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 92  15 MAY 2013  PAGES 9775 TO 9887

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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Although this is yet to be achieved. In the meantime the leadership of each union has assured Lonmin that representatives of AMCU, NUM, Solidarity and UASA on the stoppage at Lonmin, management has met with the representatives of AMCU, NUM, Solidarity and UASA on the mine. The leadership of each union has assured Lonmin that they did not call for the work stoppage and therefore do not support it. Lonmin’s Executive Vice President Mining, Mark Munroe said and I quote “Lonmin is fully committed to achieving a fair and peaceful resolution of the dispute although this is yet to be achieved. In the meantime the overriding priority and must take precedence over all other matters. Embarking on unlawful and unprotected work stoppages puts lives and livelihoods at risk while families also suffer due to the loss of earnings. Lonmin’s recovery depends on everyone working together to meet our production targets safely and efficiently. As a mine community we need to work together to return Lonmin to where we believe it should be. We have therefore urged all employees to return to work and for their representatives to continue meeting with management. We believe that through respectful dialogue between unions and management we will be able to resolve the issues that have been raised and maintain the excellent momentum that together we have achieved in the last six months.” Chair so far the quote. “To address any employees concerns about safety Lonmin has increased the number of security officials on its property and again a quote “Lonmin does not permit or condone the carrying of firearms on company property. Anyone found guilty of this violation of company policy will be reported to the police and face disciplinary action. We have investigated every allegation of firearms being in union offices and none of our searches have uncovered any weapons. Nevertheless, we’ve agreed to increase the number of random searches of offices and individuals” said Munroe.

Lonmin will continue discussion with union representatives to ensure conditions for the safe resumption of mining.” On our desks this morning is a document on the Protea Coin letterhead. It’s a letter addressed on the 19th of November 2012 to Mr Danie van Tonder, senior investigator assigned, to the Commission. Was it put here by you or by those assisting you? Or must I look to the evidence leaders?

No Chair, it’s a document which I will hand in through this witness. It was given to the Commission in November last year but in the context of the debate yesterday of the Lonmin helicopter I thought we need some clarity on that and I’ll address it with this witness. In due course Ms Pillay will tell me what the exhibit number is but we’ll get there.

Well if it’s - Chair, GGG26. It’s the brief in crowd management of platoon commanders. Yes, Mr Burger, please proceed with your - General, I would have preferred to ask you questions in Afrikaans but it may take too long so bear with me. I’m going to pose the question to you in English and you’ll answer it in Afrikaans. I intend to deal with two subjects with you. The first is the relationship between the South African Police Service and the Lonmin. Before dealing with the 13 points referred to by Mr Mpofu yesterday you indicated that you would like to explain how you see that relationship to the Commission as it unfolded during the events in August of last year. This is your opportunity.

Dankie, Voorsitter. Die Suid Afrikaanse Polisie Diens funksioneer op ‘n beginsel van venootskapspolisiering, gemeenskapspolisiering en ook sektor polisiëring. Voorsitter, om ons konstitusionele mandaat te vervol is ons afhanklik van hierdie venootskappe. Selfs Staande order 262 verwys na die venootskap met gemeenskap en ander belange groepe. Die venootskap wat ons gehad het met Lonmin is niks anderste as venootskappe wat ons elke dag en deurlopend en orals in die land eraar met ander vennote nie. Ek persoonlik het dit altyd as uiters professional ervar. Ons kon nie funksioneer in die betrokke omgewing nie sonder dat ons iemand wat getrou met is met die omgewing gehad het as ons oë en ore nie. Ons was afhanklik van hulle terugvoer, van hulle CCTV. Hulle het letterlik honderde sekuriteits beamptes wat orals oor hulle perseel versprei wat vir ons waardevolle terugvoer gegee het in terme van insidente van intimidasie en ook groeperings van groepe potensiële of protesteerders. Ons het byvoorbeeld

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by hulle planne gekry van die uitleg van die hostelle, in terme van die fase ses beplanning wat ons gehad het.
Voorsitter, Marikana is geëisoleer in terme van dis nie in 'n stedelike opset wat die politie pertinentie infrastruktuur het nie.

