can just deal with that shortly, perhaps you can deal with that shortly with the witness before you move onto your next point.

MS JELE: Certainly.

CHAIRPERSON: But I don't want to hamper you in any way because I'll be accused of bias if I do that.

MS JELE: Thank you, Chairperson. Chairperson, just to alert the General that was the main thrust of our submission was that the image indicated that - we can establish the direction

CHAIRPERSON: Sorry Ms Jele, Mr Semenya wants to say something before you ask the question.

MR SEMENYA SC: Chair, just for my edification I would like to appreciate whether the point being made is that the positive attraction point was at a point different than how we describe it in our plan or

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what?
CHAIRPERSON: That's a fair query in the circumstances. I understand you're not going to take this point probably with another witness but in order to help Mr Semenya to prepare and to, presumably to lead some of his future witnesses I take it he'd like to know what your case is in respect of positive and negative attraction points. Can you tell him briefly either now on the record or possibly during the shortened lunch adjournment we're having today?
MS JELE: The best I can do for my colleague is to refer him to the paragraph 4.4.23 of the provisional statement of Gary White where he deals with the issue of attraction points and as it is his provisional statement he does deal with those issues. And that would be the paragraph where my learned colleague the answer I believe to his query and we might deal with it in greater detail then with another witness.
CHAIRPERSON: Can you perhaps tell us shortly so that we can understand you? Obviously we don't want the detail but just the general gist, thrust of as it were of it. Or would you prefer not to do it now?
MS JELE: On the information that was available to Gary White at the time when he drafted this preliminary point he says "that the evidence suggested the

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protesters approached the koppie majoritarily through this particular path," and as a consequence he would have anticipated that they would have considered that particular direction as a positive attraction in their planning process. That is succinctly this very short segment of Gary White's statement.
CHAIRPERSON: Mr Semenya, are you now -
MS JELE: And that the plan to block it was relevant as well, if I may.
CHAIRPERSON: Are you now enlightened on the query you raised?
MR SEMENYA SC: I am, Chair. I've always understood Mr White to suggest that a positive attraction point is where people live. If that's the only point he made we'll have a conversation with him.
CHAIRPERSON: Alright so it sounds so it sounds as if we can now profitably move onto the next point.
MS JELE: I thought we might, thank you, Chairperson. If there is no need for Xhosa interpretation might I go to the other matter or, General did you wish to say something.
GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek kan baie lig op hierdie werp as ek 'n geleentheid gegun kan word.

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CHAIRPERSON: He said baie lig, he said he can give a lot of light on this issue if he's given the opportunity so shall we ask Ms Jele whether we can give him the opportunity?
MS JELE: I could not possibly be heard to deny him, Chairperson.
CHAIRPERSON: You've got permission to proceed.
GENERAL-MAJOOR ANNANDALE: Voorsitter, my beskeie opinie is dat die kamera is oos en hy kyk direk wes soos gereflekteer. Voorsitter, ons merk op die klein koppie en dan merk ons die agterkant van die polisie lyn ook, so dis waarop ek dit baseer. Voorsitter, vir dit werd is in bewysstuk SS3 is daar onder die "Operation Platinum 14 August 2012 stage one" so vyf of ses bladsye in is daar 'n photo "Phase One Operational Overview wat dalk net kan help in die oriëntasie. Voorsitter, as jy dit het dan sal u sien die Greater Squatter Camp word op die bokant aangedui en dan op die regtekant is dit verwysend na die Wonderkop Mine Hostels en dan ook NUM office en dan ook die Mine Hospital.
MS JELE: I'm sorry to interrupt the General but perhaps - while I appreciate his input perhaps the entire exercise can now, based on what we just discussed, be done more holistically with someone else.

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CHAIRPERSON: He says he can throw light, he said he can throw a lot of light, baie lig, on this matter and you gave him permission to throw it so I think we can't stop him.
MS JELE: Then let me live with my regrets, thank you, Chairperson.
GENERAAL-MAJOOR ANNANDALE: Chairperson, then it's important to note that the positive and negative attraction points they were not determined on the 16th, they were already determined as early as the Tuesday the 14th and it's based on the intelligence information at the time that we determined that and we did not change a positive to a negative later on. It was always the same even on the 16th. Chairperson, I do not deny that there was a probable, bigger movement on the path that is coming from Nkaneng basically from the eastern side but, Chairperson, that was not the only side, if we can refer to the specific photos that were provided by Advocate Jele, Chairperson, then even on them if we start from the very first one, number 4512 we will see that there's numbers of people also coming from the western side and then a bigger concentration coming from the northern side and then obviously the movement on that specific pathway coming from the mostly eastern side. The next photo 4517 will show a relative concentration on the right-hand side of the photo so the right-hand side of

the smaller koppie which is then the northern side. And subsequent photos will also show coming from the western side and also from the northern side, not excluding the eastern side.

