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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 97 22 MAY 2013 PAGES 10260 TO 10378

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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<p style="text-align: right;">Page 10260</p> <p>1 [PROCEEDINGS ON 22 MAY 2013] 2 [09:33] CHAIRPERSON: The Commission resumes. 3 Generaal-Majoor, u is nog steeds onder eed. 4 CHARL ANNANDALE: s.o.e 5 VOORSITTER: Mnr Ntsebeza, wil u 6 voortgaan met die kruisondervraging? 7 CROSS-EXAMINATION BY MR NTSEBEZA SC (CONTD.): 8 Good morning, General. 9 MAJOR-GENERAL ANNANDALE: Good morning, 10 Advocate. 11 MR NTSEBEZA SC: Whilst you were in the 12 JOC you must have been aware that there were STF members at 13 an observation post at the smelter. Is that right? 14 MAJOR-GENERAL: That's correct, 15 Chairperson. 16 MR NTSEBEZA SC: In fact there's an 17 annexure FF3, page 72 which - Mr Chairman, sorry for that. 18 Do you have that access to that annexure FF3, Observation 19 Post by STF at Beemar smelter? 20 MAJOR-GENERAL ANNANDALE: Chairperson, 21 I'm aware of that observation post. 22 MR NTSEBEZA SC: Yes, thank you very 23 much, General. And in fact you, in those minutes of that 24 JOC meeting, the 13:30 minute, exhibit EE, we have it 25 recorded there that feedback from the STF observation post</p>	<p style="text-align: right;">Page 10262</p> <p>1 hulle gehad. Die radiokommunikasie was egter sodanig nadat 2 die aanval, basies vanaf die draad wat uitgerol is en die 3 aanval op die polisielyn en vir die volgende sowat, seker 4 meer as 'n halfuur, dat twee persone, teweete Calitz en 5 Vermaak basies die hele tyd die radio kanaal beset het. 6 MR NTSEBEZA SC: Yes, now I believe that, 7 General. On the 14th when Brigadier Calitz was at the 8 koppie and the radio system failed because of interference 9 from the power lines, the cell phone numbers of all the 10 commanders - now what was done to get communication when 11 the radio system failed? 12 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 13 dit was nie 'n sisteem wat, 'n totale "failure" van die 14 sisteem nie. Daar was nie duidelike kommunikasie nie en op 15 advies van die radio-tegniese kundige het die lede slegs 16 hulle posisie van onder die oorhoofse kragdrade het hulle 17 verskuif en toe was die probleem opgelos. 18 MR NTSEBEZA SC: Is it so that at the JOC 19 all the phone numbers, and there is a photograph of what I 20 believe is the JOC which will be circulated, the phone 21 numbers of all the commanders were posted on the wall in 22 the JOC? 23 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 24 daar was wel - die selfoon nommers van die bevelvoerders 25 was wel beskikbaar.</p>
<p style="text-align: right;">Page 10261</p> <p>1 must be obtained. I mean that was one of the objectives. 2 Is that right? 3 MAJOR-GENERAL ANNANDALE: That's correct, 4 Chairperson. 5 MR NTSEBEZA SC: So what we are seeking 6 to put to you is that with that kind of additional 7 communication possible from your own members it's highly 8 improbable and I'll not put it higher than that, that you 9 would not have had communicated to you what was happening 10 in scene 1. 11 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 12 daar was baie bevelvoerders baie nader aan toneel 1 as die 13 observasiepos wat een punt iets kilometer, ek dink dit kan 14 self so véer as 1.6 kilometer weg was. Die observasiepos se 15 doel was gewees om beweging van mense soos wat hulle na die 16 koppie toe beweeg deur te gee. So hulle was waarskynlik 17 nie in die beste posisie in elk geval om te sien wat gebeur 18 op die toneel nie. 19 MR NTSEBEZA SC: I would assume, General, 20 and you will correct me if I'm wrong here, that the STF 21 members at the observation post at the smelter could have 22 been called on cell phone or radio, or were their cell 23 phones not working? 24 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 25 hulle was in radioverbinding en die lede het selfone by</p>	<p style="text-align: right;">Page 10263</p> <p>1 MR NTSEBEZA SC: Mr Chairman, I will have 2 circulated, just for the record, the relevant page that 3 shows the photograph of the JOC where apparently the phone 4 numbers are on the wall, just for the General to 5 familiarise himself as to whether that is in fact so. 6 Don't ask me how I got this, General. This is the inside 7 of the JOC, is it? 8 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 9 ek sal nie verbaas wees as die polisie dit nie beskikbaar 10 gestel het nie. 11 MR NTSEBEZA SC: So those are the - I 12 mean it makes a point in relation to which we are all in 13 agreement. So if all else failed, radio communication, 14 this, that, and the next thing, those were also other 15 communication channels via which you in the JOC could have 16 been communicated with. 17 MAJOR-GENERAL ANNANDALE: That's correct, 18 Chairperson. 19 MR NTSEBEZA SC: Now you will forgive me, 20 to use a popular word in South Africa, I'm challenged when 21 it comes to things technical. I believe there is something 22 called aviation band radio channel. Aviation band radio 23 channel, and I think annexure, slide 147 in annexure 11 24 refers to - do you see where it says UHF radio channel 47 25 signal? Do you see that?</p>

<p style="text-align: right;">Page 10264</p> <p>1 GENERAAL-MAJOOR ANNANDALE: Ek sien dit, 2 Voorsitter. 3 MR NTSEBEZA SC: Now was that another 4 communication channel with the helicopters? 5 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 6 nee, dit was die kanaal wat almal op gefunksioneer het, die 7 sogenaamde analoge radiostelsel. 8 MR NTSEBEZA SC: It is your evidence that 9 this was not a separate radio channel other than the one 10 that had complications? 11 GENERAAL-MAJOOR ANNANDALE: Voorsitter, u 12 sal merk van "slide" 136 af, 137, 138, 9, 40, 41, 42, almal 13 verwys na presies dieselfde kanaal, "UHF radio channel 47," 14 so dit was die kanaal. 15 MR NTSEBEZA SC: Was there not a separate 16 channel with which you communicated with the SANDF 17 helicopter in the air? 18 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 19 as ons met ons tjoppers praat dan praat ons op die gewone, 20 selfde kanaal met die tjoppers, en dan tjoppers is met 21 mekaar in verbinding. Voorsitter, maar as hulle met mekaar 22 praat dan is dit, ek weet nie, 'n lugvaart frekwensie of 23 iets, maar hulle kan onder mekaar praat, maar ons praat met 24 ons polisie tjoppers gewoonweg op dieselfde kanaal en dan 25 sal hulle verder kontak tussen mekaar hê op 'n aparte</p>	<p style="text-align: right;">Page 10266</p> <p>1 Vermaak was dan juis in die tjopper gewees, so daar was 2 direkte kommunikasie tussen Vermaak en die JOC. 3 MR NTSEBEZA SC: Would you have been in a 4 position to be aware of those communications whilst in the 5 JOC and what the nature of the communications were? 6 GENERAAL-MAJOOR ANNANDALE: Dit is 7 korrek, Voorsitter, ek het sodanig getuig. 8 MR NTSEBEZA SC: Now, again this is an 9 area I'm not certain and I will call upon your assistance. 10 I have been looking at some photos in exhibit L, slide 210. 11 For one moment just pay no attention to what is written 12 there, "Protestors witness the police" - now, in relation 13 to that, I would like to know whether Colonel Vermaak - was 14 it? – Colonel Vermaak was taking any photos whilst in the 15 air via his BlackBerry? 16 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 17 soos ek dit verneem, het Luitenant-Kolonel Vermaak met sy 18 BlackBerry selfoon, asook met 'n – ek weet nie of dit 'n 19 Canon stil kamera of digitale kamera, het hy foto's geneem. 20 MR NTSEBEZA SC: If my daughter, who's 14 21 years old, had not been introduced me to it, I wouldn't 22 know about it, but I believe there's something called BBM. 23 Now, would those be photographs that would have been BBM'ed 24 by Colonel Vermaak into the JOC, or are you aware? 25 MAJOR-GENERAL ANNANDALE: Chairperson, I</p>
<p style="text-align: right;">Page 10265</p> <p>1 kanaal. 2 MR NTSEBEZA SC: So what could have been 3 the means by which the SANDF be communicating with the 4 other choppers? 5 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 6 op die - ek verwys dan na 'n lugvaart kanaal, wat dit ook 7 al die korrekte benaming is, maar hulle praat dan met 8 mekaar op so 'n kanaal. 9 MR NTSEBEZA SC: What I'm trying to 10 explore is whether communication with the JOC on a channel 11 to the SANDF chopper was not possible on the day and the 12 time when these events were taking place. 13 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 14 deur Charlie1, die polisie tjopper, Luitenant-Kolonel 15 Vermaak, kon daar gekommunikeer word met die Oryx en die 16 Suid Afrikaanse Nasionale Lugmag. 17 MR NTSEBEZA SC: Would it be fair to then 18 say at the time that was explored yesterday with you by the 19 Chairman, the various times, that through this channel 20 there could have been a communication by Vermaak to the JOC 21 as to what was happening on the ground? 22 [09:53] GENERAAL-MAJOOR ANNANDALE: Voorsitter, 23 dis korrek. en dan was dit ook, as ons na die 24 transkripsies kyk, was dit meestal Vermaak en Brigadier 25 Calitz wat dan met die JOC gekommunikeer het en Kolonel</p>	<p style="text-align: right;">Page 10267</p> <p>1 have never heard of this phrase, BBM. No, no, Chairperson, 2 there were photos sent through – I do not know if these 3 four pictures specifically were the ones that were sent 4 through, but Colonel Vermaak from time to time did send 5 through photos via BBM to Brigadier Pretorius. 6 MR NTSEBEZA SC: And I'm just exploring 7 with you whether he would be sending them as he was taking 8 them, because I see on those photos that they purport to 9 have times in them, 15:40, 15:49, 15:50, and etcetera, but 10 what I would like to know is whether, in your recollection, 11 he was BBM'ing – sending these BBMs in to the JOC as he was 12 taking them in the aircraft? 13 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 14 ek het geantwoord dat hy het van die foto's wat hy geneem 15 het met sy BlackBerry selfoon, het hy deur ge-BBM aan 16 Brigadier Pretorius. Ek weet nie of hierdie vier eerstens 17 geneem was met die BlackBerry en of al vier dan deurgestuur 18 is en of enige van hulle deurgestuur is nie. Ek weet 19 werklik nie. 20 MR NTSEBEZA SC: That's fair enough, 21 General. Those questions may well be put to either Colonel 22 Vermaak or, is it Brigadier Pretorius, or both of them, but 23 I'm told that the fourth slide, bottom right-hand corner – 24 I can't see it from here, but I'm made to believe if it was 25 blown it would show dead bodies, probably the bodies that</p>

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1 one sees in front of the kraal, that one sees on slide 208.
 2 There is even an arrow in slide 210 – no, it was a cursor
 3 from my junior. But are you in a position - do you know if
 4 slide 210 at the bottom right corner would show dead bodies
 5 on the ground?
 6 CHAIRPERSON: Mr Ntsebeza, I've got an
 7 idea - perhaps Ms Pillay can help us - I've got an idea
 8 that the bottom right-hand corner of 210 is, in a blown-up
 9 form is an exhibit, but I can't lay my hands on it. She
 10 can tell us, I hope.
 11 MR NTSEBEZA SC: That would assist us, Mr
 12 Chairman, if –
 13 CHAIRPERSON: It can perhaps be blown up,
 14 but I thought that I'd seen it somewhere as an exhibit, but
 15 I may be wrong.
 16 MS PILLAY: Chair, I'll just have a look
 17 at it, I do recall that it is a separate exhibit as well.
 18 I'll give you the exhibit number.
 19 CHAIRPERSON: Your recollection is the
 20 same as mine, it's just a question of finding it.
 21 MS PILLAY: Yes.
 22 CHAIRPERSON: Alright. So if you can
 23 find it for us, that would help us a lot, I think.
 24 MS PILLAY: There's a similar exhibit,
 25 Chair, it's UU2(1). So the UU2 series, there's three

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1 photographs and they're different angles of the same scene.
 2 CHAIRPERSON: We've got black and white
 3 copies of those, but I take it there are coloured,
 4 Technicolor versions around?
 5 MS PILLAY: There are, and the particular
 6 one at slide 210 is UU2(3). That's that particular
 7 photograph.
 8 CHAIRPERSON: While we're waiting,
 9 possibly we could ask the technicians who're assisting us
 10 if it's possible to blow that – if that's the correct word
 11 – blow that picture up. It sounds a bit explosive, but if
 12 they can do it in a non-explosive way, it'll help us.
 13 MR NTSEBEZA SC: UU2(1), the colour
 14 photograph seems to be quite indicative. This is why I
 15 think what we are alleging is shown in exhibit L208. That
 16 probably is the same picture as what we see in front of the
 17 kraal. 210, ja. Let's stick with 210.
 18 CHAIRPERSON: Is it not possible to move
 19 on to something else while we're waiting for the photograph
 20 that you wish to put before the witness?
 21 MR NTSEBEZA SC: Mr Chairman, I also
 22 would like to play a 1-minute video clip. I believe that
 23 it's been arranged. It's ready.
 24 CHAIRPERSON: So we're effectively for
 25 the 1-minute video clip to be put into position so we can

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1 see it?
 2 MR NTSEBEZA SC: I was made to believe
 3 that's been arranged.
 4 CHAIRPERSON: It is necessary, Mr
 5 Ntsebeza -
 6 [VIDEO RECORDING PLAYED]
 7 CHAIRPERSON: I asked you, Mr Ntsebeza,
 8 is it necessary that a warning be given?
 9 MR NTSEBEZA SC: I'm told that there is
 10 no shooting that takes place.
 11 MR SEMENYA SC: Chair, in the meantime -
 12 CHAIRPERSON: No, but it's not just
 13 shooting; if there are dead bodies lying around and they're
 14 identifiable to their next-of-kin, then that causes
 15 distress. Mr Semanya wants to make a contribution. Yes,
 16 Mr Semanya?
 17 MR SEMENYA SC: Chair, just so that I can
 18 follow, is the video we are to be shown the one that was
 19 BBM'ed? Because the point I think is being made is that
 20 the BBM'ed photos would have communicated to the people in
 21 the JOC that those bodies are dead. Now if we are being
 22 shown a video, I just want to know if that's the video that
 23 was also BBM'ed?
 24 CHAIRPERSON: As far as I can see, it's
 25 something from the eNews channel and presumably wasn't what

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1 was sent to the people in the JOC, but I mustn't answer
 2 your question, because I don't really know the answer.
 3 Let's find out from Mr Ntsebeza. You've heard Mr Semanya's
 4 question?
 5 MR NTSEBEZA SC: The simple point that we
 6 want to make, and we can make it without even showing the
 7 video, if that is acceptable, is that at – and the video
 8 will show that the timing of the eNews, breaking news, was
 9 at 15:30, that at 16:30 the news was being broadcast
 10 throughout the world.
 11 CHAIRPERSON: So this is now a different
 12 point.
 13 MR NTSEBEZA SC: It's a different point –
 14 CHAIRPERSON: No, no, Mr Semanya was
 15 concerned to know whether you were going to ask the witness
 16 about the photographs that were sent to the JOC, and via –
 17 MR NTSEBEZA SC: I was just responding to
 18 the Chair saying is there anything else whilst we are
 19 waiting for –
 20 CHAIRPERSON: Yes, no, I understand. In
 21 other words, you're dealing with a different point and you
 22 want to show this video clip to the witness.
 23 MR NTSEBEZA SC: Yes.
 24 CHAIRPERSON: So the answer to your
 25 question is it falls away at this stage. So carry on -

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1 MR SEMENYA SC: No, Chair, the evidence
2 is also that at 16:30 the witness knew, so what are we
3 making - what point are we searching for now?
4 CHAIRPERSON: Well, you mustn't ask me
5 the question. Let's ask Mr Ntsebeza. You hear what Mr
6 Semenya says? He says it's common cause the witness knew
7 at 4:30PM, so it's not necessary for you to prove that. So
8 what are we going to look at this video for, he says. I
9 can't answer him, so perhaps you can.
10 MR NTSEBEZA SC: I don't think it is
11 common cause, because the witness says it's not common
12 cause that - that's why we are putting these questions to
13 him, that it's unlikely, highly improbable, that the only
14 time that he got to know about -
15 CHAIRPERSON: The witness told you
16 yesterday, Mr Ntsebeza, that he knew about the deaths at
17 4:30. That's where we got this 40 minutes from, remember,
18 10 to 4 till half past 4, and Mr Semenya's point is that if
19 it's accepted that the people in the JOC knew at 4:30 that
20 there were deaths, then how does it help us to show a video
21 clip from eNews channel at 4:30, but that's his question.
22 I can't answer him, but perhaps you can.
23 MR NTSEBEZA SC: I would have thought
24 that he would have canvassed that question in re-
25 examination, but you know, it's a free country, it's a free

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1 process.
2 CHAIRPERSON: In the circumstances, I'll
3 let you show the video, but before it's shown, I must say
4 that there may well be images on this video clip which will
5 cause distress to some of the people present, who are
6 relations and loved ones of some of the people who were
7 killed, and the clip is, please, not to be shown until two
8 minutes after what I've now have said has been translated
9 into Xhosa.
10 MS PILLAY: Chair, if we could ask the
11 families just to indicate for the purposes of the record,
12 the reference for the video that's about to be shown?
13 [10:13] CHAIRPERSON: What must we ask the
14 families to -
15 MS PILLAY: The reference, whether it's
16 an exhibit already and, if not, what the pathway is of the
17 -
18 CHAIRPERSON: I see.
19 MS PILLAY: - the video that's about to
20 be shown.
21 CHAIRPERSON: Yes. Mr Ntsebeza, you've
22 heard Ms Pillay's request. I don't think we've seen this,
23 I don't think this is an exhibit, so it's got to be given
24 an exhibit number so that it will be part of the record of
25 the Commission.