CHAIRPERSON: An urban area where the police have in infrastructure. I think is what he says.

GENERAAL-MAJOR ANNANDALE: Voorsitter,
ek kan na verskeie gevalle verwys en ek wil nie te veel tyd omslag nie, en waar die politie pertinent met ander rolspelers 'n soort gelyke verhouding gehad het. As ek na enkele verwys, ons het 'n samewerking met Sunparke in die Kruger Nationale Park teen 'n poging tot teen renoster stropery. Voorsitter, ons gebruik hulle gidsie, ons gebruik hulle spoorsnyers, ons werk saam met hulle op hulle chopper, hulle werk saam met ons op ons chopper. So ook met Eskom 'n soort gelyke verhouding wat ek by betrokke was in Mpumalanga en as gevolg van sekere proses en geweldsaksesies het ons lede ontplooi in 'n geïsoleer area wat ons ook van hulle hostelle gebruik gemaak het om ons lede te akkommodeer. Net so met sport stadiums gebruik ons hulle faciliteitie vir die vestiging van 'n JOC. Om terug te kom na Marikana en Lonmin, Voorsitter, ons kan eenvoudig net nie 'n operasie van hierdie omvang hanteer sonder die interaksie en die samewerking van 'n belangrike rolspeler nie.

nie.

CHAIRPERSON: The co-operation of an important role player.

MR BURGER SC: 13 examples were given to you as what Mr Mpofu described as the "toxic relationship" between Lonmin and SAPS. Now as to the responsibility of that submission, I'll address that at the end, I don't want to debate that with you. But may I briefly look at these 13 points to see what they do show us? The first point relied upon is the fact that Mr Sinclair was appointed as a liaison person between SAPS and Lonmin. If you take into account that there are more than 30 000 people employed at Lonmin and that the police contingent was at its peak round about 800 people would it be a manifestation of a functional and responsible partnership to have a liaison person appointed to liaise between Lonmin and the SAPS in these circumstances?

GENERAAL-MAJOR ANNANDALE: Voorsitter, dit kon nie anders nie, dit sou chaos gewees het as die politie iets pertinent informasie van inligting nodig gehad het en ons moes elke keer iemand gekontak het om dit te probeer bekom.

MR BURGER SC: The second manifestation was strangely formulated as the partnership about people suspected. I think what was meant was that there was something wrong with the fact that the police and Lonmin exchanged information on criminal activity. Now what I want to ask you is are you aware that there's a regular interaction between Lonmin and the police in the exchange of criminal activity in the neighbourhood?

CHAIRPERSON: Information about criminal activity in the neighbourhood?

MR BURGER SC: Yes.

CHAIRPERSON: Thank you Sir.

GENERAAL-MAJOR ANNANDALE: Ek is bewus daarvan, Voorsitter.

MR BURGER SC: In fact we know that this co-operation resulted as a request directed by General Mpembé.

GENERAAL-MAJOR ANNANDALE: Dit is korrek, Voorsitter.

MR BURGER SC: The third indication relied upon by -

CHAIRPERSON: Sorry to interrupt you. Before you move from the second indication is there anything unusual about such a relationship? A relationship with the exchange of information about criminal activity?

GENERAAL-MAJOR ANNANDALE: Voorsitter, nee daar's 'n standard verpligting op elke lid van die publiek, verskeie rolspelers in die elk geval om sodanig samewerking te gee in die Suid Afrikaanse Polisie diens so dis niks onbehoorlik nie.

MR BURGER SC: The third indication relied upon was the establishment of what was referred to as the Lonmin JOC. Now the facts to you were wrong and we know now what the correct facts are and you gave that to us. May I ask you this, was there anything unusual about the SAPS JOC being situated on the Lonmin property in these circumstances?

[09:55] GENERAAL-MAJOR ANNANDALE: Voorsitter, nee ek het ook verwys dat in stadiums tydies die Wêreldbeker moet verskeie, verskeie aksies dan gebruik ons die faciliteitie mees geskik, mees sentraal tot die spesifieke operasie. So daar was niks onbehoorlik daar nie.

MR BURGER SC: Would it be correct to say that to have a SAPS JOC under these circumstances outside of the Lonmin property would have been quite impractical?