[12:49] Chairperson, even in exhibit 555.25 the occurrence register held at the Marikana JOC entry 186, I assume it's on the 16th at 12:15, "Situation report, chopper 2 reported that plus-minus 1 500 remaining at the koppie and others just flee to different directions and to the hostel."

CHAIRPERSON: That's the 15th.

MAJOR-GENERAL ANNANDALE: Thank you, 15th, and then later on entry 191 at 12:50, "VOC control reported that the people moving to the village. They are intending to intimidate in the villages in Wonderkop," which is at the western side. Chairperson, even on the 16th then, entry 975 at 09:30, "Chopper 1 reported lot of people on street coming from western side of Marikana, moving to the koppie." Entry 987 at 10:23, it refers to a plus-minus 200 gathered at northern side of the koppie, and then there's further reference made in terms of that group on the northern side. So my point is, to illustrate, Chairperson, that I do not deny on the 16th that there were probably a bigger movement. It's also possible that there was a bigger recruitment of people coming from that area on the

16th, but there was movement from all over and this was not our biggest motivation in terms of determining the positive attraction point.

MS JELE: Thank you, General. We accept that. Might I at the very least ask from your experience, with respect to the determination of negative and positive attraction points, these are entities, or these are points and/or directives informing your plan that exist independently of any choices you make. These are points that you assess from the information as you've just stated, from various factors and various observations. Positive and negative attraction points are not created by the SAPS; they are noted by the SAPS and decisions made on that basis.

GENERAAL-MAJOOR ANNANDALE: Besluite geneem, maar dan ook in gevalle word dit bepaal deur die polisie in terme van dan die informasie tot hulle beskikking.

MS JELE: General, on that we agree. As regards my further point, one of the questions that was asked of you by my colleague Mr Budlender, was at what moment in time you had first heard –

CHAIRPERSON: Are you moving on to another point?

MS JELE: I am, if I may, Chairperson.

CHAIRPERSON: Yes. I understood you to say the positive and negative attraction points were determined on the Tuesday, based on information which was available to you at that stage. Is that correct?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja die middag toe ons uitgegaan het toe het ons reeds gaan posisie inneem in terme van die posisie van die groepering, so dit was reeds al daar bepaal.

CHAIRPERSON: And I understood you to concede that on the Thursday there was quite a lot of movement from the side of Nkaneng. Is that correct?

GENERAAL-MAJOOR ANNANDALE: Dis reg, Voorsitter.

CHAIRPERSON: In the light of that, would it have been sensible to, or appropriate to have revised your determination of positive and negative attraction points to incorporate that information which you now had on, which we can see from the occurrence book entries you read, some of them, to incorporate that information, leading possibly to a redetermination, or certainly a revision in some ways of your positive and negative attraction points?

GENERAAL-MAJOOR ANNANDALE: Voorsitter, die ander faktore wat ek vermeld het, het heeltemal te swaar geweeg, so selfs dit sou dit nie verander het nie.

CHAIRPERSON: Thank you.

MS JELE: General, I was mentioning the question that was put to you by my colleague, Mr Budlender, and as I understood his question, he asked you when you heard the first time that individuals had been shot and killed, and you responded that it was a bit blurred and that time stood still, but you thought it was around 4:30. To the extent that the issue of timing within the context of the events, specifically of Thursday afternoon, is extremely important and something that certainly this Commission would benefit from confirming, I would appreciate your assistance in looking at this next video that we understand to have been taken from the Coin chopper, and that we understand the timing of which to be indicative of a number of key moments during the course of the operation. Now we provided everyone with a copy of a transcript of the statements and/or utterings heard on this video. The title at the top of this document is again a reference to its location within files. I am alert to the fact that my colleague, Mr Burger, has been at pains to indicate that the chopper in question was the Protea Coin chopper. The words at the top of the page, being the name of the location and the file as it currently stands, Chairperson –

CHAIRPERSON: Ja, I see that the heading

of the document you provided refers to exhibit CC22, so do I understand the video we're going to see is already before us as exhibit CC22?

MS JELE: The video is. An agreed transcript is not, Chairperson. Again this transcript was put together by the Human Rights Commission [inaudible] team. We understand that the evidence leaders are also working on a transcript. We look to have an agreed transcript amongst the parties some time soon. We provided these notes in order to facilitate the following of the various issues that come up.