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1 MS LEWIS: Mr Chair, it's not yet an
2 exhibit. Can we give you the pathway during the tea break,
3 because we don't have it to hand.
4 CHAIRPERSON: I'll call it exhibit GGG41,
5 video clip E C News, is it? eNews 4:30PM 16 August 2012,
6 and then the pathway, the pathway will be supplied later.
7 Thank you.
8 MR NTSEBEZA SC: Now in the meantime, Mr
9 Chairman, I have been advised that exhibit L slide 210
10 can't be blown up, or can't be blown up more than it has
11 been blown in the exhibit.
12 CHAIRPERSON: I saw it's as far as they
13 could blow it up. It wasn't clear enough, but Ms Pillay
14 and I have a recollection that it may be already before us
15 as an exhibit in enlarged form and, but let's carry on with
16 your news clip for the time being.
17 MR NTSEBEZA SC: Yes. Thanks, Mr
18 Chairman. Now all I seek to put to you for your comment is
19 that if exhibit L210 was being sent by way of BBM to
20 Brigadier Pretorius, who was in the JOC with you as you
21 were watching the unfolding of the operation, the
22 probability is that he would have shown it to you? Would
23 you disagree with that?
24 CHAIRPERSON: Brigadier Pretorius is a
25 lady. I take it you're referring to her? The probability

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1 is that she would have shown it to you.
2 MR NTSEBEZA SC: Oh, I'm sorry, Mr
3 Chairman.
4 CHAIRPERSON: Isn't that a question,
5 anyway, it's a question you could ask her if she comes, but
6 in the meanwhile I suppose you can put the question to the
7 witness as you have done and we can wait for his answer.
8 MR NTSEBEZA SC: No, I will ask her if
9 she is called as a witness, but I just wanted to just raise
10 it.
11 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
12 ek dink hier's 'n paar aannames was hier gemaak word;
13 eerstens dat die foto aangestuur was soos die advokaat
14 tereg gesê het. Dan tweedens dat op 'n BBM of op 'n
15 BlackBerry skerm, dat mens sou besonderhede waarneem en dan
16 besonderhede pertinent verwysend na die liggame wat lê
17 langs die kraal, en dan derdens dat alle foto's wat sy
18 ontvang het, dat sy dit aan my getoon het. So sy sal net
19 self kan sê of sy elke foto gewys het. Wat die reëling was
20 as ek en Generaal Mpembe nie teenwoordig was in die JOC
21 nie, dan het sy gewoonlik vir ons foto's aangestuur wat sy
22 gekry het om ons op hoogte te hou. Uiteraard was ek,
23 tydens die voorval was beide ek en Generaal Mpembe, was ons
24 teenwoordig in die JOC.
25 CHAIRPERSON: He also said that he could

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1 confirm that the, this photograph was sent by BBM,
 2 Blackberry, I think BBM stands for Blackberry Messaging and
 3 that when it's blown up one can see bodies on it, that's
 4 what he said also. But he then added what you've
 5 translated. Mr Semenya?
 6 MNR SEMENYA SC: My Afrikaans is nie
 7 heeltemal vlot, Voorsitter maar ek het nie die getuie so
 8 gehoor.
 9 MR MAHLANGU: My Afrikaans is not that
 10 fluent but that's not how I understood the witness.
 11 CHAIRPERSON: Perhaps, miskien kan die
 12 getuie, perhaps the witness can repeat what he said.
 13 MAJOR-GENERAL ANNANDALE: My apologies
 14 for creating all this confusion, Chairperson. Chairperson,
 15 basically I said that there were three assumptions
 16 basically made; one, that the actually BBM was forwarded to
 17 Brigadier Pretorius; secondly, if she received it that on
 18 the small screen of a BlackBerry cell phone that she would
 19 have been in a position to actually identify the bodies, as
 20 we know now when you enlarge it and that you can actually
 21 see that there are bodies lying around, and then the third
 22 assumption, that she would have shown it to me, and then I
 23 think the interpreter explained in terms of what was the
 24 arrangement when both or either of myself or General
 25 Mpembe, when we were outside of the JOC she would have sent

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1 it through, but at the time of this incident both Mpembe
 2 and myself, we were present in the JOC.
 3 MR NTSEBEZA SC: General, you are so
 4 fluent in English, and I'm not going back to what you said
 5 about it being your constitutional right to express
 6 yourself in English. Is it not because perhaps you want to
 7 have more time to think when questions are put to you?
 8 CHAIRPERSON: No, no, Mr Ntsebeza, we had
 9 that out yesterday and I ruled that he has the fullest
 10 right to testify in his home language. I said of I was in
 11 his position the other way round, I would take questions in
 12 Afrikaans, wish to answer in English. I would be more at
 13 ease to express myself properly, but I said to you it's a
 14 double-edged sword because if he says something later which
 15 you seek to use against him he won't be able to say he
 16 couldn't express himself properly because he was not
 17 speaking his home language –
 18 MR NTSEBEZA SC: No, no, I -
 19 CHAIRPERSON: So there are pros and cons.
 20 So I would take them both and proceed as we are.
 21 MR NTSEBEZA SC: Yes.
 22 CHAIRPERSON: It's his right to do, and
 23 he must be at ease and must feel confident that he's able
 24 to express himself fully. I won't take that right away
 25 from him.

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1 MAJOR-GENERAL ANNANDALE: Chairperson, I
 2 still dream in Afrikaans and I think in Afrikaans. So I
 3 must translate it myself after thinking in Afrikaans to
 4 English.
 5 MR NTSEBEZA SC: So let's go back to the
 6 JOC, General. I just want to understand –
 7 CHAIRPERSON: I see the video clip, was
 8 that now just, we've already given it an exhibit number, if
 9 we've not going to use it we'll have to delete that but are
 10 you, I can't tell you how to run your cross-examination but
 11 I'm a little bit lost at the moment. But that's my fault,
 12 I know.
 13 MR NTSEBEZA SC: No, Chair, we're just
 14 concluding the aspect about the BBMs and then whilst we are
 15 whiling away time whilst he, I was getting - I'm told SAPS
 16 - ja.
 17 CHAIRPERSON: Sorry, there are two
 18 points. I understand you were busy with this picture,
 19 bottom right-hand corner, slide 210, and you wanted an
 20 enlargement and I think the witness has substantially
 21 answered the point that you were making.
 22 MR NTSEBEZA SC: Yes.
 23 CHAIRPERSON: Unless there's some further
 24 information you want from him, but while we were, we
 25 thought we were, it was necessary to look for an

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1 enlargement of this picture, you introduced another exhibit
 2 which I already gave an exhibit number, a video clip shown
 3 at 4:30, and then when the enlargement came you dropped the
 4 video clip and you went back to -
 5 MR NTSEBEZA SC: Yes.
 6 CHAIRPERSON: - understandably. What I
 7 want to know from you, are you going back to the video clip
 8 or can I delete it as an exhibit? So we can use that
 9 description GGG41 for something else. That's all I want to
 10 know.
 11 MS LEWIS: Chair, we will be going back
 12 to the video clip, we just, as far as I understand there
 13 are another two or three questions on the point of the
 14 photo.
 15 CHAIRPERSON: That's in order. Thank
 16 you. I now understand what's going on. I'm sorry I didn't
 17 before.
 18 MR NTSEBEZA SC: I'm blessed with juniors
 19 who understand these things, Mr Chairman. Some of us are
 20 very challenged.
 21 CHAIRPERSON: If I may say so, this is
 22 red bag territory, do you agree?
 23 MR NTSEBEZA SC: Mr Chairman?
 24 CHAIRPERSON: This is red bag territory.
 25 MR NTSEBEZA SC: Oh yes, oh yes. One is

<p style="text-align: right;">Page 10280</p> <p>1 waiting in the wings. Now I was just to finish off the 2 exhibit L210. Do you disagree with the proposition that - 3 and it's put on the basis that if the BlackBerry messages 4 were being sent by Colonel Vermaak to Pretorius, Brigadier 5 Pretorius, and she received them there at the times that 6 you were there watching the operation, the likelihood is 7 that she would have shown you as they were being BBM'ed, 8 more than wait until everything else has happened and then 9 say by the way I have these BBM messages? What in your 10 view would be the likelihood?</p> <p>11 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 12 ek aanvaar as sy iets substansieel gesien het wat my aandag 13 sou geveg het sou sy vir my gewys het. Maar sy het ook 14 sekerlik haar eie goeie oordeel in terme van net 'n foto 15 wat wys dat daar 'n groepering steeds op die koppie is, net 16 sy sal kan getuig of sy elke foto en/of net selektiewe 17 foto's aan my oorgedra het.</p> <p>18 MR NTSEBEZA SC: No, what I'm saying is, 19 I mean if for instance the BBM, 210 at the relevant BBM, 20 exhibit L210, right-hand corner is showing dead bodies, 21 that's the kind of thing that she would instantly come and 22 show to everybody that's in the JOC, isn't it?</p> <p>23 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 24 as sy die sodanige BBM ontvang het en as sy liggame 25 geïdentifiseer het, ek het nie twyfel dat sy dit aan ons</p>	<p style="text-align: right;">Page 10282</p> <p>1 General, are not, are in no position - and I'll tell you 2 why - are in no position to accept that the deaths of those 3 who were killed by the police was something that was not 4 foreseeable. Do you understand? And it may or may not 5 have been put to you by other counsel, but I just want on 6 behalf of the families to put the following propositions to 7 you, and of course you can merely say you agree or disagree 8 because if you have been asked these questions by other 9 counsel the record will speak for itself. Firstly, as we 10 explored yesterday the intelligence reports that you had - 11 or no, let me take a step back. When you, as a witness who 12 is now on the stand, after the briefing that you got from 13 the National Commissioner and you decided on the 14 mobilisation of reinforcements to come and deal with the 15 situation, you specifically mention two units, the NIU, the 16 TRT, and of course the STF, and it is, it will be our 17 submission that you knew and you foresaw that those units 18 would use sharp ammunition because they use sharp 19 ammunition to contend with any situation. They carry sharp 20 weapons. Yes, General, do you have a comment to make?</p> <p>21 [10:32] GENERAAL-MAJOOR ANNANDALE: Voorsitter, 22 ja, as u my sal vergun. Die Nasionale Kommissaris het nie 23 die betrokke eenhede gemobiliseer nie.</p> <p>24 MR NTSEBEZA SC: I didn't say that, 25 General.</p>
<p style="text-align: right;">Page 10281</p> <p>1 sou gewys het nie. Chairperson, ja I said that if, should 2 she have received the specific BBM, the reference that the 3 Advocate is making and she would have identified bodies on 4 the photo, I have no doubt that she would have shown it to 5 us.</p> <p>6 MR NTSEBEZA SC: Now, General, there is 7 an aspect that arose yesterday and I want to be clear in my 8 own mind that I understood it well, and please understand 9 that I am not picking a fight with you, and I'm not also 10 picking a fight with anybody. I understood you to be 11 agreeing to a suggestion from the Chair - and the Chair 12 will forgive me if I have also misunderstood the suggestion 13 - that it was only with the benefit of hindsight that you 14 realised that people would die as a result of the execution 15 of the plan. Did I understand you well?</p> <p>16 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 17 nee, ek het dit nie gesê nie.</p> <p>18 MR NTSEBEZA SC: Oh, I see.</p> <p>19 CHAIRPERSON: I didn't make that 20 suggestion either. But I think when you look at the 21 transcript you'll see what exactly was said. But I didn't 22 say that, I said something different.</p> <p>23 MR NTSEBEZA SC: Thank you, Mr Chairman, 24 that is the benefit of raising these issues for purposes of 25 not proceeding on a false premise. You see the families,</p>	<p style="text-align: right;">Page 10283</p> <p>1 GENERAAL-MAJOOR ANNANDALE: Ek kan net sê 2 dat dit was ook nie as gevolg van haar toeligtig wat hulle 3 gemobiliseer is nie. Voorsitter, NIU en TRT was reeds 4 sedert die Sondag was hulle op die toneel gewees. Ek het 5 addisionele NIU lede gemobiliseer en dan ook STF. Alle 6 bevoegde lede wat aangestel is onder die Suid-Afrikaanse 7 Polisie Wet dra skerp-punt ammunisie. Sorry, just a 8 correction, Chairperson. Not all members appointed by the 9 South African Police; those members appointed under the 10 South African Police Act, so the -</p> <p>11 MR MAHLANGU: Those members appointed 12 under the South African Police Act, yes.</p> <p>13 MAJOR-GENERAL ANNANDALE: That excludes 14 the members that's appointed under the Public Service Act, 15 which is more our support-related personnel. Voorsitter, 16 die gebruik van skerp-punt ammunisie was nooit deel van die 17 plan nie. Skerp-punt ammunisie was nooit gebruik om die 18 skare of die stakers uiteen te dryf nie, en dan u sal merk 19 dat selfs by toneel 2, dat daar lede van Openbare Orde 20 Polisiëring ook skerp-punt ammunisie hulleself gebruik het, 21 en dat die gebruik van skerp-punt ammunisie in die geval by 22 Marikana was in selfverdediging en in terme van noodweer.</p> <p>23 CHAIRPERSON: "Noodweer" is actually 24 necessity, I would think, but I think he probably meant 25 self-defence and private defence. That's how I understood</p>

<p style="text-align: right;">Page 10284</p> <p>1 it.</p> <p>2 GENERAAL-MAJOOR ANNANDALE: Dis reg. U</p> <p>3 het my al daarop gewys, Voorsitter.</p> <p>4 MR NTSEBEZA SC: General, I hear you.</p> <p>5 The only point I wanted to make is that fatalities were</p> <p>6 foreseeable when you deploy, as you did, or as you sanction</p> <p>7 the deploying, deployment of TRT, STF, and NIU units, and</p> <p>8 to the extent that it is going to be necessary to explore</p> <p>9 this, I'll explore this with other SAPS witnesses.</p> <p>10 GENERAAL-MAJOOR ANNANDALE: Voorsitter,</p> <p>11 ons het nie sterftes voorsien in terme van die beplanning</p> <p>12 nie. Voorsitter, ons moet daarop let dat Spesiale Taakmag</p> <p>13 het nie 'n skoot afgevuur nie, en dit is irrelevant wie</p> <p>14 individue is van watse eenhede as sodanige persoon in 'n</p> <p>15 situasie kom waar daar dreigende geweld is op sodanige</p> <p>16 persoon of ander persone se lewe.</p> <p>17 MR SEMENYA SC: I think the witness is</p> <p>18 saying something different, Mr Interpreter. It does not</p> <p>19 matter which unit any belonged to if they used their</p> <p>20 weapons in private defence.</p> <p>21 MR HANABE: Thanks.</p> <p>22 MR NTSEBEZA SC: Other than just the</p> <p>23 video, that is where we are resting our laurels.</p> <p>24 CHAIRPERSON: One normally rests on one's</p> <p>25 laurels if one has to, but alright, are we now going to see</p>	<p style="text-align: right;">Page 10286</p> <p>1 GENERAAL-MAJOOR ANNANDALE: Voorsitter,</p> <p>2 al kommentaar wat ek het is ons was nie bewus daarvan nie</p> <p>3 vir die res wat ek na verwys het gedurende my getuienis.</p> <p>4 MR NTSEBEZA SC: And, Mr Chairman, for</p> <p>5 the reasons that I have given, the only thing that I can</p> <p>6 say is that that is the end of my cross-examination.</p> <p>7 CHAIRPERSON: Thank you, Mr Ntsebeza.</p> <p>8 Who is next to cross-examine? Mr Tip?</p> <p>9 MR TIP SC: I believe it is me. Thank</p> <p>10 you, Chair.</p> <p>11 CHAIRPERSON: Just so we can plan the</p> <p>12 rest of the day, after you have finished cross-examining,</p> <p>13 who's going to cross-examine?</p> <p>14 MR TIP SC: I think that I'm the last, as</p> <p>15 far as I know.</p> <p>16 CHAIRPERSON: I see. Then we have the</p> <p>17 re-examination obviously.</p> <p>18 GENERAAL-MAJOOR ANNANDALE: Voorsitter,</p> <p>19 met u vergunning – en dis 'n behoefte wat ek het, ek weet</p> <p>20 nie of ek weer die geleentheid gaan kry om met die families</p> <p>21 te praat nie. Voorsitter, ek wil net sê dat my -</p> <p>22 CHAIRPERSON: If you wish to say</p> <p>23 something to the families, using this forum as means of</p> <p>24 communication for doing so, I would allow you to do so.</p> <p>25 MAJOR-GENERAL ANNANDALE: Thank you, Sir.</p>
<p style="text-align: right;">Page 10285</p> <p>1 the video that I've already marked in anticipation, GGG41?</p> <p>2 And we gave, do we give you the warning again? I did give</p> <p>3 a warning before to say we understand that there may well</p> <p>4 be images here which will cause distress to members of the</p> <p>5 family and loved ones of some of the people who died on the</p> <p>6 16th of August, and I would ask that this not be shown until</p> <p>7 two minutes have expired after what I've now said has been</p> <p>8 translated into Xhosa.</p> <p>9 [VIDEO RECORDING PLAYED]</p> <p>10 MR NTSEBEZA SC: General, I don't know</p> <p>11 whether you saw it, that should have been a video clip, the</p> <p>12 time 16:31. Did you see that?</p> <p>13 GENERAAL-MAJOOR ANNANDALE: Ek het dit</p> <p>14 waargeneem, Voorsitter.</p> <p>15 MR NTSEBEZA SC: And the only point I</p> <p>16 wish to make, and it may not even for you to comment on</p> <p>17 unless you want to, is that we will argue that it is highly</p> <p>18 improbable for a person who was central to the operation on</p> <p>19 the day, who had actually even given the time when it</p> <p>20 should start, that when everybody else in the country</p> <p>21 certainly, and possibly in the whole world knew by 16:31 at</p> <p>22 least in terms of this clip that miners had been killed,</p> <p>23 that you did not know until you were told at half past 4 or</p> <p>24 thereabouts by somebody else. We'll argue that that is</p> <p>25 highly improbable.</p>	<p style="text-align: right;">Page 10287</p> <p>1 Voorsitter, ek wil net sê dat my hart gaan uit na die</p> <p>2 familie vir elke geliefde wat hulle aan die dood afgestaan</p> <p>3 het. Ek is terdeë bewus van die leemte wat dit laat in</p> <p>4 elkeen se lewe. Voorsitter, my vrou verwys altyd daarna,</p> <p>5 na die "ripple" effek wat dit het, soos as mens 'n klippie</p> <p>6 op die water gooi, en ek weet die effek is baie wyer as net</p> <p>7 die feit dat daar 'n geliefde verloor is. Ek weet dat daar</p> <p>8 'n broodwinner verloor is en dat daar 'n pa, seun, broer,</p> <p>9 verloor is, en ook eggenote.</p> <p>10 Voorsitter, ek wil net meld dat die gebruik van</p> <p>11 vuurwapens is 'n skielike en 'n dinamiese proses en dit het</p> <p>12 potensieel traumatiese uitwerkings, en die lede van die</p> <p>13 Suid-Afrikaanse Polisie is ook diep geraak deur die</p> <p>14 sterftes. Dankie vir die geleentheid, Voorsitter.</p> <p>15 MR NTSEBEZA SC: Mr Chairman, may I just</p> <p>16 through you express my sense of what I consider. Whilst I</p> <p>17 thank the Chairman for having given the General the</p> <p>18 opportunity, in my experience, certainly in the Truth and</p> <p>19 Reconciliation Commission, a sentiment such as the one that</p> <p>20 is expressed by the General is best expressed in person in</p> <p>21 circumstances that have been arranged where there would be</p> <p>22 an expression of anger, but at the end of it forgiveness</p> <p>23 and reconciliation. We have just seen what has happened as</p> <p>24 a consequence, and I would urge that if the General really</p> <p>25 wishes to reach out, that he uses these facilities to</p>