GENERAAL-MAJOR ANNANDALE: Voorsitter, ja dit maak nie sin nie, dit is nie prakties haalbaar ons.
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<td>1</td>
<td>tydens die spesiale JOCOM want die bespreking tydens die</td>
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<td>spesiale JOCOM was 'n suiwier ekslusiewe polisie aksie wat</td>
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<td>ons beplan het. Hy was egter na die tyd ingelig vir sekere</td>
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<td>pertinente takings soos om die sekeriteit te sê dat binne</td>
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<td>in hierdie spesifieke omgewing gaan daar polisie optrede</td>
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<td>plaasvind en dat hulle bewus is daarvan dat hulle nie hulle</td>
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<td>begeewe in die betrokke area nie en byvoorbeeld om te kyk of</td>
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<td>hy kan kragopwekkers vir ons op bystand plaas sou ons die</td>
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<td>optrede in die nag moes in vat.</td>
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<td>MNR BURGER SC:</td>
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<td>aanvaar dat hy geen inzette gelever het by operasionele of</td>
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<td>strategiese beplanning nie.</td>
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<td>CHAIRPERSON:</td>
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<td>die tolk om te vertaal, wat u nou gesê het.</td>
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<td>MR BURGER SC:</td>
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<td>KOMMISSARIS:</td>
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<td>reg om Afrikaans te gebruik as jy wil. Maar met die</td>
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<td>gevolge wat jy alreeds aangedui het.</td>
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<td>MR BURGER SC:</td>
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<td>concentration on my side, I'm sorry, Chair. May the</td>
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<td>Commission assume that Mr Botes did not take part in the</td>
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<td>operational and strategic planning which was done by the</td>
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<td>police general?</td>
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<td>GENERAAL-MAJoor ANNANDALE:</td>
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<td>dis korrek, operasionele en strategiese beplanning is die</td>
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<td>strikers had to be confronted. Was there anything unusual</td>
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<td>in that in your experience?</td>
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<td>GENERAAL-MAJoor ANNANDALE:</td>
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<td>korrekse polisie het nie mediese personeel van hulle eie</td>
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<td>nie. Maar dit ontlooping is nie onbehoorlik nie, ons het</td>
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<td>soveel sodanige groot gebeurtenisse wat ons ook dan staat</td>
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<td>maak op die ontplooiing van mediese personeel deur ander</td>
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<td>rolspelers.</td>
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<td>MR BURGER SC:</td>
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<td>upon is the fact that Mr Botes was present in the SAPS JOC</td>
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<td>from time to time and you would remember the passage read</td>
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<td>from his statement where he could overhear at some point in</td>
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<td>time a discussion between the senior generals of the SAPS,</td>
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<td>what is your comment on that as an indication of a toxic</td>
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<td>relationship between Lonmin and SAPS.</td>
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<td>16</td>
<td>GENERAAL-MAJoor ANNANDALE:</td>
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<td>dink dat ons NED JOC is daar iets soos meer as 30</td>
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<td>rolspelers wat nie van die polisie is nie wat betrokke is</td>
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<td>en ons het later aan deur die optrede na die 16e het ons</td>
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<td>ook verteenwoordigers van die Provinsiale</td>
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<td>Verkeersdepartement gehad. Dit is nie vreemd dat ons ander</td>
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<td>rolspelers het nie, dit is van jou oil ook die benaming Joint</td>
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<td>Operational Centre is, dis nie eksklusief noodwendig 'n</td>
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<td>polisie sentrum nie. Mnrf Botes was deurlopend teenwoordig,</td>
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<td>ons het hom een stadium het ons hom verskoon, dit was</td>
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<td>1</td>
<td>polisie se verantwoordelikheid.</td>
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<td>2</td>
<td>MNR BURGER SC:</td>
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<td>upon is what Mr Mpofu for once correctly called the Coin</td>
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<td>4</td>
<td>chopper and somehow from the Coin chopper he deduced an</td>
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<td>untoward relationship between SAPS and Lonmin. May I ask</td>
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<td>you to have a look at the letter which should be before</td>
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<td>7</td>
<td>you, General, GG26, it's a letter from Protea Coin, it was</td>
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<td>8</td>
<td>addressed to the evidence leaders in November last year and</td>