CHAIRPERSON: Well, in view of the fact that the video is before us already - obviously it's got the exhibit number – we will call this exhibit GGG35, your transcript. It may require revision and in which case we may renumber this 35.1 with the revised correction, corrected version, 35.2, if there are such revisions and corrections necessary, but for the moment we'll call it exhibit GGG35. It's now 2 minutes to 1. How long does the video take to see?

MS JELE: The total length of the portion of the video we'd like to show actually goes for about 12 minutes, but I intend on pausing at certain moments, if –

CHAIRPERSON: Alright. As you heard, we're taking a short lunch adjournment today so that people

in the auditorium who wish to go to a memorial service, and indeed legal representatives of the parties who wish to do so, can get there in good time to get good seats and parking, and so on. So we'll adjourn now till half past 1.

[COMMISSION ADJOURNS COMMISSION RESUMES]

[13:37] CHAIRPERSON: The Commission resumes. Generaal-Majoor, u is nog steeds onder eed. We're now going to see your video, Ms Jele?

MS JELE: Yes, Chairperson, as you indicated it is exhibit CC22.

CHAIRPERSON: Yes.

MS JELE: And in order for everyone to be following on the transcript we will actually begin showing it at time stamp 10 for the sake of convenience and the first thing I'd like you to do –

CHAIRPERSON: Hang on, hang on.

MS JELE: That would be on the third page, Chairperson, male voice go, go underneath that there's 943 1005.

CHAIRPERSON: Yes I see it.

MS JELE: Thereafter is when the –

CHAIRPERSON: These pages aren't numbered, that's just to, just to –

MS JELE: Sincerest apologises.

CHAIRPERSON: Add to our inconvenience.

MS JELE: Apologises for that inconvenience, Chairperson. I certainly hope the General at the very least has found that point in page 3. It's towards the bottom of page 3, General. Can I ask you first and foremost, General, since you indicated that you were in the JOC to listen to it with the aim of telling me firstly whether or not you were hearing this whilst you were in the JOC and secondly if you can identify any of the voices for us please. Well now play the first portion of this video.

MR SEMENYA: Maybe before we do, Chair, may we record that what appears in red is not a transcript. They are commentaries there.

CHAIRPERSON: That should be pointed. On the first page under note 2 it's stated, time codes are italics and square brackets. Where images are described they are described in bold capital and square brackets, speaking description is in capital letters and the last line, any comment inserted by the South African Human Rights Commission or the Centre of Applied Legal Studies are in Red Bold Italics in square brackets. So that's the point you make.

MS JELE: Indeed, Chairperson, as Mr Semenya indicates and it was a document prepared for our internal purposes and that's the reason they're there. Can the video just start playing that first portion.

[VIDEO SHOWN]

General, do you recognise those voices, can you assist us, specifically for example the female voice that asks to deploy the Canters and the voice that says JOC chopper, for example.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, die vrou persoon se stem kan ek nie herken nie. Die JOC chopper is Luitenant-Kolonel Vermaak roep sein Charlie 1 in tjopper 1.

CHAIRPERSON: Just two voices, one male and one female because I got the impression that the male voice shouting JOC chopper might be a different voice from the voice of the person who gave the instructions to move left and turn left and so on.

GENERAAL-MAJOOR ANNANDALE: Jy is reg, Voorsitter. Die ander stem wat gehoor was is die van Brigadier Calitz, die operasionele bevelvoerder Papa 1.

COMMISSIONER HEMRAJ: So is the first voice that we hear of Brigadier Calitz, the Nyalas are moving?

GENERAAL-MAJOOR ANNANDALE: Kommissaris, nee ek dink dit is Kolonel Vermaak. Die heel eerste een the Nyalas moving, that Nyalas there on the point, move left, turn left, dit moet Charlie 1 wees.

COMMISSIONER HEMRAJ: Where it says okay

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move out move out who is that?
GENERAAL-MAJOOR ANNANDALE: Kommissaris, as jy my net kan vergun. The previous one in the third line when it refers to the task force and it says in this transcript if they are not in vehicles. I think what was said task force in the Noddy vehicle, Noddy referring to the Scorpion, I think that's what I heard.
MS JELE: That's very helpful, thank you, General and whose voice might that have been?
GENERAL-MAJOR ANNANDALE: Ja, I think Colonel Vermaak was not aware of the specific name of the vehicle. It's a Scorpion, it's known as a Scorpion but that's the voice of Lieutenant-Colonel Vermaak.
CHAIRPERSON: Do you recognise him from his voice or from his ignorance?
GENERAL-MAJOR ANNANDALE: Chairperson, no from his voice.
MS JELE: And would you, from what you heard the person saying move out, move, move would that have been the voice of Brigadier Calitz because it sounded to us like it was a different person.
GENERAL-MAJOR ANNANDALE: Chairperson, that's correct. I also see that this transcript do not include the Panga part and I'm not to sure if I picked it up in the one of the evidence leaders.