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1 arrange a private meeting through the lawyers representing
 2 the families, at which in a private ceremony those
 3 sentiments would be expressed. They would be better
 4 received than they have been now because there are still
 5 raw, raw wounds there, Mr Chairman, and the manner to deal
 6 with it is to ensure that the environment has been created
 7 where dialogue will take place under controlled
 8 circumstances and the aim and the result will be
 9 forgiveness and reconciliation.
 10 [10:52] CHAIRPERSON: Mr Mpofu, you turned your
 11 machine on; you wish to say something too?
 12 MR MPOFU: Yes, thank you, Chairperson,
 13 if I may add, and I think also like Mr Ntsebeza, I just
 14 want to say to the General that the comments you make do
 15 not take anything away from your expression of your
 16 feelings, which I'm sure are appreciated by the Commission
 17 and at least some of the people. But I just want to add to
 18 what Mr Ntsebeza was saying and I don't want to repeat what
 19 he said, I just want to remind the Commission that a
 20 similar sentiment as expressed by Mr Ntsebeza was expressed
 21 by me to the National Commissioner, and that is why I said
 22 to her that I don't want her to address the issue of even
 23 the allegations that were made against her, but that I was
 24 hoping that she would take the opportunity to deal with the
 25 families and the victims in her own time, you know, outside

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1 the glare of the cameras, so that those sentiments might
 2 have a better effect than they did when she expressed them
 3 on the podium here, and I'm saying that because the walk-
 4 out that just appeared now, as one might have noticed,
 5 included some of the family members of the victims, of the
 6 deceased ones, but also some of the people that I
 7 represent, who are the injured. I'm sure in all our wisdom
 8 as South Africans we will find a method, including what has
 9 been said by Mr Ntsebeza and myself, where some form of
 10 reconciliation or clarification of stances can be done, and
 11 if the Commission is able to facilitate that then we will
 12 request the Commission to facilitate it just so that we
 13 avoid these contradictory situations, because this is now
 14 happening for the second time. When the National
 15 Commissioner expressed the same feelings we had a negative
 16 reaction, and I think we are also now experiencing the same
 17 thing, and I'm sure that's not in anybody's best interests.
 18 So I'm sure we will maybe put our heads together with the
 19 Commission to try and provide a separate forum where this
 20 thing can be done properly. Thanks, Chairperson.
 21 CHAIRPERSON: Thank you, Mr Mpofu. Mr
 22 Semenya, I was supposed to take the tea adjournment now,
 23 but if you wish to say something before I do so, I'll allow
 24 you.
 25 MR SEMENYA SC: Chair, I have nothing to

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1 say.
 2 CHAIRPERSON: We will bear in mind what
 3 has been said and we appreciate what you've also said about
 4 the sincerity of what the General said. We'll now take the
 5 tea adjournment.
 6 [COMMISSION ADJOURNS COMMISSION RESUMES]
 7 [11:29] CHAIRPERSON: The Commission resumes.
 8 Generaal-Majoor, jy's nog steeds onder eed.
 9 CHARL ANNANDALE: s.o.e.
 10 CHAIRPERSON: Mr Tip?
 11 CROSS-EXAMINATION BY MR TIP SC: Thank
 12 you, Chair. I do not have many questions for you, General,
 13 and those that I do have are aimed purely at clarifying a
 14 few aspects of the interaction between NUM and SAPS in the
 15 course of the days that we've been dealing with. I would
 16 like to begin, if I may, by requesting you just to get
 17 exhibit BBB7 in front of you.
 18 MAJOR-GENERAL ANNANDALE: I do have the
 19 exhibit, Chairperson.
 20 MR TIP SC: General, you'll recall that
 21 this was raised with you by various parties, firstly by Mr
 22 Bizos, and there was at least a suggestion in what he put
 23 to you that NUM had referred to the special task force as a
 24 unit of the SAPS, and it went on, as I understood the
 25 suggestion, that SAPS had in fact been at least influenced

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1 by NUM's position in its decision to deploy the STF. Do
 2 you recall that debate?
 3 MAJOR-GENERAL ANNANDALE: I do,
 4 Chairperson.
 5 MR TIP SC: And you'll recall also that
 6 the Chair assisted the parties by pointing out that the
 7 documents spoke variously about a special task force and
 8 the Special Task Force, and also referred to the SANDF, and
 9 he made the point, correctly, with respect, that it was at
 10 least ambiguous and he observed that perhaps this was
 11 something that NUM could and should clarify, and I intend
 12 to do that now. To that end I've taken full instructions
 13 from NUM. and I might also just mention that in the course
 14 of his evidence Mr Zokwana also spoke about the
 15 circumstances of this document. You may be aware of that.
 16 The first point that needs to be placed on record
 17 is that this media statement was issued by NUM on 13
 18 August, on the Monday, 13 August 2012, at 19:25, and it was
 19 issued by sending it via email to media establishments. It
 20 was not sent to SAPS and it was not sent to the SANDF.
 21 You've mentioned, I think, General, that you came across
 22 this media statement only in the course of the proceedings
 23 in this Commission, is that correct?
 24 MAJOR-GENERAL ANNANDALE: That is
 25 correct, Chairperson.

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1 MR TIP SC: And it follows, I think, that
 2 you certainly did not see it in the course of that Monday
 3 evening?
 4 MAJOR-GENERAL ANNANDALE: No, I did not,
 5 Chairperson.
 6 MR TIP SC: Would it be correct also that
 7 you were in fact entirely unaware of it during that Monday
 8 evening and the days that followed?
 9 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 10 ek het die eerste keer bewus geraak van hierdie pertinente
 11 verklaring toe dit aan my voorgelê is as 'n bewysstuk
 12 tydens kruisondervraging.
 13 MR TIP SC: Thank you, General. You've
 14 also described that in the course of that Monday evening
 15 you instructed Brigadier Fritz to place certain members of
 16 the STF on standby.
 17 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 18 op die Maandagaand het ek Brigadier Fritz versoek om
 19 Spesiale Taakmag lede te mobiliseer om deur te kom na
 20 Marikana.
 21 MR TIP SC: And you'll forgive me if I
 22 underline what is already clear, that it is apparent,
 23 General, that that instruction by you had absolutely
 24 nothing whatsoever to do with the media statement that NUM
 25 had issued to the media houses earlier that evening?

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1 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 2 dit het verseker, die mobilisering van Spesiale Taakmag het
 3 niks te doen met enige media verslag nie.
 4 MR TIP SC: General, then as a general
 5 proposition which flows from what I've just discussed with
 6 you, you'll recall that a week ago, when Mr Burger put some
 7 questions to you concerning the place of Mr Botes of the
 8 Lonmin security establishment, you said very clearly that
 9 operational and strategic decisions were the exclusive
 10 responsibility of the SAPS. Do you remember that?
 11 MAJOR-GENERAL ANNANDALE: I do,
 12 Chairperson.
 13 MR TIP SC: And as a general proposition,
 14 can we take it that although that was said in respect of Mr
 15 Botes of Lonmin, it would at least be equally true of any
 16 of the office bearers of NUM?
 17 MAJOR-GENERAL ANNANDALE: That is so,
 18 Chairperson.
 19 MR TIP SC: And just to go back to the
 20 instructions that I have from NUM, they are to the effect
 21 that NUM and the office bearers who were involved in the
 22 issuing of this media statement are not familiar with the
 23 structures of SAPS, and they are not familiar with the
 24 nature of the particular units that it has available for
 25 deployment, and in particular, they are not aware of the

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1 strategic task force as a particular component of the SAPS
 2 establishment.
 3 MAJOR-GENERAL ANNANDALE: Chairperson, it
 4 seems so, if reference is made to the strategic task force,
 5 seeing that it's the Special Task Force.
 6 MR TIP SC: Now, General, you had some
 7 interaction with Mr Zokwana, I think particularly, and
 8 possibly only on the 15th of August, the late afternoon and
 9 evening, is that correct?
 10 MAJOR-GENERAL ANNANDALE: That is
 11 correct, Chairperson.
 12 MR TIP SC: And other than that, you had
 13 nothing to do with NUM office bearers or NUM members in
 14 relation to the planning and decision making of SAPS over
 15 that period, is that correct?
 16 MAJOR-GENERAL ANNANDALE: That is
 17 correct, Chairperson.
 18 MR TIP SC: Now, I just want to deal next
 19 with some aspects of the events of 15 August, and your
 20 interaction with Mr Zokwana was, firstly, before he went to
 21 the koppie, he expressed his apprehensions about his
 22 personal security, and you personally assured him that you
 23 would see to it that arrangements were in place to keep him
 24 safe. You remember that?
 25 MAJOR-GENERAL ANNANDALE: I remember

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1 that, Chairperson.
 2 MR TIP SC: And in the course of that did
 3 you get the sense that – of what really was of concern to
 4 Mr Zokwana at that time, particularly in this regard, and
 5 I'm reflecting here the evidence that he gave in these
 6 proceedings, General, that he personally, and NUM
 7 generally, became very concerned about the security
 8 situation at Marikana on the 12th of August after the
 9 incident in which two of the Lonmin security people were
 10 killed? And, yes, General, I know that you were not there
 11 at that time, but you have heard that Mr Zokwana then took
 12 steps to try to secure additional deployments via the
 13 Provincial Commissioner's office and later, on the same
 14 afternoon of the 12th of August, he took the step of
 15 contacting the National Minister towards the same purpose.
 16 Then, of course, we know what the events were on
 17 the 13th of August, which had taken place before NUM issued
 18 the media statement that it did, BBB7, and against that
 19 background I'm just going to put in a very brief
 20 paraphrased manner the essence of what Mr Zokwana said
 21 about what his concerns were as at the 13th of August, and
 22 if, on the basis of the discussion and interaction that you
 23 had with him on the 15th you can confirm that that was your
 24 understanding of his view, you can tell us. If you're not
 25 in a position, then you'll tell us accordingly.

<p style="text-align: right;">Page 10296</p> <p>1 What in essence Mr Zokwana said was that NUM was 2 seeking an effective law and order process – the 3 restoration of law and order in the Marikana area, because, 4 and only because, of the level of violence and the killing 5 of people which had arisen from the 12th of August and 6 onwards. He was not after increased law and order 7 resources merely because people had gone on strike, or 8 merely because they had gathered on the koppie, but solely 9 because of the extent of the violence and the killings. In 10 his interaction with you, were you able to gather that 11 understanding from him?</p> <p>12 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 13 ja, pertinent die aand van die 15de, nadat die twee 14 presidente teruggekeer het van die koppie af en ons 15 onafhanklike vergaderings met hulle gehad het, het mnr 16 Zokwana aangedui dat hy die polisie teenwoordigheid, die 17 verhoogde polisie teenwoordigheid, verwelkom. Hy het 18 verwys na die intimidasie wat plaasvind, en dan sal ek nie 19 weer die fout maak nie, he condemned violence, not 20 condoned, condemned violence. Voorsitter, dan het hy ook 21 van NUM se kant af vir die polisie die versekering gegee 22 dat hulle totaal sal saamwerk in terme van enige informasie 23 of inligting wat hulle het rondom gevalle van 24 kriminaliteit.</p> <p>25 MR TIP SC: General, I want next to turn</p>	<p style="text-align: right;">Page 10298</p> <p>1 essentially "How do we kill this NUM? We hate this NUM," 2 with people clashing their weapons together at the same 3 time. Have you seen that video?</p> <p>4 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 5 as ek reg kan onthou het ek 'n transkripsie gelees van die 6 video, ek dink daar was nog regstellings gemaak, daar was 7 'n eerste weergawe en toe regstellings op die transkripsie. 8 Die video self probeer ek nou dink, moontlik het ek hom 9 gesien, ek is nie seker nie.</p> <p>10 MR TIP SC: General, this video clip has 11 been played a few times for the Commission. I don't 12 propose to do it again, although you may not have seen it 13 but just for cross-reference, Chair, it's exhibit CC7. 14 General, it is a very striking video and it has been placed 15 on record that it is, there's some dispute about it, but at 16 least the one description is that it is a very menacing 17 song, a very menacing presentation, and particularly it was 18 put by me to Mr Mathunjwa that if it referred to a person 19 it would be extremely threatening to that person, and what 20 in particular confronted Mr Zokwana on the 15th was that as 21 he approached, this song was being sung, the weapons were 22 being clashed together but there were two lines. There was 23 "How do we kill the NUM? We hate NUM," and "How do we kill 24 Zokwana? We hate Zokwana," and I'm going to relate what he 25 then says about it, again just by way of paraphrasing, and</p>
<p style="text-align: right;">Page 10297</p> <p>1 briefly to the nature of the proceedings in the events at 2 the koppie on the occasion of Mr Zokwana's visit there on 3 the 15th of August, and you'll recall that you have 4 mentioned in your evidence that whilst he, and later 5 Mr Mathunjwa, went there, that you were receiving radio 6 transmissions from the commanders of the Nyalas in which 7 they had travelled, is that correct?</p> <p>8 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 9 net tegniese korrektheid, hulle het met minibusse tot by 10 die "forward holding area" 1 vertrek, en van daar af dan 11 met een pertinente Njala en dan die radio transmissie en 12 verslae was uit Pappa1 uit een Njala.</p> <p>13 MR TIP SC: Thank you, General, that is 14 indeed as I understand it. What I want to then just 15 describe to you, and I'm referring also here to the 16 evidence and descriptions that Mr Zokwana has already 17 presented to the Commission, is one particular feature of 18 what encountered Mr Zokwana as he approached and arrived at 19 the koppie on that occasion, and that is a feature that 20 particularly struck and shocked him, namely the singing of 21 what we called generally the "Kill the NUM song." 22 [11:49] General, I imagine that in the course of the 23 consultations that you've had you will have seen a video 24 clip where people on the koppie on the 16th at the time just 25 before Mr Mathunjwa spoke, sing a song where the lyrics are</p>	<p style="text-align: right;">Page 10299</p> <p>1 then I'll ask you, General, whether this kind of feedback 2 was being received by you from Brigadier Calitz from that 3 Nyala at the time that they were still at the koppie, and 4 Mr Zokwana said in essence this, that as he approached he 5 heard this song being sung and it shocked him. When he 6 tried to address the people on the koppie and got so far as 7 to tell them that they should disarm, that they should take 8 their grievances up through proper processes, the volume of 9 the singing of that song went up and it became impossible 10 for him in fact to address them. Would that be consistent 11 with what you were hearing from Papa1 at the time?</p> <p>12 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 13 behalwe dat hulle nie verwys het na 'n lied wat gesing is 14 of enige woorde uit die lied uit nie, dit was, soos ek dit 15 onthou dat mnr Zokwana uitgejou is, dat hy nie verwelkom is 16 daar nie, en dat hy nie die geleentheid gehad het om sy 17 boodskap na behore oor te dra nie.</p> <p>18 MR TIP SC: General, I'm not going to 19 detain you with the details, but I just want to ask you 20 this. Were you personally satisfied at the time and in the 21 course of the briefing after the visit to the koppie, that 22 Mr Zokwana had indeed made a sincere and real effort to 23 address the people on the koppie and to try to secure a 24 peaceful resolution of the situation there?</p> <p>25 GENERAAL-MAJOOR ANNANDALE: Voorsitter,</p>

<p style="text-align: right;">Page 10300</p> <p>1 ja ek kan onthou dat die aand met die terugvoer was mnr 2 Zokwana nog merkbaar ontsteld gewees en hy het vir Generaal 3 Mpembe gesê, "You have seen what happened at the koppie." 4 MR TIP SC: General, you're correct, he 5 was indeed very distressed, but the particular question 6 that I put to you was whether you were satisfied at the 7 time that he, Mr Zokwana, had indeed made a genuine effort 8 to get through to that crowd and to try to contribute to a 9 resolution of this situation, peacefully. 10 GENERAAL-MAJOOR ANNANDALE: Dit is reg, 11 Voorsitter. 12 MR TIP SC: Then the last question that I 13 have for you, General, is simply this, that in keeping 14 perhaps with what you've already confirmed again today and 15 the professional and independent nature of the police 16 planning at the time, that when one examines the planning 17 and everything that had gone around it, is it correct that 18 the SAPS did not during that time see NUM as an 19 organisation as posing a threat to law and order in the 20 Marikana area? 21 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 22 ek het verwys na die, in die woord nou in Engels, clashes, 23 tussen NUM en AMCU op die 12de. Gegewe die terugvoer wat 24 ons gekry het van Lonmin ook in terme van bewysstuk TT5 in 25 terme van die misdaad intelligensie, of die informasie wat</p>	<p style="text-align: right;">Page 10302</p> <p>1 various areas of criticisms that one could discern from 2 various cross-examination questions. Can we start to deal 3 with the one relating to what is called lack of command. 4 When scene 1 happened, the overall commander, General 5 Mpembe, was at the JOC, is that right? 6 MAJOR-GENERAL ANNANDALE: That is 7 correct, Chairperson. 8 MR SEMENYA SC: At that time was it 9 foreseen that scene 1 was to happen? 10 MAJOR-GENERAL ANNANDALE: No, 11 Chairperson. 12 MR SEMENYA SC: Was there information to 13 alert the overall commander that he needed to intervene? 14 MAJOR-GENERAL ANNANDALE: No, 15 Chairperson. 16 MR SEMENYA SC: Was the communication to 17 indicate to him, General Mpembe, that he needs to get in 18 contact with the operational commander? 19 MAJOR-GENERAL ANNANDALE: No, 20 Chairperson. 21 MR SEMENYA SC: When scene 1 happened, 22 Brigadier Calitz was the operational commander. Am I 23 right? 24 MAJOR-GENERAL ANNANDALE: Brigadier 25 Calitz was right throughout the operational commander, but</p>
<p style="text-align: right;">Page 10301</p> <p>1 ons gekry het was daar deurgaans verwys na AMCU, telkens na 2 AMCU as die persone wat verantwoordelik is vir die 3 ontwinging en die kriminaliteit. Maar, Voorsitter, ons 4 het nie gefokus op AMCU of vir NUM nie; ons het gefokus op 5 die handelinge van 'n groep, groep wat aanduidings was dat 6 dit hoofsaaklik AMCU lede is of NUM lede, maar wat in 'n 7 oorgangsfase was. Ek dink daar was 'n maand, daar is 8 iewers genoem dat daar 'n maand tydperk is wat jy moet 9 kennis gee voordat jy kan sogenaamde "cross-flooring" doen, 10 dat hulle alhoewel nog steeds NUM kaarthouers was, dat 11 hulle hulle geassosieer het met die AMCU unie. 12 MR TIP SC: General, thank you. Again 13 it's not, I think necessary for me to take time to develop, 14 to debate with you particular incidents on particular days. 15 That evidence, answer of yours is clear enough and we 16 appreciate it and, Mr Chair, that concludes our questions 17 for the General. 18 CHAIRPERSON: Thank you, Mr Tip. I just 19 want to make sure that there's no one representing any of 20 the other parties who wishes to ask any more questions of 21 the General? No. Mr Semanya re-examination? 22 RE-EXAMINATION BY MR SEMENYA SC: Thank 23 you, Chair. General, your answers have been fairly 24 comprehensive to most questions that were put to you. I 25 would like us just to deal with, broadly though, with</p>	<p style="text-align: right;">Page 10303</p> <p>1 yes, during the time of scene 1 as well. 2 MR SEMENYA SC: As his evidence will show 3 later, he was inside the Nyala when scene 1 happened. 4 MAJOR-GENERAL ANNANDALE: That's my 5 understanding, Chairperson. 6 MR SEMENYA SC: And the Hippo was on the 7 northern side, not where scene 1 happened? 8 MAJOR-GENERAL ANNANDALE: Chairperson, 9 that's my understanding, the Nyala that Papa1 was in was 10 more to the north-western side of where scene 1 actually 11 occurred. 12 MR SEMENYA SC: Was that by design that 13 he should be there when scene 1 happened? 14 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 15 nee, ons het, dit was nooit deel van die plan dat daar 'n 16 toneel 1 sou wees nie. Ons was nie bewus dat dit sou 17 plaasvind nie, so dit was nie sodanig, kon dit beplan 18 gewees het nie. 19 MR SEMENYA SC: Was there information to 20 Papa1, where Brigadier Calitz was, that scene 1 has just 21 happened, informing him as the operational commander? 22 GENERAAL-MAJOOR ANNANDALE: Geen sodanige 23 informasie of inligting was oor die radio kanale gemeld 24 nie, Voorsitter. 25 MR SEMENYA SC: Are you aware of any</p>