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<td>9</td>
<td>it addresses this very point. You’ll see in the first</td>
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<td>10</td>
<td>sentence what the letter addresses is a meeting held by</td>
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<td>the author and the request directed to him for a summary of</td>
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<td>the events on the 16th of August 2012 whereas we took video</td>
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<td>footage, I suppose what he meant was, during which we took</td>
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<td>video footage from one of our helicopters deployed at</td>
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<td>Lonmin on the 16th. That’s what the letter addresses. The</td>
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<td>16</td>
<td>author also tells us about the scale of the Coin operation</td>
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<td>17</td>
<td>at Lonmin in the third unnumbered paragraph on page 1 where</td>
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<td>he says PCG, that’s the Coin operation, PCG provides</td>
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<td>security services to Lonmin mine and has approximately 500</td>
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<td>security personnel permanently employed at the Lonmin</td>
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<td>mining sites. On page 2 and nearer to you, General, in the</td>
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<td>22</td>
<td>first unnumbered paragraph about four lines down he</td>
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<td>identifies the two helicopters at Lonmin on the 16th by</td>
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<td>referring to the R44 and the B3 and then I pick it up four</td>
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<td>25</td>
<td>lines from the end of that first unnumbered paragraph where</td>
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<td>1. he says although the SAPS PCG and Lonmin personnel were present at the same location Protea Coin was functioning independently from the SAPS and in accordance with the security requirements from Lonmin and before I ask you to confirm the correctness on your knowledge can I just read you the last sentence there following. The primary function of the SAPS related to containing the actions and movement of the illegal strikers whilst PGC security mandate from Lonmin remained the protection of its personnel and assets on the mine. Would that be as you understood the position on the ground?</td>
<td>1. deur gekom het in terme van besoek van sy verantwoordelikhede ten opsigte van sy ontplouwing daar.</td>
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<td>12. GENERAAL-MAJOR ANNANDALE: Voorsitter, behalwe om te sê ja dat die polisie se verantwoordelikhede was uiteraard, actions and movement of the illegal strikers maar Protea Coin was nie teenwoordig in ons JOC nie, hulle was nie deel van die beplanning nie. Maar die rol van PCG of Protea verstaan ek dit in terme van die beskerming, die betrokke verantwoordelikheid wat hulle het teenoor hulle klient in terme van eiendom en personeel.</td>
<td>3. [10:15] GENERAAL-MAJOR ANNANDALE: En dat die kleiner helicopter slegs gebruik word om op die perimeter, so baie wyer as die koppie area te vlieg in terme van moniteerings van persentante sleutel punte wat hulle geïdentifiseer het as deel van hulle verantwoordelikhede.</td>
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<td>Page 9790</td>
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<td>1. could clear the airspace with our two helicopters but to keep them on standby with our two helicopters at the open field at the mine.</td>
<td>1. criticise the fact that Lonmin provided an interpreter into Fanagolo to facilitate a dialogue between the trade unions and the SAPS on the one side and the strikers on the other?</td>
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<td>4. GENERAAL-MAJOR ANNANDALE: Voorsitter, ek het Mr De Waal onmoet enkele maande voor die Marikana insident. Dit was in 'n vergadering wat ons die samewerking bespreek het tussen, pertinente die ontplouwing van speciale taakmag en nasionale intervensie eenheid. In terme van die hantering van in transito roofigte. Dit was reeds op die 15e het hy aan gedoen by die JOC area en vir my en Generaal Mpembe ingelig dat hulle teenwoordig is en dat daar sonandie tjooper beskikbaar is sou ons dit ou gebruik en ek het hom gemeld dat ons pertinent twee choppers het wat ons, wat ons gebruik maar daar's ook 'n derde chopper 'n Oryx wat beskikbaar is van die Nasionale Luigmag.</td>
<td>2. Fanagolo om te wees nie is mnr Kwadi se amptelike posisie by die NUM.</td>
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<td>14. GENERAAL-MAJOR ANNANDALE: Voorsitter, en vir hom geve om bewus te wees daarvan en dat hulle nie in die betrokke direkte omgewing van die koppie moet vlieg nie.</td>
<td>6. ek weet nie was is mnr Kwadi's presense in terme van die hantering van in transito roofigte en dat hy teenoor hulle hulle integraal deel van die pogings wat Generaal Mpembe gehad het om in gesprek te tree met die presidente van AMCU en NUM.</td>
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<td>19. CHAIRPERSON: The national air force. I think he said it was on standby.</td>
<td>9. And very much on the same level is point 9. It is criticised that there were Lonmin management in the Nyalas when the trade union presidents went to the koppie on the afternoon of the 15th with the police. Is there anything untoward in your experience in that?</td>
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<td>25. GENERAAL-MAJOR ANNANDALE:</td>
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1. meld soos ek dit verstaan dit, mnr Kwadi, het hy die vergadering wat Generaal Mpembe met die twee presidente gehad het voër op die Woensdag het hy dit gesifteleer.
2. En die besoek van die tweede delegasies van onderskeidelik NUM en AMCU was dat voortspruitend uit die voër vergadering op die Woensdag. En Generaal Mpembe het dit belangrik geag dat hierdie goue draad of dat die - dat Mr Kwadi pertinent bewus bly van die hele verwikkeling soos dit afspeel. Ek dink die woord dat ek soek is om kontinuité te bou.