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MS JELE: Sorry for the sake of practicality most people don't have a copy of that as the evidence leaders and we certainly haven't worked from it. I will be asking you questions to the extent that there may be things that we don't hear on one transcript or on the other. But certainly the transcript of the evidence leaders is not available to everyone so that might make things different, General. If I can just also just confirm this segment that we've just heard you were in the JOC, you heard this at the time it was said, is that correct?
GENERAAL-MAJOOR ANNANDALE: Voorsitter ek kan verseker onthou dat daar 'n rigting gegee was in terme van Nyalas en ook waterkannonne in terme van waar hulle moet beweeg.
COMMISSIONER HEMRAJ: General, can you just please, before you move on. Just tell us who all these voices are. The first you said was Lieutenant Colonel Vermaak, the second place in this transcript where it says male voice, whose voice is that?
GENERAAL-MAJOOR ANNANDALE: Brigadier Calitz, Kommissaris.
MS JELE: Over the page female voice you've told us you can't identify, the next male voice –
CHAIRPERSON: No, no sorry before we move on. Brigadier Calitz says move, move, move.

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MS JELE: Sorry, Chair, yes.
CHAIRPERSON: Then there's a male voice these Nyalas under the chopper come on, is that also Brigadier Calitz?
GENERAAL-MAJOOR ANNANDALE: Nee Vermaak, Voorsitter.
CHAIRPERSON: Thank you.
MS JELE: Okay. The female voice you said you cannot identify.
GENERAAL-MAJOOR ANNANDALE: Nee, Voorsitter.
MS JELE: Male voice, it says JOC chopper.
GENERAAL-MAJOOR ANNANDALE: Voorsitter, dit klink vir my weer na Kolonel Vermaak, die JOC tjopper.
MS JELE: The next male voice.
GENERAL-MAJOR ANNANDALE: Calitz, small koppie, we've made one, two, three, four, five, six arrests.
MS JELE: And then that's the last we heard specifically on the recording. Might we hear then what follows in order to establish who makes those following statements, could we play it again, thank you.
[VIDEO SHOWN]
You hear that specific statement, General, two

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bodies, two bodies at the back of the koppie?
GENERAAL-MAJOOR ANNANDALE: Dis korrek, Voorsitter.
MS JELE: Whose voice is that?
GENERAAL-MAJOOR ANNANDALE: Charlie 1, Luitenant-Kolonel Vermaak.
MS JELE: Do you recall hearing that whilst you were in the JOC?
GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja ek het op, daar was 'n ander geleentheid ook, wat ek kan onthou is dat daar was op 'n stadium gerapporteer people are lying down and then later on bodies, bodies are lying down.
MS JELE: Wasn't the first, the first one people are down, not lying down?
GENERAAL-MAJOOR ANNANDALE: Voorsitter, soos ek dit kan onthou people are lying down, ek weet nie of dit people are down pertinent was nie.
MS JELE: Perhaps –
CHAIRPERSON: Sorry, Major-General, it sounds as if you, what you're now telling us is what's reflected in the occurrence book FFF25 as note 1017 and then again at note 1018 which is page 25 of exhibit FFF25. I don't know whether I'm right in saying that, but that's the impression I get but I don't know whether you wish to

comment on that.

MS JELE: Chairperson, indeed and I would like us to flag - there because that was going to be my next reference. The times at which the various things are stated. At 1018 for example, it is marked that it's at 1556 that the entry 18 bodies are down is made and on our calculations on this video two bodies, two bodies at the back of the second koppie is around 1609. If one then cross-references again to FFF25 1605 there's already an instruction to the medics to go and assist at the holding area, there are 30 people/bodies lying down.

CHAIRPERSON: May I suggest we go through this to identify the voices first because otherwise it's a bit difficult –

MS JELE: If I might, with respect, Chairperson, the difficulty is then one has to go over it again in order to identify the moments and or the times. So I would like to do it chronologically.

CHAIRPERSON: Alright well you –

MS JELE: - both the voice and the times.

CHAIRPERSON: You do it the way you want to. This is your cross-examination.

MS JELE: I appreciate that, thank you, Chairperson. If we can just cross-reference between that transcript 1609, two bodies, two bodies and FFF25

specifically, not just the first entry of 1018 which was referred to by my colleague Mr Budlender but specifically the second and third at 1605 and 1610 do you see these, General?

GENERAAL-MAJOOR ANNANDALE: Onder inskrywing 1018, 1018.

MS JELE: That is the number of the entry, 1018, yes. There are multiple times thereafter.