<p style="text-align: right;">Page 10304</p> <p>1 indicators that ought to have brought that knowledge to him 2 when it happened, that is scene 1? 3 GENERAAL-MAJOOR ANNANDALE: Voorsteller, 4 die enigste manier hoe hy sou bewus wees is of, as hy dit 5 self waargeneem het of as een van die bevelvoerders of lede 6 dit op die radio oorgedra het. Maar ek was nie bewus, en 7 ook in die JOC was ons nie bewus van enige sodanige 8 informasie nie. 9 MR SEMENYA SC: I'll come to the JOC. 10 I'm just trying to explore the reality that we have. Is 11 there any reason to disbelieve Brigadier Calitz that he did 12 not witness scene 1 happening? 13 MR MPOFU: Chairperson, can I object to 14 this line of questioning. I'm sure the often repeated 15 remarks by the Chairperson that this witness was not, and 16 Calitz will answer to himself also applies to Mr Semenya. 17 MR SEMENYA SC: Except that – 18 MR MPOFU: In other words I don't know 19 what, if this witness says he believes or doesn't believe 20 whether Calitz observed or did not observe, how is that 21 going to add to anything? 22 MR SEMENYA SC: Chair, except at two 23 levels. Mr Mpofo spent countless days dealing with the 24 actual events at scene 1 and scene 2 with this witness. 25 Secondly, I'm not asking this witness to give us an account</p>	<p style="text-align: right;">Page 10306</p> <p>1 happens, I want us to recreate as best we can what is 2 available to the people in the JOC where you were. What 3 visual material of the operation were you getting from time 4 to time? 5 GENERAAL-MAJOOR ANNANDALE: Voorsteller, 6 daar was foto's deurgestuurd maar ek weet nie watter foto's 7 en tot watter stadium deur die BlackBerry van Kolonel 8 Vermaak. Ekself het nie die foto's gesien ten tyde van die 9 afspeel van "scene 1" soos ons nou weet die tyd nie. 10 Voorsteller, dan was daar CCTV beeldmateriaal van een 11 pertinente kamera van Lonmin, 'n kamera wat wes gekyk het, 12 en wat, ek dink omtrent 1.6 kilometer weg was van die 13 toneel nou bekend as toneel 1. 14 MR SEMENYA SC: Any of those visuals 15 which could have conveyed to JOC that scene 1 is happening? 16 GENERAAL-MAJOOR ANNANDALE: Voorsteller, 17 nee, ek het self probeer kyk op die CCTV skerm, en hoe meer 18 hulle ingesoem het, hoe minder kon 'n ou sien in terme van 19 die beweging van die kamera, en dan ook die posisie van die 20 son en stof, mens kon sien hoe voertuie beweeg, maar geen 21 aanduiding van die afspeel van 'n toneel 1 nie. 22 MR SEMENYA SC: Audio material that came 23 through to the JOC, did it convey a sense immediately that 24 scene 1 is happening? 25 MAJOR-GENERAL ANNANDALE: No,</p>
<p style="text-align: right;">Page 10305</p> <p>1 of what happened. I'm asking knowing Brigadier Calitz, 2 knowing the evidence as he does, has he got any reason why, 3 if he says he did not see it, there is something to 4 disbelieve that according to him. 5 CHAIRPERSON: Counsel is not normally 6 entitled to ask one witness whether he believes the 7 evidence of another witness. Questions of credibility are 8 normally reserved for the courts, but of course this is a 9 commission, so wider considerations may apply. I, - 10 MR SEMENYA SC: Where the information – 11 CHAIRPERSON: I'm a bit concerned, you 12 know, I may not have it in law, you know, or various 13 witnesses have been asked do you believe other witnesses. 14 It may be that you put this on a basis that this witness is 15 in a special position to be able to give an informed answer 16 to the question, in which case I'll allow it. 17 [12:09] MR SEMENYA SC: I'll rephrase the 18 question. Having assessed all the information to date, is 19 there anything that you are aware of that would make the 20 evidence of Brigadier Calitz, if he comes, unbelievable 21 about whether he did or did not observe the scene 1 22 happening? 23 MAJOR-GENERAL ANNANDALE: No, 24 Chairperson. 25 MR SEMENYA SC: Okay when scene 1</p>	<p style="text-align: right;">Page 10307</p> <p>1 Chairperson. 2 MR SEMENYA SC: Was there material at any 3 stage to JOC that could have informed a decision to halt 4 before the occurrence of scene 2? 5 MAJOR-GENERAL ANNANDALE: No, 6 Chairperson. 7 MR SEMENYA SC: For the convenient 8 treatment of the evidence we have been referring to the 9 events at Marikana scene 1 and scene 2. From the JOC 10 perspective, was that distinction clear to you at the time? 11 MAJOR-GENERAL ANNANDALE: No, 12 Chairperson. 13 MR SEMENYA SC: Okay. Can I ask us to go 14 look now at exhibit FFF25, particularly entry 975? 15 CHAIRPERSON: Page 22 of the exhibit. 16 MR SEMENYA SC: Indeed, Chair. You would 17 remember during cross-examination - 18 MR MPOFU: Chair, I must apologise for 19 the delayed response, but I'm not dealing with this 20 question that Mr Semenya is asking but the previous one. 21 If, you know, I just think that to leave that question 22 open-ended about the distinction between scene 1 and scene 23 2 is at best misleading, unless it is made clear at what 24 stage we're talking about, because the witness clearly 25 testified about that distinction. When I asked him the</p>

<p style="text-align: right;">Page 10308</p> <p>1 question in relation to why, or rather where he got his 2 information about both scenes, do you remember, 3 Chairperson, that he said he got his information about 4 scene 2 from Naidoo and about scene 1 and 2 from Brigadier 5 Calitz. So it means he was aware of that distinction, so 6 unless we know at what stage Mr Semenya's question is 7 because if it covers the entire period then it's 8 misleading.</p> <p>9 CHAIRPERSON: Mr Semenya, you've heard 10 what Mr Mpofu said. It might be helpful for us if you just 11 got a bit more clarity in respect of the distinction, when 12 he learnt that there were two scenes and so forth. The 13 answer does hang a bit in the air, it would help us all, I 14 think, to understand his evidence better if this point is 15 taken a bit further.</p> <p>16 MR SEMENYA SC: Chair, I even said "at 17 that time of the happening," so were you aware at JOC at 15 18 - just immediately before 4 o'clock that there is now scene 19 1 happening?</p> <p>20 MAJOR-GENERAL ANNANDALE: No, 21 Chairperson.</p> <p>22 MR SEMENYA SC: Were you aware at JOC at 23 16:09 that now scene 2 is happening?</p> <p>24 MAJOR-GENERAL ANNANDALE: No, 25 Chairperson.</p>	<p style="text-align: right;">Page 10310</p> <p>1 MAJOR-GENERAL ANNANDALE: Chairperson, in 2 relation to the koppie, that would be the so-called 3 positive attraction point, the area to the back as the 4 strikers were positioned. It would be the area then that 5 the police line were facing, that would be the western 6 side.</p> <p>7 MR SEMENYA SC: And Nkaneng would be 8 which side of the cardinal?</p> <p>9 MAJOR-GENERAL ANNANDALE: Chairperson, as 10 the police were facing to their right back, right rear, so 11 that would be to the eastern, a bit to the north, north- 12 eastern side.</p> <p>13 MR SEMENYA SC: And you see entry 978 on 14 that exhibit reports about 600 people arriving at the 15 koppie, heavily armed, a lot of people still was coming 16 from eastern side. That would be from the Nkaneng side.</p> <p>17 MAJOR-GENERAL ANNANDALE: Chairperson, 18 not only necessarily from Nkaneng side, but also beyond 19 Nkaneng to the east because further on there's also 20 settlements.</p> <p>21 MR SEMENYA SC: The proposition was put 22 to you that by far the majority of the protestors were 23 coming from Nkaneng. Do you remember that line of cross- 24 examination?</p> <p>25 MAJOR-GENERAL ANNANDALE: I do,</p>
<p style="text-align: right;">Page 10309</p> <p>1 MR SEMENYA SC: At 16:10 did you know 2 there was scene 1 and scene 2?</p> <p>3 MAJOR-GENERAL ANNANDALE: No, 4 Chairperson.</p> <p>5 MR SEMENYA SC: At 16:10 did you know 6 there is a scene at all?</p> <p>7 GENERAAL-MAJOOR ANNANDALE: Waar daar 8 sterftes was, nee, Voorstitter.</p> <p>9 MR SEMENYA SC: That we were going to 10 call them scene 1, were you aware at the time?</p> <p>11 MAJOR-GENERAL ANNANDALE: No, 12 Chairperson.</p> <p>13 MR SEMENYA SC: That we were going to 14 call it scene 2, did you know at the time?</p> <p>15 MAJOR-GENERAL ANNANDALE: No, 16 Chairperson.</p> <p>17 MR SEMENYA SC: Can I now go where we 18 were? Exhibit FFF25, against entry 975, can I read you 19 that situation report at 9:30? It reads "Chopper 1 20 reported a lot of people on the street coming from western 21 side of Marikana, moving to the koppie." Do you see that?</p> <p>22 MAJOR-GENERAL ANNANDALE: I do, 23 Chairperson.</p> <p>24 MR SEMENYA SC: If this is not leading, 25 which side is the western side of Marikana?</p>	<p style="text-align: right;">Page 10311</p> <p>1 Chairperson.</p> <p>2 MR SEMENYA SC: As far as the information 3 was coming through to the JOC, the people were coming only 4 from that direction?</p> <p>5 MAJOR-GENERAL ANNANDALE: No, 6 Chairperson.</p> <p>7 MR SEMENYA SC: Shall we talk about this 8 concept, the positive and negative attraction? If assets 9 like the mining smelters were thought to be sensitive 10 assets requiring protection, in terms of positive and 11 negative that becomes what type of attraction?</p> <p>12 MAJOR-GENERAL ANNANDALE: That specific 13 key point would then be considered as a negative 14 attraction.</p> <p>15 MR SEMENYA SC: In terms of a dispersal 16 action of people who are armed, would you disperse them in 17 the direction of the settlement?</p> <p>18 MAJOR-GENERAL ANNANDALE: Chairperson, if 19 the settlement is considered as a negative attraction point 20 then you would send them in the other direction, what we 21 refer to as a positive attraction point.</p> <p>22 MR SEMENYA SC: I think Mr Hendrickx says 23 because they live there that should be a positive 24 attraction. Would that be the correct planning 25 description?</p>

<p style="text-align: right;">Page 10312</p> <p>1 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 2 om dit op te weeg in terme van wat positief en wat negatief 3 is, dit wat positief is noodwendig vir 'n groepering mense 4 is nie noodwendig positief in terme van die uiteendryf 5 aksie nie. 6 MR SEMENYA SC: The other point of 7 criticism referred to the Standing Order 262, Debriefings. 8 According to Ms Jele and the clients she represents there 9 would have had to be a debriefing of a swat analysis and 10 all, for instance on the 13th whilst the situation, if you 11 like, was still unfolding. Is that how you understand 12 Standing Order 262? 13 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 14 soos ek 262 verstaan is dit verwysend na 'n totale 15 operasie. So as 'n operasie oor aantal dae plaasvind dan 16 sal dit na afgeloop van die operasie wees. 'n Operasie of 17 'n gebeurtenis, as ek kan 'n voorbeeld gebruik soos die 18 COP17 gebeurtenis, of spesiale "event" wat oor 'n aantal 19 dae plaasgevind het, dan sou daar nie, as daar op een dag 20 'n groep protesteerders is oor klimaat verandering 21 byvoorbeeld, dan sal daar nie elke keer 'n nabetrugting 22 gehou word na aanleiding van kleiner gebeurtenisse binne-in 23 die groter gebeurtenis nie. 24 [12:28] Maar wel in terme van wat ons na verwys as die 25 eerste vlag van "debriefing," of nabetrugting, we refer to</p>	<p style="text-align: right;">Page 10314</p> <p>1 eie vormpie het wat lede dan kan gebruik as rigtinggewend, 2 maar daar is nie 'n standaard sodanige dokument wat sê dit 3 is hoe dit moet gedoen word nie. 4 MR SEMENYA SC: There was also a 5 suggestion that the SAPS' case that there were two groups 6 on the koppie is an afterthought, you remember that? 7 MAJOR-GENERAL ANNANDALE: I remember 8 that, Chairperson. 9 MR SEMENYA SC: Can I invite you to look 10 at FFF25 exhibit, entry 207. 11 CHAIRPERSON: On page 18 of the exhibit. 12 MR SEMENYA SC: Indeed, Chair. Now what 13 I want to establish is whether that entry was made which 14 reads, "Papa1 reported that there are two groups of the 15 people at the koppie," was that entry made after the 16 statement of Mr White? 17 MAJOR-GENERAL ANNANDALE: Chairperson, no 18 this must, I'm not sure whether this is on the 15th or the 19 16th of August. 20 MR MPOFU: No, Chairperson - 21 CHAIRPERSON: This is the 15th. 22 MR MPOFU: Thank you, no, that's covered. 23 I was going to raise the same issue about which date. 24 MAJOR-GENERAL ANNANDALE: This must have 25 been many months before Mr White submitted a statement.</p>
<p style="text-align: right;">Page 10313</p> <p>1 it as hard debrief between the members as well as then 2 their direct commanders. 3 MR SEMENYA SC: Where Standing Order 262 4 requires trainers and instructors must attend a debriefing, 5 would this have been possible on the 9th, the 10th, the 11th, 6 the 12th, the 13th of August? 7 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 8 gegewe die vloeibaarheid van die situasie en dat dit 'n 9 aktiewe protesaksie was wat ons mee gedeel het en dan dit 10 sou net prakties sou dit bitter moeilik gewees het om 11 individuele opleiers te kry vanaf al die pertinente eenhede 12 om dan nou deur te kom vir so 'n nabetrugting. 13 MR SEMENYA SC: You have told us about 14 the various levels of debriefing that happens. Does 15 Standing Order 262 contemplate a written report of 16 debriefing that happens between members and their 17 commander, the first level you mentioned? 18 GENERAAL-MAJOOR ANNANDALE: Nee, 19 Voorsitter, nie 'n formele geskrewe verslag nie. 20 MR SEMENYA SC: There is also criticism 21 that the debriefing that happened was inadequate. Is there 22 a given standard debriefing measure in policing? 23 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 24 ek is nie bewus van so sjablone, "template" nie. Ek weet 25 daar is eenhede wat dit sal vergemaklik wat hulle dan hulle</p>	<p style="text-align: right;">Page 10315</p> <p>1 MR SEMENYA SC: Can I invite you to look 2 at entry 180, carrying on page 16 of exhibit FFF25. Are 3 you there? 4 MAJOR-GENERAL ANNANDALE: I do have that 5 entry at 10:40, that's correct, Chairperson. 6 MR SEMENYA SC: The report says, "Papa2 7 reported that five people are 20 metres away from the group 8 facing Nyalas and people at the back of big group are also 9 moving, speeding to the right side of the Nyalas." Do you 10 see that? 11 MAJOR-GENERAL ANNANDALE: I do see that, 12 Chairperson. 13 MR SEMENYA SC: And it reads - would that 14 entry have been made subsequent to the statement of Mr 15 White? 16 GENERAAL-MAJOOR ANNANDALE: Dit was ook 17 voor, dit is ook voor die verklaring van mnr White, dit lyk 18 vir my ook op die 15de Augustus 2012. 19 MR SEMENYA SC: In your evidence you have 20 dealt quite extensively with the facts around the cameras. 21 I don't propose we go there. 22 CHAIRPERSON: Facts about the? 23 MR SEMENYA SC: The cameras. 24 CHAIRPERSON: The cameras, yes. So 25 you're moving on to another point. There's just one point</p>