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1. mens alle sodanige informasie wat jy kan kry in die agtergrond moet bespreek, eerstehands hoor.
2. MR BURGER SC: The eleventh point is a rehashing of what had gone before. It is criticised that Mr Botes was present at six hours on the 16th August at the JOC meeting.
3. Generaal Majoor Annandale: Voorsitter, mnr Botes was ‘n JOC verteenwoordiger. Hy het ‘n pertinente terugspraak in termes van die werkstasie opgedraag het, gevalse van intimidasie, roetes, wat ook al die geval was, so hy was net ‘n amptelike verteenwoordiger tydens die JOC en die JOCOM vergaderings.
4. MR BURGER SC: The twelfth point had to be reformulated by Mr Tip and in the end it appeared to have been a criticism that SAPS at times attended Lonmin’s briefing in the morning as to what was happening. You remember Mr Tselebsana gave evidence that he attended the Lonman briefings and the suggestion seems to be that because members of the SAPS also attended that, that was a manifestation of an adverse relationship between Lonmin and SAPS.

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1.Mpembe en dan ook die een van die 15de nie. Maar sou daar enige sodanige bywoning wees, weet ek nie wat is die verband in termes van ‘n onbehoorlike verhouding tussen -
2. MR BURGER SC: The last point, what was termed the most symbolic, I don’t have to put to you because it was wrong in all its factual components, so it’s just nonsense. It is this story that the Commander was in a Lonmin chopper at the time of the shooting. Now we know there was no Lonmin chopper, we know he wasn’t in the air at the time of the shooting, and we don’t know where he was in the JOC, so like the Holy Roman Empire, it was wrong in all three of its components, but if you want to add to that criticism, you are welcome to do so.
4. MR BURGER SC: General, referring to the three points out of the thirteen points I have debated with you, I put to you that that is a manifestation of a responsible and functional relationship between Lonmin and SAPS during the period 9 to 16 August 2012.
5. Generaal Majoor Annandale: Voorsitter, dit is so.
6. MR BURGER SC: The second point I want to debate with you, General, is a debate between you and my learned friend Mr Budlender. You will remember when he asked you questions, he referred to an opening, it’s an opening by the police and he read the following passage from that opening to you and then followed a question. Let me read you what he read from the opening and then put the question again to you. The opening said, “Senior officers also made efforts to get Lonmin management to address workers, but management’s constant refrain was that it was not prepared to negotiate outside collective bargaining structures”. Do you remember that?
8. MR BURGER SC: And he did that to debate with you a proposition as to what the police might do in future differently from what they had done at Marikana. And as we know him, he did it very fairly, he said it’s with hindsight and it’s in that context that he put the following question to you, and I want to debate that question with you from a different angle. Mr Budlender put it, in the record page 8545, the following question. He says “But with the benefit of hindsight, and I stress, with the benefit of hindsight, would it not have been a good thing if the South African Police Service had said the following to Lonmin, “Look here, you have previously spoken to representatives of the rock drill operators about the
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1. amounts of money they are paid, why don’t you speak to
2. representatives of this group, if necessary through a trust
3. Mediator with experience of labour matters.” Do you
4. remember that question?
5. GENERAAL-MAJOR ANNANDALE: Ek onthou die
6. vraag, Voorstetter.
7. MR BURGER SC: And you then gave the
8. bender of the rules answer. Let me read you your answer,
9. refresh your memory and then have my debate with you.  Page
10. 8546, you said “Voorstetter wat ons nou weet met
11. nabetratging en gegewe die erna van die uitkoms, sal van
12. die polisie se kant af ons waarskynlik ‘n extra poging
13. aanwend, sonder om die kwotasie wat aangehaal is deur
14. Advokaat Budlender noodwendig die strekking van die woorde
15. sodanig te gebruik, en alhoewel ons totaal respek deur
16. daar ‘n Arbeidswetgewing is, sal on versoek gegrond wees on
17. op die feit dat dit ‘n abnormale situasie is, ek wil amper
18. se dat ons diskresie moet gebruik on die reels te buig”.
19. CHAIRPERSON: Would you want to have the
20. transcript before you before you answer the question? It’s
21. a long passage that’s put to you.
22. GENERAAL-MAJOR ANNANDALE: Voorstetter,
23. dit sal baie help as ek kan.
24. MR BURGER SC: General, the first passage
25. I read you was from page 8545 from line 5, that’s Mr