GENERAAL-MAJOOR ANNANDALE: Dit is reg. Ek merk dit so op.

MS JELE: So we can confirm from a look at FFF25, at the time the statements are being made on the Coin chopper that you can hear and early in the half hour that we're going to be looking at, 1605 1610 you at the very least were already aware that there were individuals injured, at the very least.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, nee en ek kan u verduidelik hoe ek verstaan wat hier gebeur het. Voorsitter, daar was twee polisie, ek dink konstabel dames wat die voorvalleboek bygehou het. Captured or that, scribed the occurrence book.

CHAIRPERSON: Who were making entries in the occurrence book.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, hierdie inskrywings is nie gemaak direk soos dit gebeur het

nie. Altwee van hulle het sover ek dit het, het notas gevat en dit is toe gekonsolideer want daar was aanmekaar gepraat gewees, dis toe gekonsolideer in voorvalleboek inskrywings. Ek weet nie hoe het hulle die, ek dink hulle het dit van die aspekte begin verweef in terme van wat hulle na die tyd geweet het en ook in terme van tye wat hulle toe gekonsolideer het.

MR MAHLANGU: I'm going to ask for the Chairperson's assistance here.

CHAIRPERSON: Can you repeat what you repeat, kan u herhaal asseblief wat u gesê het. Wove together I would imagine is probably, combined probably.

GENERAL-MAJOR ANNANDALE: They were sitting together, Chairperson and it's my understanding that they took individual notes, writing it down and then they had to consolidate their interpretation of what happened at certain times and then reflected it in the occurrence book as an entry afterwards and I do not know how much of what they knew afterwards was then determining the actual way they described it. For instance Pappa 1 reporting the group are moving to TRT members and they tried to attack them. Chairperson, that was not Pappa 1 and that was not TRT members. We know, we knew afterwards that it was TRT members but the report initially in terms of the moving towards the police line, as far as I can

remember it came from the chopper Charlie 1. If you look at the next entry, Chairperson, under 1018 15 56 you will see that there is, or there are reports made Pappa 1 reporting people are running towards the houses. Then there's report 18 bodies are down. Then there's at the back of the koppie, I do not know in the back of the koppie because we know that the first incident was at the kraal area. So that koppie that they're referring to I do not know if that is now, now known as koppie 3. Chairperson, then there's a Pappa 1 instructing the members to go to the next koppie which I assume then and then obviously it's my assumption, that they then moved from this bigger koppie area to the next koppie, I do not know if it's now koppie 2 adjacent or even koppie 3 at the back.

[13:57] In the same entry, Chairperson, then there's people who are running to the direction of members, which I assume was scene 1 again, which obviously happened at the time of the 15:55 entry then supposedly. Chairperson, then we find that in terms of the transcript that Adv Jele has made available, 11 minutes and 25 after they started, and I do not know, it started around 4 o'clock, so we assume it's 9 past or 10 past 4 –

MS JELE: Our calculations are that the video starts around 15:57, 15:59. Those are our calculations. So that would be around, indeed, just before

10 past 4.

MAJOR-GENERAL ANNANDALE: 10 past 4. Chairperson, if you look at that then we say small koppie we've made our 1, 2, 3, 4, 5, 6 arrests, and then that same – I assume again – instructions members to make arrest, six people arrested, is now reflected under 15:56, which is then 14 or 15 minutes earlier, and that we know happened closer to the area known as scene 2, or on the way there I think, on the northern side, if I'm not mistaken. Chairperson –

MS JELE: General –

MAJOR-GENERAL ANNANDALE: Sorry, just a last remark on that. Then again chopper 2 reporting "Two bodies down," reflected under the 15:56, but it seems like this is just directly after the report of Papa1 in terms of the arrest made, so that must also be around 10 past 4. So that's why I'm saying there's a lot of this that it seems like they have grouped together, given times. If we go later on in terms of the entries, there are so many references that you can see that it belongs to another incident, so I think they just, when they started consolidating it was, with respect, somewhat of a mess.

MS JELE: All the more reason, I might state, General, to listen to this tape and establish who's saying what, when, as it would be a more accurate

reflection of the sequence that is reflected in the occurrence book, and thank you for pointing that out, General. Now perhaps if we might play a little bit more of the tape, if you might listen to what is said so that I can ask you a few questions on it before. Could we play the tape again, please?

[VIDEO RECORDING PLAYED]

MS JELE: General, it certainly sounds like a more complicated effort that I ever thought it was to drive a Nyala. The first question I would have for you is if you heard "Shoot again, target," and if you know who stated that. I'm not going to debate with you what it might or might not have meant. I would like simply to identify who might have said so.