<p style="text-align: right;">Page 10316</p> <p>1 I'd like to put. Entry 989, this is an entry from the 16th 2 of August, page 23, that refers to the warriors group 3 moving up and down. So would that be, it's obviously a 4 reference to the group, the front group, to which you 5 refer, the smaller group, is that right? 6 MAJOR-GENERAL ANNANDALE: Yes, 7 Chairperson. 8 MR SEMENYA SC: Can we now deal with 9 other criticisms. You would recall that it was 10 persistently put to you that the use of teargas would have 11 agitated the strikers at the koppie to charge towards the 12 police. In the 17 years post democracy, has there been any 13 police experience validating that accusation? Not 14 accusation - 15 CHAIRPERSON: He can only speak for 16 himself. He can only speak for himself, obviously. 17 MR SEMENYA SC: Are you aware in the 18 police records, in any policing history that you are aware 19 of where the discharge of a teargas has had that type of 20 response from the protestors? 21 GENERAAL-MAJOOR ANNANDALE: Voorsitter, 22 nee ek is nie bewus daarvan nie. Al wat ek weet is dat 23 traangas brand, en my ervaring waar ek teenwoordig was wat 24 traangas gebruik word is dat sodanige groeperings of 25 individue beweeg teenoorgestelde rigting as wat die</p>	<p style="text-align: right;">Page 10318</p> <p>1 MR MPOFU: Even less. No, it's just in 2 fairness to Mr Semenya in case, so that he, while the 3 witness is here he might deal with this matter - 4 CHAIRPERSON: He did say he would be 5 happy if I took the adjournment now. 6 MR MPOFU: No, but he didn't know what I 7 was going to say. 8 CHAIRPERSON: Alright. 9 MR MPOFU: All I wanted to do is just to 10 make, to give references to, Commissioner Hemraj had asked 11 me for certain references in relation to the issue of 12 whether the people were shot before the road and so on. So 13 I just thought rather than bringing it later when the 14 witness is gone, in case - 15 CHAIRPERSON: During the adjournment, 16 give them - 17 MR MPOFU: I want to give them on the 18 record, Chairperson. 19 CHAIRPERSON: Alright. Give them. 20 MR MPOFU: It's page 5782, page 6414, 21 page 6423, and page 6720 to 1. Thank you, Chairperson. 22 CHAIRPERSON: Thank you. We'll now take 23 the adjournment till quarter to 2. Thank you. 24 [COMMISSION ADJOURNS COMMISSION RESUMES] 25 [13:47] CHAIRPERSON: The Commission resumes.</p>
<p style="text-align: right;">Page 10317</p> <p>1 traangas gebruik, of vanaf gebruik word. 2 CHAIRPERSON: It looks to me as if you're 3 asking me to take the lunch adjournment earlier, is that 4 correct? 5 MR SEMENYA SC: [Inaudible]. 6 CHAIRPERSON: Well, let's take the lunch 7 adjournment now and resume at quarter to 2, if that's 8 convenient. 9 MR SEMENYA SC: Certainly, Chair. 10 CHAIRPERSON: Mr Mpofo? 11 MR MPOFU: No, I wanted, yes. 12 CHAIRPERSON: Can you raise your point 13 after we resume? Mr Mpofo? 14 MR MPOFU: Chair? 15 CHAIRPERSON: Can you raise your point 16 after the adjournment? We've received two requests to take 17 the adjournment now and I'm proposing to grant it. 18 MR MPOFU: That's fine. 19 CHAIRPERSON: Unless you're opposing 20 this? 21 MR MPOFU: I am, Chairperson, it's not 22 really opposing, it's just going to take half a minute what 23 I wanted to do. 24 CHAIRPERSON: Alright. I'll give you 25 half a minute.</p>	<p style="text-align: right;">Page 10319</p> <p>1 Generaal-Majoor, u is nog steeds onder eed. 2 CHARL ANNANDALE: s.o.e. 3 VOORSITTER: Mnr Semenya, het u nog vrae? 4 MR SEMENYA SC: Thank you, Chair. Might 5 I just alert us, Chair, I have spoken to Mr Mahlangu. His 6 BP was measured at lunch and was found to be very high. He 7 assures me that he can still go on, but I think we should 8 be mindful of that, and I'm bringing it to your attention. 9 CHAIRPERSON: - hear about it, but thank 10 you for drawing it to our attention. We certainly - should 11 Mr Mahlangu not go off for the afternoon and perhaps, could 12 Mr Booi perhaps step into the breach? Mr Mahlangu, we're 13 concerned about what we've heard. Would it not be better 14 for you to take the afternoon off and go and rest? 15 Presumably it's - I trust medication has been prescribed 16 for you, and we have two other interpreters present and so 17 your two colleagues are here, one can do the work you'll be 18 doing, and as has been the case up to now, the Major- 19 General and I will help a bit with assistance for Mr 20 Semenya as well, and would that not be better? I don't 21 want your health to be adversely affected by you being 22 obliged to interpret, or even your willingness to interpret 23 this afternoon in circumstances where your health is not as 24 it should be, and where you need to rest and take your 25 medication.</p>

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1 MR MAHLANGU: I'd appreciate it very
 2 much, Mr Chairperson, and thanks, Mr Semenya.
 3 CHAIRPERSON: We hope to see you tomorrow
 4 when you're feeling better. Thank you. Mr Booie, you've
 5 stepped forward into the breach, and so we will carry on.
 6 Yes, Mr Semenya?
 7 RE-EXAMINATION BY MR SEMENYA SC (CONTD.):
 8 Thank you, Chair. General, a considerable time was spent
 9 imputing that the plan was a singular effort of Colonel
 10 Scott, do you recall that?
 11 MAJOR-GENERAL ANNANDALE: I recall that,
 12 yes, Chairperson.
 13 MR SEMENYA SC: And that it is an
 14 afterthought that various inputs were brought to that plan
 15 by other members?
 16 MAJOR-GENERAL ANNANDALE: That is
 17 correct, Chairperson.
 18 MR SEMENYA SC: And that it was really Mr
 19 White who has triggered that afterthought?
 20 MAJOR-GENERAL ANNANDALE: That is
 21 correct, Chairperson.
 22 MR SEMENYA SC: Can I invite you to look
 23 at exhibit GGG12, which would be the statement of General
 24 Mzembe?
 25 MAJOR-GENERAL ANNANDALE: I have the

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1 exhibit in front of me, Chairperson.
 2 MR SEMENYA SC: If your exhibit is dated,
 3 can you give us that date?
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 mine is just signed by the deponent, but it's not sworn to
 6 or having a specific date, it just mentions November 2012.
 7 CHAIRPERSON: The copies we have are the
 8 same, so unless you have the original duly attested, we
 9 won't know when the statement was in fact signed and sworn
 10 to by the General.
 11 MR SEMENYA SC: The evidence will show
 12 that it is dated the 12th of November 2012. Can I invite
 13 you to have a look at paragraph 26 of that statement? You
 14 will see it appears on page 10. Are you there, General?
 15 MAJOR-GENERAL ANNANDALE: I am, yes,
 16 Chairperson.
 17 MR SEMENYA SC: It reads, "The commanders
 18 of the various SAPS units and disciplines participated in
 19 the development of this plan." Do you see that?
 20 MAJOR-GENERAL ANNANDALE: I do see that,
 21 yes, Chairperson.
 22 MR SEMENYA SC: Again, the evidence will
 23 show that the statement of Mr White was only in 2013. So
 24 it's not reasonably logical that Mr White would have
 25 triggered this so-called afterthought, could it?

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1 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 2 nee, nie as die verklaring van Generaal Mzembe gedateer is
 3 voor mnr White s'n nie.
 4 MR SEMENYA SC: In fact, the evidence
 5 will show that Mr White's statement was distributed on the
 6 18th of January 2013. Adv Bizos also asserted that the use
 7 of a stun grenade would have agitated the protestors. Is
 8 that consistent with police experience in the past? More
 9 pertinently, that they would attack the police.
 10 MAJOR-GENERAL ANNANDALE: No, it's not
 11 consistent, Chairperson. Experience – my experience shows
 12 that people again would move away from such an object,
 13 being a stun grenade.
 14 MR SEMENYA SC: And so too was the
 15 proposition made in relation to the use of rubber rounds.
 16 Is it consistent with police experience that rubber rounds
 17 cause agitation of a nature that makes protestors to attack
 18 the police?
 19 MAJOR-GENERAL ANNANDALE: It's not
 20 consistent, Chairperson. Protestors tend to move away.
 21 MR SEMENYA SC: The proposition was also
 22 in relation to the use of water cannon. What is police
 23 experience in relation to the use of water cannons?
 24 MAJOR-GENERAL ANNANDALE: Again,
 25 Chairperson, protestors tend to move away from the water

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1 cannon when the water is applied.
 2 MR SEMENYA SC: There was also an
 3 assertion that a water cannon is not a suitable instrument
 4 for crowd dispersal in rural environments. Has that been
 5 the police experience?
 6 MAJOR-GENERAL ANNANDALE: Chairperson, to
 7 break up a group of people in terms of a dispersal action,
 8 water cannon is effective to actually achieve that. The
 9 only thing is in an urban environment, because of the
 10 confinement of specifically, let's say, roads, that the
 11 group tend to stay together because of the confines, but
 12 the effect to break up is the same should you remain in a
 13 group.
 14 MR SEMENYA SC: The other criticism is
 15 that the police – this is now in relation to Mr Mathunjwa –
 16 that they failed to provide him with transport to go to the
 17 koppie. Do you recall that?
 18 MAJOR-GENERAL ANNANDALE: I do recall
 19 that, Chairperson.
 20 MR SEMENYA SC: Okay. Can I invite you
 21 to go to exhibit N for Nellie, N for Nellie? I think that
 22 is the statement of Mr Mathunjwa. That exhibit has a
 23 paragraph 47 appearing on page 14 of the document.
 24 MAJOR-GENERAL ANNANDALE: Thank you,
 25 Chairperson, I have that page and paragraph.

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1 MR SEMENYA SC: There Mr Mathunjwa tells
 2 us, "It was getting dark when we arrived at the koppie. We
 3 were about 40 metres away from the workers. I wanted to
 4 get out of the vehicle to speak to the workers face to
 5 face. I was advised by the SAPS that I could not get out
 6 of the Nyala, as it was not allowed in terms of their
 7 protocol." Do you see that?
 8 MAJOR-GENERAL ANNANDALE: I do see that,
 9 yes, Chairperson.
 10 MR SEMENYA SC: He continues against
 11 paragraph 49 and says, "I explained that it was not my
 12 intention to come to the mine under these circumstances in
 13 the armoured vehicle, but it was protocol from the SAPS
 14 that I had to adhere to." Do you see that?
 15 MAJOR-GENERAL ANNANDALE: I do, Chair.
 16 MR SEMENYA SC: And if you look at
 17 exhibit OO9, that is a transcript of Mr Mathunjwa
 18 addressing the protestors, the strikers, on the 16th of
 19 August, and if you go to page 9 of that document, the
 20 middle of the page, there is – in the middle of the page on
 21 the right-hand side of the column, where it is typed,
 22 "Employees, it is ours." Do you see that?
 23 MAJOR-GENERAL ANNANDALE: And then it
 24 starts with, "President, yesterday we talked about," that
 25 one, yes, Sir.

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1 MR SEMENYA SC: There, with reference to
 2 Mr Mathunjwa, he says, "Yesterday you have seen that there
 3 were people who were escorted when coming here." A clear
 4 reference to also the NUM leadership, do you see that?
 5 MAJOR-GENERAL ANNANDALE: I do see that,
 6 yes, Chairperson.
 7 MR SEMENYA SC: Continues to say, "Police
 8 were escorting everyone, but when I checked today, leaders
 9 of AMCU do not have an escort from the police. They came
 10 on their own because there was no escort and there is
 11 power." Do you see that?
 12 MAJOR-GENERAL ANNANDALE: I do, yes,
 13 Chairperson.
 14 MR SEMENYA SC: He continues, "Because
 15 big leaders that need to be protected are not here." Do
 16 you see that?
 17 MAJOR-GENERAL ANNANDALE: I do,
 18 Chairperson.
 19 MR SEMENYA SC: He continues to say, "Our
 20 safety lies on you."
 21 MAJOR-GENERAL ANNANDALE: Yes, Sir.
 22 MR SEMENYA SC: Over the page, "Because
 23 there was no police officer who came to recruit you, me" –
 24 CHAIRPERSON: It was originally "me," and
 25 then there was a correction, and "you" was inserted in the

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1 place of "me," and the same then applies to the next
 2 sentence, I think – the next two sentences.
 3 MR SEMENYA SC: Thank you, Chair.
 4 "Because there was no police officer who came to recruit
 5 you, you were recruited by us, the unions. Now when you
 6 are facing difficulties, we cannot seek an escort. The
 7 ones who are seeking for escorts know their offence,
 8 power." Do you see that?
 9 [14:06] MAJOR-GENERAL ANNANDALE: I do see that
 10 yes, Chairperson.
 11 MR SEMENYA SC: Would that be consistent
 12 with the proposition that was put to you that he only went
 13 there because the police were failing to give him escort to
 14 get there on his own?
 15 MAJOR-GENERAL ANNANDALE: No,
 16 Chairperson, the police, specifically Brigadier Tsiloane
 17 was busy arranging for such an escort for Mr Mathunjwa to
 18 go to the Koppie. He left on his own accord and leaving
 19 his delegation behind and they were then later on escorted
 20 by members of Mobile Operations.
 21 MR SEMENYA SC: And when argument is made
 22 later that Mr Mathunjwa actually portrayed himself as
 23 coming there without an escort and -
 24 CHAIRPERSON: Mr Semenya, before you
 25 proceed -

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1 MS LEWIS: Mr Chair -
 2 CHAIRPERSON: Ms Lewis wishes to say
 3 something.
 4 MS LEWIS: Yes, I have an objection to
 5 this line of questioning. This was never put to Mr
 6 Mathunjwa in cross-examination. In fact his testimony that
 7 he wasn't provided an escort wasn't challenged at all, if
 8 my memory serves me correctly.
 9 CHAIRPERSON: These questions - sorry Mr
 10 Semenya, these questions are questions that arise from the
 11 cross-examination of this witness, so I don't know that he
 12 can be prevented from asking questions in re-examination
 13 about points that were put to the witness in cross-
 14 examination. But he must speak himself, not me.
 15 MR SEMENYA SC: Well actually Ms Barnes
 16 spent time in cross-examination making that proposition.
 17 CHAIRPERSON: What answer do you have for
 18 that, Ms Lewis?
 19 MS LEWIS: I'm sorry, Mr Chair, I see -
 20 CHAIRPERSON: This flows, you see, from
 21 Ms Barnes's cross-examination of the witness; this is after
 22 all re-examination. A re-examiner is entitled to ask
 23 questions about points raised in cross-examination.
 24 MS LEWIS: Chair, the basis for these
 25 questions were never put to Mr Mathunjwa to deal with in

<p style="text-align: right;">Page 10328</p> <p>1 his testimony, that he opted not to accept an escort, which 2 I understand to be in summary the essence of what Mr 3 Semenya is raising now.</p> <p>4 CHAIRPERSON: I wonder whether this can't 5 be dealt with when General Mpembe gives evidence. I'll 6 tell you why; this point is dealt with in Mr Mathunjwa's 7 statement and it was also his evidence-in-chief, in 8 paragraphs 69 and 70 and 71 of his statement, and there he 9 says that he approached - I'm reading in 69, "After waiting 10 15 to 20 minutes I approached General Mpembe," after he'd 11 requested transport to take him to the koppie. "After 12 waiting 15 to 20 minutes I approached General Mpembe. He 13 said there was no transport. I pointed to three Vito 14 Mercedes minibuses. He looked into using these vehicles 15 and came back to me and he said there were not keys for the 16 minibuses. General Mpembe then advised us we should use 17 our own vehicles. I reminded him of the protocol of the 18 day before, the clear instruction not to use our own 19 vehicles, asked why this had changed, why we now had to use 20 our own cars. I asked whether no transport was available 21 because the president of NUM was not there. I received no 22 answer." So that is a matter that you can deal pertinently 23 with whoever is appearing on that day on behalf of AMCU, 24 with General Mpembe when he gives evidence. So I'm 25 inclined to allow this question because it does flow from</p>	<p style="text-align: right;">Page 10330</p> <p>1 put during cross-examination by Ms Barnes. But I don't 2 think I'm prejudicing AMCU in any event because as I've 3 said when General Mpembe comes we'll be able to get direct 4 evidence about this interchange with Mr Mathunjwa. The 5 matter can then be fully covered, but Mr Semenya, let's 6 hear your question again and see whether you're trying to 7 cross-examine your own witness.</p> <p>8 MR SEMENYA SC: Firstly, General, I've 9 just read you what Mr Mathunjwa himself says in the 10 excerpts. Do you accept that?</p> <p>11 MAJOR-GENERAL ANNANDALE: Yes, 12 Chairperson.</p> <p>13 MR SEMENYA SC: Did I refer to anything 14 that is said differently by the police?</p> <p>15 MAJOR-GENERAL ANNANDALE: No, 16 Chairperson.</p> <p>17 MR SEMENYA SC: Okay, all I'm asking is 18 given what Mr Mathunjwa himself says, is it a reasonable 19 inference to draw that he also portrayed to the -</p> <p>20 CHAIRPERSON: Mr Semenya, reasonable 21 inferences to be drawn, are to be drawn by us. I don't 22 think it's appropriate for you to ask this witness what 23 reasonable inferences can be drawn. It's a matter for 24 argument, a matter you can deal with directly with the 25 Commission when this part of the matter is argued. You</p>
<p style="text-align: right;">Page 10329</p> <p>1 Ms Barnes's cross-examination.</p> <p>2 MR MPOFU: Chairperson, if I may raise a 3 related objection.</p> <p>4 CHAIRPERSON: Mr Mpofo, do you want to be 5 involved in this fight as well now?</p> <p>6 MR MPOFU: Yes, on this point, 7 Chairperson, it's the same as the Calitz point. The 8 purpose of re-examination is of course to clarify matters, 9 not to alter the testimony of the witness. I asked this 10 witness specifically on this point whether by the time 11 transport became available Mathunjwa was already gone or 12 was he aware, and he said no, Mathunjwa had already left. 13 In other words as far as Mathunjwa was concerned he had 14 been denied transport. The fact that later he was - so you 15 can't now in re-examination change that, because that's 16 what the witness said.</p> <p>17 CHAIRPERSON: Certainly a re-examiner may 18 not cross-examine his own witness.</p> <p>19 MR MPOFU: Ja.</p> <p>20 CHAIRPERSON: And try to get him to 21 change evidence he's given before. I didn't understand the 22 question to be directed to that, but let's get Mr Semenya 23 to repeat the question and then we can see whether he's 24 effectively trying to cross-examine his witness or simply 25 seeking to elicit fresh information arising from what was</p>	<p style="text-align: right;">Page 10331</p> <p>1 know it's the same thing like asking the witness do you 2 believe another witness, I mean that's not allowed either.</p> <p>3 MR SEMENYA SC: I'll revise it, Chair, to 4 avoid that sort of criticism on my cross. Do you 5 understand from his own utterances, that is Mr Mathunjwa, 6 that in part he saw it as a positive that he's coming 7 without police escort?</p> <p>8 MR BOOI: Can you repeat the question, 9 Senior Counsellor?</p> <p>10 MR SEMENYA SC: That Mr Mathunjwa himself 11 saw it as a positive that he approached the people on the 12 koppie without police escort?</p> <p>13 CHAIRPERSON: Again how the witness sees 14 it is neither here nor there, but you may well wish to 15 argue at the end of the case that he was seeking to extract 16 - to turn a necessity into a virtue, whatever he' requested 17 - he was turning the situation of necessity into a virtue 18 for him. That you've go to argue. The question that you 19 asked the witness is one that you can ask us and we may 20 give you, or not, as the case may be, a favourable answer.</p> <p>21 MR SEMENYA SC: Might I rely on the 22 evidence of the witness to make that argument late, Chair?</p> <p>23 CHAIRPERSON: Will the witness's evidence 24 carry any weight on the matter of inference and so on? I 25 think it's the same problem you had with the last question,</p>