MAJOR-GENERAL ANNANDALE: Chairperson, the first one, male voice, "Someone talk to the vehicles in the small koppie," Papa1, and the next –

CHAIRPERSON: Who is Papa1 again?

MAJOR-GENERAL ANNANDALE: Calitz.

CHAIRPERSON: Thanks.

MAJOR-GENERAL ANNANDALE: Then the next one, "Ja, that's where I tried to take the Nyalas in, Brigadier," is then Charlie1, Vermaak, and again Vermaak in terms of "Papa7, go straight." Then "The water cannon go forward," Brigadier Calitz. Then the "Yeah, the water

cannon and the Nyala, go straight, go straight," Charlie1, Vermaak. Both paragraphs, also the one I'm saying the one that is with Papa7. Then Chairperson, the last male voice, and I'm not 100% sure, it sounds like Brigadier Calitz, Papa1.

MS JELE: Thank you, General. On our calculations that last statement is made approximately 16:12. Do you remember hearing it whilst you were in the JOC, these specific words?

MAJOR-GENERAL ANNANDALE: Chairperson, I can remember the difficulty that, and the frustration in terms of directing the Nyalas to go to a specific area, and it's not that difficult to drive a Nyala, even although it's a heavy armoured vehicle. I think it was just a question of getting directions across, and the "Shoot again, target," Chairperson, that was short. I've heard, I do not know if it was earlier, I think earlier in terms of what I've mentioned, "Do not engage unless you," or "Do not engage a target unless you're being engaged," the aspect that I dealt with, with Mr Mpofu.

MS JELE: I just want to get two things from you, General. First, you remember having heard those words whilst you were in the JOC, and secondly, on your recollection, would our calculation of it being around 16:12, 16:13, be correct?

MAJOR-GENERAL ANNANDALE: Chairperson, I cannot debate time. I did not have it at the time. I just knew it was after 4 o'clock.

MS JELE: Perhaps if we can just listen to the next segment and you can continue assisting us, General.

[VIDEO RECORDING PLAYED]

MS JELE: The reason we've paused here is just to verify whose voice says "Get out there and engage." Again I don't want to debate what it means with you, just to confirm who said so.

MAJOR-GENERAL ANNANDALE: Papa1, Brigadier Calitz.

MS JELE: And again this is an exchange that you would have heard whilst at the JOC. You heard him saying these words?

GENERAAL-MAJOOR ANNANDALE: Ja, as ek daarna luister nou dan "obviously" kry ek meer detail, maar ja, dit is die strekking van woorde wat ek onthou het.

MS JELE: I'd like us to play just the next segment, if that's possible.

[VIDEO RECORDING PLAYED]

MS JELE: Just pausing for the sake of verifying who was making those statements, with regard to obtaining the Canters, I still don't see any Canters.

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Whose voice was that?
CHAIRPERSON: May I show my ignorance and ask what is a Canter?
MAJOR-GENERAL ANNANDALE: Chairperson, it's a truck that is built with a canopy for the transportation of detainees, a much bigger one than a normal LDV, probably a three and a half ton truck, yes.
CHAIRPERSON: Thank you.
MAJOR-GENERAL ANNANDALE: Chairperson, the, on the top of the page – I don't know if he mentioned that already, which starts with male voice, "Ja Papa1, if that water cannon can wait here," that's Charlie1, Vermaak. Then the next one, the "Engage, Papa1," Brigadier Calitz, and then "I still don't see any Canters," Brigadier Calitz. Then the male voice, "R chopper here just underneath," I'm not too sure in terms of that, if it's coming from the other chopper. It didn't sound totally like Lieutenant-Colonel Vermaak. The next one, male voice, "Okay, go straight in," Lieutenant-Colonel Vermaak, and the last one, it was cut short and I do not know if that is the only part, the "Okay, live fire," if I can listen to again, but I did not specifically recognise –
MS JELE: Is there any possibility of rewinding just a tad, say 10 seconds? Can that be done?
[VIDEO RECORDING PLAYED]

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MS JELE: That's what we've got, I'm afraid, General.
MAJOR-GENERAL ANNANDALE: Ja, Chairperson. No, I cannot say definitely, and the previous one, the "R chopper here," it sounds like, 90% sure it was not Vermaak. So those two I cannot –
MS JELE: General, considering that the timing on the tape is just before 15 minutes into the tape, on our calculations before quarter past 4 in the afternoon at least you would have been aware in the JOC that live fire had been used, at the very least. Would you confirm that, General?
CHAIRPERSON: You mean sharp ammunition?
MS JELE: Live ammunition indeed, yes, Chairperson.
MAJOR-GENERAL ANNANDALE: Chairperson, "Live fire have been heard," not sharp ammunition has been used, or live fire have been used. "Okay, live fire, live," so it was heard.
MS JELE: Perhaps we can now listen to the next segment.
[VIDEO RECORDING PLAYED]
MAJOR-GENERAL ANNANDALE: Colonel Vermaak.
MS JELE: Could we play it for some