<p style="text-align: right;">Page 10332</p> <p>1 Mr Semenya. I don't want to hamper you, but to be fair, 2 it's no good asking the witness points, to draw inferences 3 that we're in as good a position as he is to draw. If he's 4 in a better position than we are, then obviously you can 5 ask the question.</p> <p>6 MR SEMENYA SC: General, is what we have 7 read consistent with the proposition that was put to you in 8 the cross-examination that Mr Mathunjwa was more interested 9 in having to go to the koppie with police escort?</p> <p>10 MS LEWIS: Mr Chair, I'm sorry, it might 11 just be me but I don't understand what Mr Semenya is 12 putting to the witness, what he means by was "more 13 interested."</p> <p>14 MR SEMENYA SC: I'll tidy it up for my 15 learned colleague. Where's the transcript of his address?</p> <p>16 CHAIRPERSON: He does admit there's a 17 lack of clarity which you complained about, which he's 18 going to try to remedy.</p> <p>19 MR SEMENYA SC: The same exhibit on page 20 9 as we started, are you there, General?</p> <p>21 MAJOR-GENERAL ANNANDALE: Just clarity, 22 the exhibit in terms of the transcription, or the exhibit 23 in terms of Mathunjwa's statement?</p> <p>24 MR SEMENYA SC: Exhibit 009, I mean OO9 25 rather. Let me read you what appears on page 10 of the</p>	<p style="text-align: right;">Page 10334</p> <p>1 given the opportunity to deal with it and to explain what 2 he meant or why he used these words, and so I renew my 3 objection on that basis. I don't think that it's 4 appropriate for certain meanings to now be raised or to be 5 given to these passages when they weren't put to Mr 6 Mathunjwa to deal with.</p> <p>7 CHAIRPERSON: Well, that's the point of 8 course, it was discussed before as to whether it arises 9 from the cross-examination, but even if it wasn't put 10 before, if it was covered by the cross-examination the 11 question can be asked, but I've still got the problem that 12 I put before. You're asking this witness effectively to 13 usurp our powers as Commission and to decide points that 14 we'll have to decide. I can understand if he's in a better 15 position than we are he can express an opinion, but if he 16 isn't then you're asking him the kind of questions you 17 effectively will be asking us when we have to decide upon 18 on our findings. I don't know that his views on the matter 19 - I'm not being discourteous to him, but his views on the 20 matter won't have any greater weight than anyone else's 21 views would have on the question that you've asked. So 22 that's my problem.</p> <p>23 MR SEMENYA SC: Chair, even when I asked 24 whether Mr Mathunjwa is referring to himself or to somebody 25 else, that's how I reformulated it.</p>
<p style="text-align: right;">Page 10333</p> <p>1 document, at the top where Mr Mathunjwa is speaking, but I 2 want to read the last sentence at the top there which says 3 "President." Do you see that?</p> <p>4 MAJOR-GENERAL ANNANDALE: The one that 5 says, "President, yesterday we talked about where you are 6 so far?"</p> <p>7 MR SEMENYA SC: No, "Because there was no 8 police officer who came to recruit you," do you see that?</p> <p>9 MAJOR-GENERAL ANNANDALE: Yes, I see 10 that.</p> <p>11 MR SEMENYA SC: The last sentence there 12 says, "The ones who are seeking for police escorts know 13 their offence." Surely Mr Mathunjwa could not be referring 14 to himself, could he?</p> <p>15 MS LEWIS: Mr Chair, I do want to renew 16 my objection to this line of questioning. The point is 17 that Mr Mathunjwa was never asked about what he meant. It 18 was never put to him, the meaning that Mr Semenya is now 19 seeking to ascribe to this particular paragraph. There was 20 a large amount - in Mr Mathunjwa's evidence there was a 21 large amount of debate about why he said things and certain 22 things that he said in a certain way, his choice of 23 language, and he spent quite a bit of time on that for why 24 he raised certain things in a certain way. This particular 25 paragraph was never put to Mr Mathunjwa. He was never</p>	<p style="text-align: right;">Page 10335</p> <p>1 CHAIRPERSON: How would the witness know 2 that? The witness can only that if he looks at the 3 document and he applies his common sense and his knowledge 4 of language and he says this is what it means, but you can 5 ask us the same question. I hope we have the same degree 6 of common sense as you credit the witness with. I hope we 7 have the same knowledge of language as you credit him with. 8 Aren't we as well equipped to answer this question as this 9 witness?</p> <p>10 MR SEMENYA SC: Okay, let me say, 11 General, it seems on paragraph 49 Mr Mathunjwa tells us, 12 and this is his evidence, "I explained that it was not my 13 intention to come to the mine under these circumstances in 14 armoured vehicles." Do you accept that is what he says? 15 That's his ipsissima verba.</p> <p>16 MS LEWIS: Chair, apologies, but my 17 understanding is that that particular paragraph of his 18 statement refers to the 15th and not the 16th, and it's 19 common cause that he said those words on the 15th, that he 20 did not want to address the protestors from within the 21 Nyala. So I don't think the particular paragraph is 22 relevant, with respect.</p> <p>23 CHAIRPERSON: That is correct. The 24 passage that you quoted at page, sorry, paragraph 49 is it, 25 clearly deals with what happened on the 15th because you get</p>

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1 the heading above - between paragraphs 29 and 30, so that
 2 deals with what happened on the 15th. The relevant passage
 3 as far as this part of the matter is concerned, is the
 4 passage I referred to, which is 69 and following, where he
 5 deals with what happened on the 16th, and you are quoting
 6 his speech made on the 16th, and so what he's talking about
 7 is the lack of transport or whatever it is, is covered by
 8 69 and 70 and 71, I think, of exhibit NN, not the passage
 9 you refer to, which relates to the previous day. So I
 10 think Ms Lewis is right.

11 MR SEMENYA SC: Chair, I am not making
 12 any suggestions and I'm not eliciting any evidence to
 13 suggest Mr Mathunjwa did not ask for transport. That's not
 14 what I'm doing. I'm merely saying on his version there is
 15 a point where he expresses displeasure at being conveyed in
 16 an armoured vehicle, and that appears on that statement at
 17 paragraph 49. I'll proceed, Chair, I'll argue -

18 CHAIRPERSON: So it's the principle of
 19 being conveyed in an armoured vehicle, not the details of
 20 what happened on the 15th or the 16th. Okay, no, I think
 21 that's right, Ms Lewis, so I think you may carry on, Mr
 22 Semenya.

23 MR SEMENYA SC: Thank you, Chair. Can we
 24 deal with something else, General? There was also
 25 criticism that once Mr Mathunjwa indicated that Lonmin had

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1 reneged on its promise that there ought to have been from
 2 the side of the police an attempt at going back to Lonmin.
 3 Do you recall that line of cross-examination?

4 MAJOR-GENERAL ANNANDALE: Yes I do,
 5 Chairperson.

6 MR SEMENYA SC: As far as the police were
 7 concerned, were you aware that Lonmin had agreed at any
 8 given point that they would go to the koppie to address the
 9 protestors?

10 MAJOR-GENERAL ANNANDALE: Not once,
 11 Chairperson.

12 MR SEMENYA SC: In fact your evidence was
 13 that - and that has been the evidence, the line of cross-
 14 examination on behalf of Lonmin, that they would only
 15 engage with the protestors if they laid their weapons down,
 16 went back to work and used the ordinary channels.

17 MAJOR-GENERAL ANNANDALE: That is so,
 18 Chairperson.

19 MR SEMENYA SC: Were you aware, as the
 20 police, that that has since changed, they may be now
 21 willing to go to the mountain, with the protestors armed,
 22 to engage in the discussions?

23 [14:26] MAJOR-GENERAL ANNANDALE: Chairperson, I
 24 was not aware that their approach has changed from not
 25 being willing to being willing to go to the koppie.

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1 MR SEMENYA SC: Ms Jele, when she
 2 finished her cross-examination, she had raised a drafted
 3 document, National Instruction, which you said you were
 4 able to speak to it. I propose not to address it, except
 5 to confirm that it's just a draft?

6 MAJOR-GENERAL ANNANDALE: Chairperson,
 7 that one-page document in response to the presentation to
 8 the portfolio is just a draft that was valid at the time of
 9 it being compiled. Obviously subsequent to that there's a
 10 lot of further developments.

11 MR SEMENYA SC: The criticism of the
 12 police action is that the people who were at Marikana did
 13 not have adequate training. Do you recall that?

14 MAJOR-GENERAL ANNANDALE: Chairperson, if
 15 I can just be helped in terms of what context, where it was
 16 said?

17 MR SEMENYA SC: Training of POP members.

18 MAJOR-GENERAL ANNANDALE: Chairperson,
 19 I'm trying to think now if that was specifically - there
 20 was mention made to training. I can really not recall in
 21 terms of that there was specific reference made to that.

22 MR MPOFU: Chairperson, maybe Mr Semenya
 23 can assist us by telling us who put that proposition to
 24 this witness?

25 CHAIRPERSON: Ms Jele, for example,

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1 questioned the witness based on the proposition that people
 2 who draw up plans and participate in drawing up plans
 3 should have both training in Public Order Policing and
 4 experience, and she then got the police to discover the
 5 details of all of the people who were involved in drawing
 6 up the plan and what courses they passed and so forth, and
 7 she said I'm not concerned with their experience; this
 8 document says training and experience, I'm concerned with
 9 their training, and she then took the witness through each
 10 one of the persons and what training he or she had
 11 received. So that was one part of the evidence, I
 12 remember. Another part, as far as I can recall, dealt with
 13 the fact that there was something about the POP people
 14 haven't got proper training in negotiation, I think was one
 15 of the points, and one of the other points was but other
 16 people involved in the operation weren't POP trained people
 17 and they shouldn't have been, as I remember the evidence,
 18 they shouldn't have been involved in this operation without
 19 that training. So I think those matters were all covered
 20 in cross-examination. So it seems to me that prima facie
 21 that these questions may appropriately be asked in re-
 22 examination.

23 MR MPOFU: Well, no Chairperson, it
 24 can't. If what you are saying is correct then it means the
 25 question must be confined to those aspects. It can't just

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1 be training, full stop.
 2 CHAIRPERSON: Well, I thought it was
 3 confined, at least impliedly, but perhaps you can repeat
 4 the question and frame it in a way that meet Mr Mpofu's
 5 point.
 6 MR SEMENYA SC: I can't describe it
 7 better than call it POP training. That's what was
 8 criticised.
 9 MAJOR-GENERAL ANNANDALE: Chairperson, if
 10 the reference was made, and I can recall the discussion
 11 that was on my training, Naidoo, Mpembe, Calitz, Mbombo, I
 12 think those were the members, that I can recall
 13 specifically.
 14 MR SEMENYA SC: Now what is inadequate in
 15 the training of General Mpembe relating to POP? Do you
 16 know?
 17 MAJOR-GENERAL ANNANDALE: Chairperson, I
 18 do not know what is inadequate. I just know that he did
 19 attend the formal crowd management training that was
 20 available at the time, which is a formal recognised course.
 21 MR SEMENYA SC: What's inadequate in the
 22 training of Colonel Mere in Public Order Policing?
 23 MAJOR-GENERAL ANNANDALE: He also did
 24 formal training in terms of Public Order Policing.
 25 MR SEMENYA SC: Do you know anything

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1 inadequate about the training of Brigadier Calitz in Public
 2 Order Policing?
 3 MAJOR-GENERAL ANNANDALE: No,
 4 Chairperson, also formally trained in crowd management
 5 related aspects.
 6 MR SEMENYA SC: And that of Colonel
 7 Merafe?
 8 MAJOR-GENERAL ANNANDALE: Same applies to
 9 him, Chairperson, formally trained.
 10 MR SEMENYA SC: Colonel Pitsi?
 11 MAJOR-GENERAL ANNANDALE: And the same to
 12 him as a Public Order Policing commander.
 13 MR SEMENYA SC: General Naidoo?
 14 MAJOR-GENERAL ANNANDALE: Also he
 15 received the training more or less the same time that
 16 myself and General Mpembe received their training, also
 17 applicable formal training.
 18 MR SEMENYA SC: And you spoke about the
 19 cumulative number of the police experience that was
 20 deployed in Marikana. Can you give it to us at officer
 21 level?
 22 MAJOR-GENERAL ANNANDALE: Chairperson,
 23 amongst the I think 43 officers as commanders that would be
 24 probably going on close to 1 000 years in terms of
 25 cumulative experience in policing.

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1 MR MPOFU: Sorry, Chairperson, once again
 2 I don't want to nitpick. A distinction was made here
 3 between so-called training and/or experience in the
 4 constitutional era, which is what we are concerned about,
 5 and in the apartheid era, which for all intents and
 6 purposes is probably a negative of this. So please, can it
 7 be made clear when it was over this 1 000 years, whether it
 8 includes the apartheid years or not.
 9 MR SEMENYA SC: For the purposes of my
 10 re-examination, it's irrelevant, Chair. Mr Mpofu will
 11 argue that -
 12 CHAIRPERSON: There is of course that the
 13 course is taken by the Generals concerned prior '94 is
 14 still recognised. So I take it we can assume from that
 15 that the police authorities at the moment are familiar with
 16 the syllabi that applied at the time and are satisfied that
 17 those courses can be recognised. Otherwise they would
 18 presumably order those people to be retrained, but that may
 19 or may not be so. That's a matter which if necessary can
 20 be supported by evidence. I don't think it's a basis for
 21 disallowing the re-examination.
 22 MR MPOFU: No, Chairperson, with respect,
 23 you remember that I put to the witness that some of the
 24 practices at least that might have been learnt during the
 25 apartheid era were susceptible to being unlearned, let

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1 alone to be recognised, as you put it, but that they should
 2 have been, it is stuff that should unlearned because it
 3 belonged to an era of -
 4 CHAIRPERSON: You covered that point in
 5 cross-examination.
 6 MR MPOFU: Yes, so I need the distinction
 7 to be made.
 8 CHAIRPERSON: The witness is entitled to
 9 ask the - sorry, counsel is entitled to ask these questions
 10 in re-examination. There is no basis on which I can
 11 disallow the questions. You may wish to argue later that
 12 the answers don't take the case very much further because
 13 of the consideration you have mentioned and that will be an
 14 argument you can advance, but the moment we are concerned
 15 with admissibility I can't stop Mr Semenya asking the
 16 questions and I won't do so.
 17 MR MPOFU: Chairperson, I'm not saying
 18 the question should be disallowed, with respect. All I'm
 19 saying is that a distinction must be made, if otherwise the
 20 question will be valueless but it's fine -
 21 CHAIRPERSON: Well, you make the point in
 22 argument and you can possibly deal with, when these
 23 Generals come into the auditorium and sit in the witness
 24 chair, you can ask them about their training and how much
 25 they received pre-1994 and how much post.

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1 MR SEMENYA SC: General, can we now
 2 proceed? You would recall there was a suggestion in
 3 relation to Nyala 6 in scene 1, that was not, whose barbed
 4 wire was not deployed. Do you recall that segment of the
 5 evidence?
 6 MAJOR-GENERAL ANNANDALE: Just be clear,
 7 Advocate, the, which of the trailer, barbed wire trailers
 8 did not deploy its barbed wire?
 9 MR SEMENYA SC: Nyala 6, the suggestion
 10 was after the second breach, to prevent the third breach
 11 Nyala 6 ought to have deployed its barbed wire there. Do
 12 you recall that segment of the evidence?
 13 MAJOR-GENERAL ANNANDALE: Yes,
 14 Chairperson.
 15 MR SEMENYA SC: In the time span between
 16 the second breach and the third breach, would it have been
 17 feasible, even if that driver had thought so, would it have
 18 been feasible to have closed that gap in that time space?
 19 MAJOR-GENERAL ANNANDALE: Chairperson, I
 20 have it in terms of the timescale that that was less than
 21 two minutes. It is, it would be very difficult because you
 22 have to get police officers out of the vehicle to assist
 23 with the deployment of the wire. I do not know, we will
 24 have to, maybe it's possible.
 25 CHAIRPERSON: I think the witness gave

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1 this evidence. I seem to remember he explained how
 2 difficult it is to deploy wire, how the members of the
 3 force would have to wear gloves and so on. So my
 4 recollection is he dealt extensively with this point, which
 5 you are now dealing with again. Obviously if there is
 6 something extra that you wish to, it was a point raised in
 7 cross-examination. so you can re-examine on it. But if
 8 there is something extra you want to elicit from the
 9 witness or something by way of an explanation of what
 10 wasn't said before, but he certainly dealt with this point
 11 very fully, as far as I can recall.
 12 MR SEMENYA SC: Was it ever suggested to
 13 that driver that he must do that to start with?
 14 MAJOR-GENERAL ANNANDALE: Not as far as I
 15 know, Chairperson, not being at the scene, but not as far
 16 as I am aware.
 17 MR SEMENYA SC: Is there any evidence
 18 that the operational commander was of that view that it
 19 must be so deployed?
 20 MAJOR-GENERAL ANNANDALE: Chairperson,
 21 apart from the initial briefing that obviously had the
 22 obligation on all six Nyalas to deploy the wire, subsequent
 23 to the instance that you refer to, I'm unaware if there was
 24 any such an expectation or instruction from the operational
 25 commander.

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1 MR SEMENYA SC: In police operations can
 2 an individual take a decision like that on his own without
 3 consulting the operational commander?
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 yes, police officers have a discretion, specific
 6 discretion. So depending on circumstances there is an
 7 expectation on police officers to use their discretion, and
 8 in this case then the discretion would say so then to
 9 deploy it without consulting the operational commander.
 10 MR SEMENYA SC: Is it so even where there
 11 is an agreed formation of deployment? That's what I'm
 12 asking.
 13 MAJOR-GENERAL ANNANDALE: Chairperson, if
 14 there is a specific reason in terms of a defensive measure
 15 and there's an agreed positioning, agreed distance between
 16 that, then that member will stick to that specifically
 17 agreed formation because there's a specific purpose for
 18 that.
 19 MR SEMENYA SC: Can we now deal with the
 20 various criticisms in the opening statement of the arrested
 21 people and the victims. That would be GGG18. If we go to
 22 page 5 we find there paragraph 9.1.
 23 MAJOR-GENERAL ANNANDALE: Chairperson,
 24 paragraph 9.1 on 5, I do have it in front of me.
 25 MR SEMENYA SC: Apart from using the word

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1 "massacre" there, it is said that the killing could have
 2 been avoided.
 3 MAJOR-GENERAL ANNANDALE: Should have
 4 been avoided.
 5 MR SEMENYA SC: Apart from how sad that
 6 result is, are you aware of how this could have been
 7 avoided?
 8 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 9 ek het verwys in terme van nabetragting in terme van
 10 potensiële goed wat ons addisioneel kon doen, maar ek weet
 11 nie van pertinente – should I continue?
 12 MR SEMENYA SC: Ja, I'm trying to avoid
 13 hindsight. I'm saying with the facts as they were known at
 14 the time when this incident happened, are you aware in what
 15 manner the result could have been avoided?
 16 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 17 ons het alle redelike stappe geneem met 'n span ervare
 18 kundiges. Ons het gedoen wat ons gevoel het is totaal
 19 redelik onder die omstandighede. Ons was oortuig ons het
 20 'n behoorlike plan gehad en onder die omstandighede het ons
 21 gevoel dat ons alles gedoen het om enige sterftes te
 22 voorkom.
 23 CHAIRPERSON: The plan was a product of
 24 the work of experienced people, they were satisfied it was
 25 a proper plan and he couldn't see, he can't see anything

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1 that they could have done which would have prevented what
 2 happened. I think that's a fair summary of what he said -
 3 everything that they thought was reasonable in the
 4 circumstances.
 5 [14:46] MR SEMENYA SC: Well, we won't address
 6 9.2 relating to toxicity, alleged toxicity of the
 7 relationship between Lonmin and the police, that Mr Burger
 8 dealt with you on it. Do you recall that?
 9 MAJOR-GENERAL ANNANDALE: Chairperson, I
 10 recall all 13 points from both Mr Mpofu and Mr Burger, I
 11 cannot forget that.
 12 MR SEMENYA SC: 9.3 though is saying that
 13 there are exhibits of premeditated murder of the
 14 defenceless and the powerless poor people, do you see that?
 15 MAJOR-GENERAL ANNANDALE: I do see that
 16 under 9.3 yes, Chairperson.
 17 MR SEMENYA SC: Well, it was not put
 18 pertinently who are these people who had that premeditated
 19 murder intentions, but let me go through the ranks. Was
 20 there such a premeditated intention in the JOC?
 21 MAJOR-GENERAL ANNANDALE: Chairperson,
 22 never.
 23 MR SEMENYA SC: In any of the briefings?
 24 MAJOR-GENERAL ANNANDALE: No,
 25 Chairperson.