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considerable time, if I might ask, until the next -
[VIDEO RECORDING PLAYED]
MS JELE: Okay, we can start the recording now. General, I very deliberately asked that that portion be played before we were wondering why during this operation for what appears to be a whole two minutes there seems either to be silence, or for any exchanges to be inaudible specifically in that chopper. Would there have been a period where there would not have been exchanges worth taking place between Brigadier Calitz and Colonel Vermaak, who seem to be the two main individuals that we hear, that we overhear on this recording?
GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het in my getuienis verwys dat op 'n stadium in die JOC was daar, en ek dink ek het gesê, of ek kan onthou dat dit selfs meer as drie minute was waar daar net eenvoudig geen radiokommunikasie was nie en ek het verduidelik dat dit gewoonlik is as, ons verwys daarna in polisietaal, die knoppie haak vas. So it's when a button is depressed and it doesn't release, then you cut out total communication. I do not know if this is the specific time that this has happened.
MS JELE: General, I do believe that when we distributed this transcript, we also adjacently to it distributed a transcript that was prepared by the

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transcribers for the Commission, as we understand it as a transcript of what we would call the Ryland video. I can only refer to it as the Ryland transcript. Do you have a copy of that in front of you, General?
CHAIRPERSON: - fact that the numbers on this transcript are not the overall numbers, I don't think, of the main transcript of the proceedings, it's possibly desirable that I give it a separate exhibit number.
MS JELE: It's an entirely separate document, so yes, Chairperson.
CHAIRPERSON: So it's GGG36, transcript of Ryland's video? Would that be right?
MS JELE: That would be correct, Chairperson, according to the front page as prepared by the transcribers, and I wish, General, to refer you to its very, very first page, page 1, you see from line 11, speaker, water cannon, if you go down, I'm sorry General do you have it in front, I'm sorry I went too fast. My apologies, General.
[14:16] MAJOR-GENERAL ANNANDALE: I have it, thank you.
MS JELE: If you could look at line 16 of page 1, where it says go to your left, two campers go to your left.
MAJOR-GENERAL ANNANDALE: I note that.

MS JELE: Would you be able to assist us in explaining why the exchange that comes prior which we would presume is parallel to the go to your left we just heard, can be heard on the Ryland video presumably since it was transcribed by the transcribers, but can't be heard in the COIN chopper? Would you be able to know, and if you can't please do let me know General, would you be able to explain that?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, ek kan nie, tensy die, ek weet nie waar was die kamera geposisioneer binne in die helikopter nie en waar was die radio gewees en ek weet nie of Brigadier Tsiloane of Generaal Mpembe dalk op die betrokke radio wou praat nie, maar ek kan dit regtig nie verduidelik nie. Hulle sal sekerlik kan verduidelik of hulle op daardie stadium die radio wou gebruik het.

MS JELE: Thank you, General, for the sake of completeness might we see the video all the way until I believe it's 20:25 into the video, so we must stop it at that stage. I will have some short further questions for you, General.

[VIDEO SHOWN]

MS JELE: Thank you, General, just for the sake of completeness, did you recognise the person that just stepped out of the chopper?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, ek weet nie wie die persoon is nie maar dit is iemand van Protea COIN, dit is hulle kamoefleeruniform wat hulle dra.

MS JELE: And just lastly to confirm, General, throughout what we have heard or throughout the moments of silence on this specific chopper video, you could hear what was being exchanged amongst the individuals. During this particular period was not one of the periods where you might have stepped to have a phone conversation as you had earlier mentioned?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, die meeste van hierdie klink bekend aan my, indien nie omtrent almal nie. Ek het net party van die sinsnedes nie noodwendig so gehoor nie, maar dit klink bekend die strekking.

MS JELE: Thank you, General. I'm turning to my last point which is the only one that is a 5 minute point, I assure, Chairperson.

CHAIRPERSON: Yes, because you understand I did promise those who wish to go to the memorial service that we will adjourn at half past 2, but let's not waste anymore time. Proceed with your five minute point.

MS JELE: Thank you, Chairperson. If I might first make reference to Exhibit WW4 which was the presentation made to the portfolio committee on 19 August

2011. If you could just have sight of that quickly, General, and my colleague Ms Hardy will be distributing a one pager that we unfortunately has not provided earlier. It was on the list of documents that we stated that we would refer to, but it is just a one pager and I just want to confirm it's authorship with the General.