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1 MR SEMENYA SC: Are you aware any of the
 2 units were told there's going to be, the people are going
 3 to be murdered?
 4 MAJOR-GENERAL ANNANDALE: Never,
 5 Chairperson.
 6 MR SEMENYA SC: Well, 9.4 says the self-
 7 defence is baseless. Can we move on, it's just a
 8 conclusion there. So too is 9.5 as we see it there. So
 9 too is paragraph 9.6, it's just a conclusion. 9.7 says
 10 there are levels of government that also contributed to the
 11 result, the unfortunate result, do you see that?
 12 MAJOR-GENERAL ANNANDALE: I do see that,
 13 Chairperson.
 14 MR SEMENYA SC: Are you aware of any
 15 level of government except the police who were in the
 16 operation who would have contributed to the unfortunate
 17 result?
 18 MAJOR-GENERAL ANNANDALE: No,
 19 Chairperson.
 20 MR SEMENYA SC: That there were
 21 demeanours on the part of the police that they were
 22 motivated by revenge and malice; did you have any malice or
 23 revenge in mind when you planned the operation with the
 24 other commanders?
 25 GENERAAL-MAJOOR ANNANDALE: Voorsitter,

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1 kwaadwilligheid en wraak bestaan nie in my
 2 verwysingsraamwerk nie.
 3 MR SEMENYA SC: In that of the -
 4 CHAIRPERSON: What was the word you used?
 5 GENERAAL-MAJOOR ANNANDALE:
 6 Verwysingsraamwerk.
 7 CHAIRPERSON: Literally it would be
 8 framework of reference or reference framework, but there's
 9 probably a more elegant English translation, though I can't
 10 think of it. I think the meaning is clear.
 11 MR SEMENYA SC: In that of the JOC
 12 commanders?
 13 GENERAAL-MAJOOR ANNANDALE: Voorsitter,
 14 nee.
 15 MR SEMENYA SC: Any of the police that
 16 you are aware of, who actuated revenge or malice?
 17 GENERAAL-MAJOOR ANNANDALE: Nee,
 18 Voorsitter.
 19 MR SEMENYA SC: 9.9 says the underlying
 20 causes go deeper than the immediate parties, do you see
 21 that?
 22 MAJOR-GENERAL ANNANDALE: I do see that,
 23 Chairperson.
 24 MR SEMENYA SC: I propose to leave it
 25 there. There is also suggestion that there were inadequate

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1 number of POP members deployed at Marikana to oversee this
 2 operation. Do you recall that?
 3 MAJOR-GENERAL ANNANDALE: I do,
 4 Chairperson.
 5 MR SEMENYA SC: Apart from the word of
 6 saturation, do you know that what number that would entail?
 7 That the place ought to have been saturated with POP
 8 members, do you recall that evidence?
 9 MAJOR-GENERAL ANNANDALE: I do recall
 10 that yes, Chairperson.
 11 MR SEMENYA SC: Do you know what number
 12 would reach that mark of saturation sufficient to alter the
 13 outcome?
 14 MAJOR-GENERAL ANNANDALE: Chairperson, I
 15 do not know the number. All I know is that that area that
 16 we policed, Marikana area as far as my recollection is,
 17 it's about 15 kilometres, 1-5, from, I think from east to
 18 west and then a couple of kilometres from north to south.
 19 If you want a saturated area in terms of the intimidation
 20 that's taking place and the specific criminality, you'll
 21 have to have police officers literally in every street
 22 block, street corner and so on. So I cannot even take an
 23 estimate in terms of what numbers that would be, but it
 24 would be literally thousands.
 25 MR SEMENYA SC: And even if the numbers

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1 were great of POP members, would they be able to use
 2 anything beyond rubber rounds?
 3 MAJOR-GENERAL ANNANDALE: Chairperson,
 4 the last resort, if I can call it "resort" in terms of the
 5 force continuum within a Public Order Policing context is
 6 actually the use of shotgun rubber.
 7 MR MPOFU: Sorry, Chairperson, I'm not
 8 sure the evidence, this witness says that POP members have
 9 access to live ammunition in the form of so-called side-
 10 arms. Is it now, is that being negated or is this limited
 11 to a situation before the use of side-arms might be
 12 necessary?
 13 MR SEMENYA SC: I didn't hear an
 14 objection, Chair.
 15 CHAIRPERSON: It wasn't an objection, it
 16 was a request for clarity. Perhaps you could repeat the
 17 request for clarity, Mr Mpofo.
 18 MR SEMENYA SC: Regardless of the number
 19 of POP members, would they have been able in Public Order
 20 Policing to use anything beyond rubber?
 21 MAJOR-GENERAL ANNANDALE: No,
 22 Chairperson, not in the context of Public Order Policing.
 23 MR SEMENYA SC: Just finally, the Chair
 24 at a certain point thought he heard you say that the
 25 decision to go tactical was taken on the 15th of August. Do

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1 you recall that?
 2 MAJOR-GENERAL ANNANDALE: Chairperson, I
 3 can recall the Chairperson as well as Commissioner Hemraj
 4 had the 15th in terms of a specific version of my evidence.
 5 MR SEMENYA SC: Our reading of the record
 6 from page 10075 onwards does not show you to be, to have
 7 said that, just for the record, Chair. Those are the
 8 questions we have for the General.
 9 CHAIRPERSON: We'll take - yes Mr Mpofo?
 10 MR MPOFU: No, I'm not saying anything,
 11 Chairperson.
 12 CHAIRPERSON: You looked to -
 13 MR MPOFU: My understanding was that
 14 after the adjournment I'm, rather the National Commissioner
 15 -
 16 CHAIRPERSON: Yes it was, I have a few
 17 questions to ask the -
 18 MR MPOFU: The witness.
 19 CHAIRPERSON: And then the National
 20 Commissioner, I take it, will then - yes the National
 21 Commissioner will then go back into the, to the witness
 22 table and sit in the witness chair.
 23 MR MPOFU: Thank you Chair.
 24 CHAIRPERSON: We'll take the tea
 25 adjournment now.

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1 [COMMISSION ADJOURNS COMMISSION RESUMES]
 2 [15:17] CHAIRPERSON: The Commission resumes.
 3 Generaal-Majoor, u is nog steeds onder eed.
 4 CHARL ANNANDALE: s.o.e.
 5 CHAIRPERSON: In evidence you said that
 6 this wasn't strictly, or rather not exclusively a Public
 7 Order Policing operation. It was what you called a hybrid
 8 operation. Now what was - of what elements was this hybrid
 9 operation composed? Obviously Public Order Policing was
 10 part of it. What else was or were part or parts of the
 11 operation? Why did you use the expression "hybrid?" What
 12 did you have in mind?
 13 MAJOR-GENERAL ANNANDALE: Chairperson,
 14 the level of dangerous arms that the, that part of the
 15 group has carried, as well as then the numbers involved in
 16 terms of that, specifically the militant group that were
 17 armed with - even some of them with two specific dangerous
 18 weapons -
 19 CHAIRPERSON: That was the presence of
 20 the warrior group. Thank you. The presence and activities
 21 of the warrior group.
 22 MAJOR-GENERAL ANNANDALE: That's right,
 23 Chairperson.
 24 CHAIRPERSON: Ja, thank you.
 25 MAJOR-GENERAL ANNANDALE: And then,

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1 sorry, Chairperson, also then the specific need that we had
 2 for intelligence-driven operations because that is
 3 typically not activities that the Public Order Policing
 4 will perform because of the number of cases that was under
 5 investigation.
 6 CHAIRPERSON: Yes, thank you. You
 7 mentioned also as one of the factors that were taken into
 8 account in deciding to proceed with the implementation of
 9 the plan was the risk of the strikers attacking people and
 10 damaging property in the neighbouring informal settlement.
 11 Is that correct?
 12 MAJOR-GENERAL ANNANDALE: That is
 13 correct, Chairperson.
 14 CHAIRPERSON: And in support of what you
 15 said, you referred to an incident that took place in
 16 Sasolburg, if I heard you correctly. Is that right?
 17 MAJOR-GENERAL ANNANDALE: Chairperson,
 18 yes, I used it as an example, if such groupings would move
 19 into the neighbourhoods typically what can happen.
 20 CHAIRPERSON: Yes. When did that
 21 incident in Sasolburg take place?
 22 MAJOR-GENERAL ANNANDALE: Chairperson, it
 23 was after the Marikana incident, I'm trying to recall if it
 24 was late last year or early this year. Chairperson, I'm
 25 not too sure.

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1 CHAIRPERSON: Thank you. Now you told us
 2 that among the particular things that the Special Task
 3 Force could do was to do high-level observation, and you
 4 explained that two observers came who were at an
 5 observation post, equipped with, I think you said
 6 binoculars or special equipment, who could observe what was
 7 happening. I think you also told us this morning that they
 8 couldn't in fact - I think they communicated once with the
 9 JOC; there's an entry in the occurrence book, but
 10 thereafter there are no more entries or information
 11 received from them, and the reason I think you said was
 12 that you understood that there was so much radio traffic
 13 that they couldn't communicate. Did I understand that
 14 correctly?
 15 MAJOR-GENERAL ANNANDALE: That's correct,
 16 Chairperson.
 17 CHAIRPERSON: Now during the period when
 18 you were as it were blind in the JOC - I think that was the
 19 expression you used - you didn't really know what was going
 20 on at the scene of operations. Why didn't you or one of
 21 your colleagues telephone these people with a cell phone to
 22 ask them if there was anything that they wished to report
 23 so that in that way you could obtain information as to what
 24 was happening?
 25 MAJOR-GENERAL ANNANDALE: Chairperson, the

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1 positioning of the observation post was not such that we
 2 wanted to have information of what's happening at the
 3 koppie area because we had so many commanders present
 4 there, directly at the scene. It was rather positioned in
 5 terms of being at a central point in terms of the movement
 6 of people to and fro the koppie; so not to give us
 7 information of the koppie, because we had so many people
 8 there.
 9 CHAIRPERSON: Now these commanders who
 10 were at the koppie could have given you information as to
 11 what was happening, but I understand you couldn't
 12 communicate with them because there was so much radio
 13 traffic. Is that correct?
 14 MAJOR-GENERAL ANNANDALE: Yes, that's
 15 correct, but also I think one of the commanders, I'm not
 16 too sure who it was, Captain Loest or somebody said that
 17 they tried to make radio contact, even at the time when
 18 there was no radio traffic, and they struggled, and I think
 19 his position was in the front line, probably close to those
 20 overhead power lines.
 21 CHAIRPERSON: Were any attempts made to
 22 communicate with the commanders by cell phone?
 23 MAJOR-GENERAL ANNANDALE: Chairperson,
 24 only much later, after the - what we now know as both
 25 scenes, because at the time there was no specific area of

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1 specific concern that we had that necessitated us to call,
 2 and we wouldn't have called Brigadier Calitz because the
 3 last thing you do in an operation once such a commander is
 4 busy, to phone that person on the cell phone. You will
 5 speak on the radio when you get the opportunity.
 6 CHAIRPERSON: The reason I ask is because
 7 - I wouldn't have thought that you could have asked
 8 Brigadier Calitz, but there was this period when you didn't
 9 really know what was going on, quite a long time, over half
 10 an hour I think. You were blind, as you put it, I can
 11 understand that. If you had used your cell phones and
 12 spoken to one of the commanders, other than Calitz who
 13 couldn't be expected to still deal with a phone call like
 14 that, you might well have obtained information as to what
 15 was going on. Was there any particular reason why you
 16 didn't do that?
 17 MAJOR-GENERAL ANNANDALE: Chairperson, at
 18 the time, personally, speaking for myself, I just didn't
 19 have the - did not see the need because it was not in terms
 20 of what we gleaned on the radio that there's something
 21 seriously wrong, because the operation was continuing.
 22 There were arrests being carried out. To call a commander,
 23 I just never felt that need, that I need to get critical
 24 information now.
 25 CHAIRPERSON: I see. I'd like to ask you

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1 a few more questions about the role that you were expected
 2 to perform. You told us you were the chairman of the JOC
 3 committee and you also told us that you were the Chief of
 4 Staff, that's to say the second-in-command to Major-General
 5 Mpembe, and your role was to co-ordinate the running of the
 6 operation by managing the JOC with the designated role-
 7 players representing each field. Do you think that's a
 8 fair summary? Would you agree with that?
 9 MAJOR-GENERAL ANNANDALE: I think that's
 10 fair, Chairperson.
 11 CHAIRPERSON: As the second-in-command to
 12 Major-General Mpembe you obviously had to give instructions
 13 and orders when he wasn't there because you were
 14 effectively in his place while he was absent from the JOC.
 15 Is that correct? Now although he was absent when he went
 16 into the helicopter to see what was going on, that was
 17 after the shooting had happened, I think, judged with
 18 hindsight. Is that correct?
 19 MAJOR-GENERAL ANNANDALE: Chairperson,
 20 after the shooting at scene 1, but probably during the time
 21 of the shootings at scene 2.
 22 CHAIRPERSON: Yes, I meant scene 1, thank
 23 you. Was he in the JOC - before he went up in the
 24 helicopter, was he in the JOC at all material times from
 25 1:30 onwards?

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1 MAJOR-GENERAL ANNANDALE: Chairperson,
 2 there was a period that he was on the outside, and I think
 3 that was on Mr Mathunjwa's return and at the time when I
 4 received the SMS at quarter past 2. So then he was outside
 5 and then I also joined him outside and I said I've received
 6 this SMS and then he said that, "I've already tried to
 7 phone him three times and I didn't get hold of him," and
 8 also, I think he also indicated that he received the same
 9 SMS. So that time he was outside of the JOC but all other
 10 times, barring maybe stepping out, most of the times as far
 11 as I can recall.

12 CHAIRPERSON: Did you give the
 13 instruction that the operations should commence at 3:30?
 14 MAJOR-GENERAL ANNANDALE: Chairperson,
 15 yes, during the special JOCOM I proposed that time; it was
 16 accepted as such, for the reasons that I gave. So we can
 17 take it that I gave the instructions.

18 CHAIRPERSON: Do you know why the
 19 Provincial Commissioner at the commencement of the Special
 20 JOCOM meeting at 1:30 instructed you to proceed with
 21 implementation of stage 3 of the plan?
 22 MAJOR-GENERAL ANNANDALE: Chairperson, I
 23 can only assume it's because I held the position of the
 24 chairperson of the JOCOMs, that I was also then acting in
 25 terms of the organising of the JOC in terms of that. So I

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1 will speak to Brigadier Pretorius and give specific
 2 instructions in terms of radio communication that must go
 3 out. So I can only assume that was the specific reason.

4 CHAIRPERSON: Previously when I asked you
 5 a question about the "muti," that's on the assumption we
 6 find that there was "muti," as you know it's a
 7 controversial question before the Commission, but on the
 8 assumption we find that there was "muti," I asked you
 9 whether it was taken into account in the plan, the
 10 formulation of the plan and the decision to implement it,
 11 and you said yes. I'd like to ask you a few questions
 12 about that and with regard to other factors that were taken
 13 into account, firstly in formulating the plan and secondly
 14 in deciding to implement it. Let's look at "muti" for the
 15 moment. You've got a copy of exhibit SS3 and if you look
 16 at the plan for the 14th of August - my copy is not
 17 paginated; the first few pages have got the police hard
 18 drive numbering at the top starting at 1665. That's the
 19 original plan signed by Brigadier Calitz, General Naidoo
 20 and General Mpembe. Immediately after it we have a set of
 21 documents headed "Operation Platinum, Lonmin Mine Marikana
 22 14 August 2012." Do you have that in front of you?
 23 MAJOR-GENERAL ANNANDALE: I have that
 24 slide in front of me, Chairperson.
 25 CHAIRPERSON: The fifth document is

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1 headed "Risk Assessment." It contains a section headed
 2 "Risk Assessment" and a section headed "Mission." Have you
 3 got that? And the Risk Assessment part reads as follows,
 4 "AMCU possibly defiant, feeling," - this is on the 14th of
 5 course, the Tuesday - "possibly defiant, feeling the clash
 6 with SAPS resulted in their victory with killing of police
 7 officials and seizing police radios and weapons." So
 8 there's a possible feeling of defiance, and then it goes
 9 on, "Witch doctor providing 'muti' to AMCU group, creating
 10 mindset of invincibility." So clearly on the 14th that was
 11 part of the risk assessment. Do you agree with me? That's
 12 obviously correct. I take it you agree with that.

13 MAJOR-GENERAL ANNANDALE: Yes,
 14 Chairperson.

15 CHAIRPERSON: Now if you go further down
 16 into that bundle of documents you will find a document
 17 headed "Operation Platinum, Lonmin Mine Marikana 16 August
 18 2012, Stage 2," and as I say my copy isn't paginated but
 19 there's a set of papers near the end which have in the top
 20 right-hand corner 2012/12/14 and it's, the first page of
 21 that set of papers is headed "Scope" and it's got certain
 22 entries below that. Do you have that piece, have got that
 23 document?
 24 MAJOR-GENERAL ANNANDALE: Chairperson, 16
 25 August 2012 Stage 2, and then the slide underneath Scope.

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1 CHAIRPERSON: Yes.
 2 MAJOR-GENERAL ANNANDALE: Yes, Sir.
 3 CHAIRPERSON: And then my copy has each
 4 of the pages thereafter numbered and page 4 is headed "Risk
 5 Assessment." Have you got that?
 6 MAJOR-GENERAL ANNANDALE: I do.
 7 CHAIRPERSON: Now that risk assessment
 8 differs from the risk assessment that you had on the
 9 Tuesday. There's no reference to the strikers possibly
 10 being defiant because they'd been victorious on the Monday;
 11 there's no reference to a mindset of invincibility created
 12 by the "muti." It simply says, "Protestor groups still
 13 deemed a threat to police members due to a smaller group
 14 who is armed showing a militant attitude, and police
 15 members may be targeted if over-confident in approaching
 16 the crowd without sufficient caution." So why was the
 17 earlier risk assessment no longer operative?
 18 MAJOR-GENERAL ANNANDALE: Chairperson, is
 19 the question why the previous, earlier risk assessment on
 20 the 14th is no longer applicable?
 21 CHAIRPERSON: Yes, surely those factors
 22 were still operative.
 23 MAJOR-GENERAL ANNANDALE: It was still,
 24 Chairperson, it was not excluded.
 25 CHAIRPERSON: Why wasn't it included in

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1 the document? Perhaps that's a question I must ask
 2 Lieutenant-Colonel Scott, who I think is probably the
 3 author of the document.
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 ja, the planning was done basically starting on the 13th and
 6 the on the 14th there was built upon that, and then on the
 7 16th, on the 15th and so on. So it was not separately, but
 8 it was still applicable. I mean nothing has changed.
 9 There was activities reported on the Tuesday as well, and I
 10 think the Wednesday in terms of potential rituals taking
 11 place. So it was still applicable.
 12 CHAIRPERSON: You see, that brings me to
 13 the main point I want to ask you about. In agreeing to the
 14 Provincial Commissioner's instruction for stage 3 of the
 15 plan to be implemented, did you take into account firstly
 16 the "muti" factor and the feeling - the mindset of
 17 invincibility present on the part of least the militant
 18 group? I think you explained before that you didn't regard
 19 the intelligence report which spoke about the mindset of
 20 the people in a slightly different context as applicable to
 21 everybody, but it did apply to the 3 to 400 warrior group.
 22 Now did you in agreeing to the implementation of stage 3,
 23 did you take into account the fact that there was this
 24 mindset of invincibility caused by "muti" which had been
 25 reinforced, topped up, whatever the appropriate word is, on

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1 the Tuesday and the Wednesday.
 2 [15:36] MAJOR-GENERAL ANNANDALE: Chairperson,
 3 yes, we did consider that as a specific risk.
 4 CHAIRPERSON: I take it you also took
 5 into account the intelligence report which you received at
 6 12 o'clock, which we read yesterday, which said that the
 7 strikers were not willing to lay down their arms and they
 8 were prepared to fight. But I think you said that you
 9 accepted the accuracy thereof for the purposes of, or as
 10 far as it related to the warrior group, the 3 to 400, but
 11 not the rest. You did take that into account also did you?
 12 And then there was also -
 13 MR MPOFU: Sorry, Chairperson, I'm sorry,
 14 this witness never testified about the existence of a so-
 15 called warrior group, this particular witness.
 16 CHAIRPERSON: He spoke about the two
 17 groups and the -
 18 MR MPOFU: Well, he never identified
 19 anyone of them as a warrior group.
 20 CHAIRPERSON: The expression "warrior
 21 group" appears in exhibit L as descriptive of the smaller
 22 group, the armed militant group that he spoke about, and
 23 that expression, he may not have specifically accepted that
 24 expression, but he accepted the description in exhibit L.
 25 I think that's correct, Major-General? It's also in FFF25,

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1 there's an OB entry. Am I correct, Major-General?
 2 GENERAAL-MAJOOR ANNANDALE: Kryger, ja,
 3 ek dink ek het die woord kryger groep -
 4 VOORSITTER: Kryger groep, ja, kryger
 5 groep -
 6 GENERAAL-MAJOOR ANNANDALE: Ja, kryger,
 7 warrior group.
 8 CHAIRPERSON: Would be warrior group in
 9 English?
 10 MAJOR-GENERAL ANNANDALE: Yes.
 11 CHAIRPERSON: Now we know that the plan
 12 was only implemented, sorry, the decision to implement the
 13 plan according to your evidence was made at about 1:30 when
 14 the Provincial Commissioner gave the instruction that is
 15 set out in the minutes. There is an issue as to whether a
 16 decision was actually taken earlier, but I'm not going to
 17 deal with that in the question that I'm asking you. But
 18 though the instruction was given by the Provincial
 19 Commissioner at 1:30, in fact it doesn't look as if
 20 anything material was done in the sense that no point of no
 21 return was reached until 2 o'clock, would that be correct?
 22 When I think that was when Brigadier Pretorius and
 23 Lieutenant-Colonel Scott then left to do the briefings.
 24 There was no, the point of no return had not been reached
 25 before 2 o'clock, would that be correct? The decision

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1 could have been reversed before 2 o'clock. It probably
 2 happened after that, but let's just stick with 2 o'clock
 3 for the moment. Would you agree with that?
 4 MAJOR-GENERAL ANNANDALE: Chairperson,
 5 yes, your later remarks in terms of it could have been
 6 reversed at any time, but basically at 2 o'clock it was
 7 handed over to the operational commander, then at the
 8 operational commander's understanding of how the
 9 circumstances were changed and so on, then obviously there
 10 would be leverage.
 11 CHAIRPERSON: That's why I picked 2
 12 o'clock.
 13 MAJOR-GENERAL ANNANDALE: Yes, sir.
 14 CHAIRPERSON: Now did you take into
 15 account in deciding not to reverse the decision, what
 16 happened at 13:40? Let me remind you what happened at
 17 13:40. According to slide 192 in exhibit L, a person
 18 described as one of the representatives, this is of the
 19 "kryger groep," the warrior group - I think the evidence
 20 indicates that it was Mr Noki - came to the front window of
 21 the negotiation Nyala, sorry approached the Nyala, that's
 22 the negotiation Nyala, and said this, he said that he could
 23 see the SAPS are making ready for war now, and he informed
 24 Lieutenant-Colonel McIntosh, "We must sign a paper, so that
 25 the world can see how we will kill one another today."

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1 This is being described in the evidence as a declaration of
 2 war. Was that taken into account when it was decided to
 3 carry on with the decision at 2 o'clock and not to reverse
 4 it?
 5 MAJOR-GENERAL ANNANDALE: Chairperson, as
 6 we were busy in the special JOCOM, obviously at the time we
 7 didn't know about that. It only came to our attention
 8 later on. But it was in any way, it was considered and
 9 that was just a reaffirmation of the fact that we wanted to
 10 deploy the defensive measure in terms of providing
 11 additional protection and not approach the group as they
 12 were situated there, but after dispersal.
 13 CHAIRPERSON: Now, so to what extent were
 14 these three things taken into account? I mean do you just
 15 look at them and think about them, or did you question
 16 whether they would have an impact on what was likely to
 17 happen when -
 18 MR MPOFU: Chairperson, I'm sorry again.
 19 I thought the witness clearly said that the third of the
 20 things you mentioned was not known. How could it have been
 21 considered if it was not known?
 22 CHAIRPERSON: I understood him to say
 23 that it was taken into account later -
 24 MR MPOFU: But how is that possible,
 25 Chairperson? If it's not known how can it be taken into

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1 account?
 2 CHAIRPERSON: Let's clarify that. I had
 3 picked 2 o'clock as the point of no return. When did this
 4 declaration of war come to your attention?
 5 MAJOR-GENERAL ANNANDALE: Chairperson, I
 6 cannot remember the time, but as we have indicated that the
 7 point of return can be, ja point of no return, at any given
 8 stage when information would come to our attention then we
 9 can still convey it to the operational commander and put a
 10 stop to it, or vice versa. I cannot remember the time.
 11 CHAIRPERSON: It came to your attention
 12 before 3:30 then?
 13 MAJOR-GENERAL ANNANDALE: Yes,
 14 Chairperson.
 15 CHAIRPERSON: And you could have, though
 16 I made 2 o'clock the point of no return, in fact I was
 17 being perhaps cautious. You could have reversed the
 18 decision to implement it at any time up to 3:30?
 19 MAJOR-GENERAL ANNANDALE: Up to 15:40.
 20 MR MPOFU: Chairperson, can I just, this
 21 - honestly, I don't think we should be putting words into
 22 the witness's mouth. How can something that according to
 23 L192 happened at 15:40, had come to his attention before
 24 15:30?
 25 CHAIRPERSON: No, no, you're not

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1 understanding. We are talking about something happening at
 2 13:40.
 3 MR MPOFU: No, I'm talking about -
 4 CHAIRPERSON: The second leg of slide 192
 5 -
 6 MR MPOFU: No, that's not what you read.
 7 No, Chairperson, I'm sorry. You read to him the part that
 8 we will not leave this place and we will all die today,
 9 which according to the slide happened at 15:40. So how on
 10 earth would he have known at 15:30 prophetically that at
 11 15:40 it's going to be said -
 12 CHAIRPERSON: Mr Mpofu, I didn't read
 13 that. I read the second paragraph which relates to what
 14 happened at 13:40 where he informed Lieutenant-Colonel
 15 McIntosh, "We will sign a paper so that the world can see
 16 how we will kill one another today." That's what I was
 17 talking about.
 18 MR MPOFU: Yes.
 19 CHAIRPERSON: Right, that was at 13:40.
 20 MR MPOFU: Yes.
 21 CHAIRPERSON: Before 2 o'clock. The
 22 witness says he heard about it, he didn't hear about it
 23 before 2 o'clock, but he heard about it before 3:30 and he
 24 could have, they could have decided not to proceed with the
 25 implementation of the plan at least up to 3:30. That's

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1 what we are busy with. So we will carry on. Now the
 2 question I'm asking you, is once you knew about the
 3 declaration of war, wouldn't that have increased - or
 4 rather would that, let me not ask you a leading question,
 5 would that have increased the likelihood that when attempts
 6 were made to disarm these people, the strikers, in the
 7 "kryger groep," the warrior group, that they wouldn't, even
 8 if they were dispersed, the individuals believing that they
 9 were invincible, believing that the bullets would turn into
 10 water when they hit them, believing that nothing could
 11 happen to them, would they not have had put up a fight in
 12 order not to hand over their weapons, which they said they
 13 weren't going to do?
 14 MAJOR-GENERAL ANNANDALE: Chairperson, we
 15 felt that the moment that we break up that core group, or
 16 the group adhesion, and the moment they would be in smaller
 17 groups, that even although there might be a risk that they
 18 would attempt to resist arrest, that the way that we would
 19 have broken them up in terms of that approach and then
 20 encircling them, would have been sufficient to mitigate
 21 that specific threat.
 22 CHAIRPERSON: So are you saying that you
 23 did not foresee the possibility that they might put up a
 24 fight and in fact attack the people who were trying to
 25 disarm them?

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1 MAJOR-GENERAL ANNANDALE: Chairperson, we
 2 considered the Monday where there was a much smaller group
 3 of police officers and a group of about 200 strikers, and
 4 the scenario was different because of the police officers
 5 that were walking literally just very close to the specific
 6 group, some of the police officers, Nyalas, in front of the
 7 group and so on. So we felt in terms of the numbers that
 8 we had available, in terms of the defensive measures and in
 9 terms of that the front line would be approaching them in
 10 terms of armoured vehicles, that we will be in the control
 11 of the situation and then should there be still a group
 12 that would be defiant, that they will be able to further
 13 break them up and break them up until such a stage that the
 14 situation was such that they can then approach them in
 15 terms of performing arrests.

16 CHAIRPERSON: Now the last point I want
 17 to put to you is - I don't know if you were present when
 18 this evidence was given or when the reference was made to
 19 this, the Regulation of Gatherings Act in fact was drafted
 20 by a committee appointed by the Goldstone Commission, of
 21 which the chairman was Philip Heymann, a professor at
 22 Harvard, and they published a book called "Towards peaceful
 23 protest in South Africa. A testimony of a multinational
 24 panel regarding lawful control of demonstrations in the
 25 Republic of South Africa." Are you familiar with the book?

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1 MAJOR-GENERAL ANNANDALE: Chairperson, I
 2 am familiar with the name. It rings a bell, but I haven't
 3 read the book.

4 CHAIRPERSON: I've got the relevant
 5 portions of the book as set out in exhibit TT, and there is
 6 a section in it that I want to put to you and ask you
 7 whether you agree with it. It deals with a number of
 8 topics. It deals with a model process for events preceding
 9 a demonstration, which effectively is incorporated now in
 10 the act, which they drafted, and then there is a section on
 11 the use of force in the policing of demonstrations, and
 12 then there is a section on the organisational and training
 13 implications and their recommendations. But I want to put
 14 to you the last section, in fact the last part of the
 15 section dealing with the use of force in the policing of
 16 demonstrations. If you have exhibit TT in front of you,
 17 you will see the extract is there.

18 MS PILLAY: Chair, the exhibit is TT1.

19 CHAIRPERSON: Oh sorry, TT1, thank you.
 20 Have you got it?

21 MAJOR-GENERAL ANNANDALE: Chairperson, I
 22 have the exhibit, I'm just looking for the page.

23 CHAIRPERSON: Right, now the foot of page
 24 37, the whole book is not there but that page is part of
 25 the exhibit. Have you got page 37 in front of you?

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1 MAJOR-GENERAL ANNANDALE: I do,
 2 Chairperson, on the right-hand side of the -

3 CHAIRPERSON: Right, it reads as follows,
 4 "Each of the preceding scenarios presumes the effective
 5 deployment of tactics within some clearly formulated
 6 strategy. It is of the utmost importance that the policing
 7 of public order operations is characterised by thorough
 8 planning and preparation. Senior officers must consider
 9 and make contingency plans for various scenarios, from
 10 those thought to be highly probable, through to those
 11 considered possible, however unlikely. Through these means
 12 the police will avoid being surprised by unexpected events
 13 and thus retain maximum control over their own officers and
 14 the events themselves," and then they go on to deal with
 15 the point in other respects. Would you agree with the
 16 paragraph that I have read?

17 MAJOR-GENERAL ANNANDALE: I do,
 18 Chairperson.

19 CHAIRPERSON: Did you at Marikana before
 20 the events of the 16th of August, consider and make
 21 contingency plans for various scenarios from those thought
 22 to be highly probable, through to those considered
 23 possible, however unlikely, and thereby avoid being
 24 surprised by unexpected events and thus retain maximum
 25 control over your own officers and the events themselves?

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1 MAJOR-GENERAL ANNANDALE: Chairperson, we
 2 did not write contingency plans, but we took certain
 3 contingencies into consideration in our planning.

4 CHAIRPERSON: Did you take the
 5 contingency into account that the strikers, the militant
 6 group, even if they were dispersed into smaller groups,
 7 might stand and fight to retain their arms, as they had
 8 threatened to do, and as your intelligence indicated that
 9 they were going to do, and act in the belief that they were
 10 invincible? Did you take that into account?

11 MAJOR-GENERAL ANNANDALE: Chairperson,
 12 not in terms of fight; in terms of resisting arrest, and we
 13 took that into account in terms of that they will be
 14 manageable so that we would be sufficient police officers
 15 to deal with it in terms of less than lethal approaches,
 16 specifically the use of pyrotechnics.

17 CHAIRPERSON: Were any lessons factored
 18 in from what had happened on the 13th when the strikers
 19 appear not to have been deterred by stun grenades or
 20 teargas?

21 MR HANABE: Can you repeat the question,
 22 please? I didn't get it, Commissioner.

23 MAJOR-GENERAL ANNANDALE: Chairperson, I
 24 got the question, but the interpreter not.

25 CHAIRPERSON: Were any lessons derived

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1 from what happened on the 13th when the strikers do not
 2 appear to have been deterred by stun grenades or tear gas,
 3 were any lessons of that kind factored into the plan?
 4 MAJOR-GENERAL ANNANDALE: Chairperson, my
 5 understanding of the events on the 13th was that stun
 6 grenades were not necessarily used by the police officers
 7 in terms of their protection, that stun grenades and CS was
 8 used on the other side of the group in their front to
 9 prevent them from entering a specific area, so it was not
 10 in terms of a specific, it was more used in terms of
 11 channelling.
 12 CHAIRPERSON: So are you saying that no
 13 lessons were learnt from what happened on the 13th? No,
 14 sorry, let me rephrase the question. No lessons learnt
 15 from what happened on the 13th were factored into your plan?
 16 MAJOR-GENERAL ANNANDALE: No,
 17 Chairperson, the lessons were factored in, in terms of the
 18 front line in the armoured vehicles, in terms of the barbed
 19 wire positioning, in terms of the distance kept, that we
 20 should not approach, the police officers should be
 21 circumspect in terms of approaching the people, that we
 22 didn't want to approach them whilst they were in that
 23 group, that we will first disperse them before we would
 24 approach them, so there were a number of aspect factored
 25 in.

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1 [15:56] CHAIRPERSON: I'd like to ask you about
 2 one last aspect, and that is part of your plan seems to be
 3 based on the idea that a show of force would do the trick.
 4 In other words the fact that you had people there with
 5 assault rifles which were loaded wasn't, it was part of the
 6 display of force, the show of force; it was never envisaged
 7 that any shots would have to be fired from those assault
 8 rifles against people on the other side, as it were. Would
 9 that be a fair summary?
 10 MAJOR-GENERAL ANNANDALE: Chairperson,
 11 definitely the show of force in terms of members, members
 12 from different units than Public Order Policing, but also
 13 the resources in terms of type of vehicles, numbers of
 14 vehicles, in terms of historically the moment you would
 15 display that and you would have that, that in itself would
 16 convince protestors to disperse on their own, and the
 17 numbers was so great that we thought that that in itself
 18 would have the desired effect.
 19 CHAIRPERSON: Even strikers - I don't
 20 like to call them protestors, I'm not sure what they were
 21 protesting about - even strikers who thought they were
 22 invincible?
 23 MAJOR-GENERAL ANNANDALE: Chairperson,
 24 yes, with that numbers, that number of vehicles, I think
 25 only the armoured vehicles on display were probably more

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1 than 16 or 17, and then in terms of the rest of the
 2 vehicles there were probably more than 100, with all of the
 3 police officers, we thought that that would be sufficient
 4 to convince anyone to leave it.
 5 CHAIRPERSON: Thank you. It's now 4
 6 o'clock. I have no more questions. I take it the next
 7 witness, or the witness to be recalled, obviously it would
 8 be inappropriate for her to start giving evidence again
 9 now. So we'll adjourn till tomorrow morning, 9:30?
 10 MR SEMENYA SC: Is the witness excused?
 11 CHAIRPERSON: Yes. You're excused,
 12 Major-General.
 13 [NO FURTHER QUESTIONS - WITNESS EXCUSED]
 14 CHAIRPERSON: You may stay if you wish,
 15 but not it's not obligatory. We now adjourn until 9:30
 16 tomorrow morning.
 17 [COMMISSION ADJOURNED]
 18 .
 19 .
 20 .
 21 .
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