CHAIRPERSON: Sorry is it WW4 is it?

MS JELE: I'm referring to WW4, my understanding is that is a different document, so that would be GGG37 I assume.

CHAIRPERSON: Okay, so how do I describe it?

MS JELE: I was actually hoping the General could assist. My understanding, this document was provided to us during the purposes of discovery. General, could you confirm that this was authored by yourself and was an update of the steps taken since 2011?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, nee ek is nie die outeur daarvan nie. Ek vermoed dit is opgestel deur Luitenant-kolonel Day en/of Kolonel Nortje verbonde aan die openbare orde kantoor by operasionele reaksie dienste.

CHAIRPERSON: Can I describe it as part of presentation to portfolio committee?

MS JELE: Our understanding, Chairperson,

is that it was an update of the steps identified in said portfolio presentation prepared in February 2013, that is the date that arises on the document.

CHAIRPERSON: Yes, so I will call it update of presentation to portfolio committee, would that be right?

MS JELE: Thank you, Chairperson.

CHAIRPERSON: Thanks.

MS JELE: The computer properties of this document suggests that it was at least sent to us from your computer, are you familiar with the document at all, General?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, die dokument is bekend aan my.

MS JELE: Can you confirm that this is indeed the update that we have just described it to be for us, please General?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, dit is die opdatering ten tyde van die beskikbaar stel van die dokument en ek het nie n datum nie, maar daar het heelwat meer gebeur nadat hierdie dokument vry gestel is in terme van 'n antwoord van die voorlegging aan die portfolio komitee. Is that makes sense?

MS JELE: Not me I'm afraid, General.

CHAIRPERSON: But it's been translated to

you. I understand he says that after this document this is other information which is also provided by way of an updated presentation to the portfolio committee. I think that's what he said. So this is not the whole story, so this is only a small part of it as I understand you, is dit korrek? Is dit wat u gesê het?

MAJOOR-GENERAAL ANNANDALE: Dis korrek, ja Voorsitter. Dit was geldig op die tyd toe die dokumente opgestel is en daar is ongelukkig nie ‘n datum nie.

CHAIRPERSON: What is the date at the top? Current status on 2011-08-30, current status obviously drafted after the 30th of August but it states the position as it was apparently on the 30th of August, do I read that correctly?

MAJOR-GENERAL ANNANDALE: Chairperson, it purely refers to this WW4 in terms of 30 August 2011.

MS JELE: If it's of any assistance, we also prepared a copy of the computer Word properties of this document that indicate that it was created during the course of February this year. If the Chairperson wishes to have copies of these distributed, Ms Hardy does have them available. They might assist in confirming the date of this document and then finally perhaps if the General could tell us who could speak to this document to the extent that it deals with lessons learnt already from the past and

perhaps going forward, those would be the last two items on my list of questions, Chairperson. Would the Chairperson wish for us to distribute this particular document -

CHAIRPERSON: It can be distributed tomorrow morning, let’s just get the answer to the question that you have asked. As I want to stop at half past 2, I did promise the people who want to go to the memorial service we will stop at half past 2.

MS JELE: My apologies, Chairperson, I'm sure if you understand that our legal team is not here every day, just to be on the safe side, since the documents are here if you wouldn't mind, Chairperson, that we distribute them now. It will just take a couple of minutes.

CHAIRPERSON: - couple of minutes. Distribute them after we adjourn, after half past 2.

MS JELE: Thank you, Chairperson.

CHAIRPERSON ANNANDALE: Put the question again to the General. Let’s get his answer and then I will adjourn so that the memorial service attenders can depart.

MS JELE: Thank you, Chairperson. General, just to confirm whom in your view could speak to the contents of this document and the process that they are part of, being the review of challenges as provided to parliament in August of 2011?

MAJOOR-GENERAAL ANNANDALE: Voorsitter, ek sal met graagte sal ek daaroor praat in terme van die informasie aan my bekend, ek dink ek is net so geskik soos enigiemand anders.

MS JELE: I'm sorry, I didn’t understand that answer. Does that mean that you would be the best person to deal with this document with?

MAJOOR-GENERAAL ANNANDALE: Chairperson -

CHAIRPERSON: He is as good as anybody.

MAJOOR-GENERAAL ANNANDALE: Ja.

CHAIRPERSON: Is that right?

MAJOOR-GENERAAL ANNANDALE: That's right, obviously a lot of that I will have to rely in terms of feedback that I have received but I will be in a position to talk to this document.

MS JELE: In that case, perhaps that would be the last set of questions to be asked to you General, first thing tomorrow morning.

CHAIRPERSON: We will take the adjournment now until 9:30 tomorrow morning.

[COMMISSION ADJOURNED]

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