1. Budlender, and your answer is at page 8546 from line 17.
2. Just throw your eye over that.
3. GENERAAL-MAJOR ANNANDALE: Voorstetter,
4. ek het dit gelees. Ek kan ook onthou dat ek gese dat dit
5. sal waarskynlik - die polisie het die eerste
6. verantwoordelijkheid om wette te respek teer en dit sal
7. onbehoorlik wees van die polisie on dan gesien te word laat
8. hulle mense amper wil ek se verplig om - en ek probeer dit
9. nou hieros op voor - maar ek kry dit - en ek wil amper sê
10. dat ons, ons eerste verantwoordelijkheid in wetgewing te
11. respek teer en dit sou onbehoorlik wees van die polisie om
12. dan gesien te word laat hulle mense amper, wil ek sê
13. verplig om nie -
14. [10:35] En ek probeer dit nou hieros opsopoor maar ek kry
15. dit, ek sien hieros en ek wil amper sê dat ons, ons eerste
16. verantwoordelijkheid om wetgewing te respek teer maar toe het
17. dit gestop en ek kan onthou ek het nog verder, met ek
18. geantwoord.
19. MR BURGER SC: You say that at page 8547
20. from line 22.
21. GENERAAL-MAJOR ANNANDALE: Ek kry dit
22. nou, baie dankie.
23. MR BURGER SC: General, I accept that.
24. want to give you a second reason why it’s quite unrealistic
25. to play out this scenario and suggest you’ll do it

1. differently in future. There’s a number of reasons why it
2. was quite unrealistic to expect of Lonmin to negotiate with
3. the strikers and let me list you some of the more important
4. ones. Firstly the strikers did not want to negotiate, they
5. wanted to be told from when they would be paid R12 500 per
6. month. They wanted R12 500 per month but until today
7. nobody knows how that amount is calculated and arrived at.
8. By the time the suggestion is that Lonmin should negotiate
9. with the strikers they had killed people during the
10. previous days, they had stolen firearms from security
11. personnel and from the South African Police Services which
12. it was believed were carrying under blankets at the koppie.
13. MR MSIMANG: Chairperson –
14. CHAIRPERSON: Mr Msimang?
15. MR MSIMANG: Really I don’t want to
16. interfere with my learned friend cross-examination, he’s
17. supposed to cross-examine, I wonder if this is cross-
18. examination of he’s just putting a version which he can do
19. by way of leading witnesses, this is just –
20. CHAIRPERSON: Mr Msimang the general is
21. not one of Mr Burger’s witnesses. So he’s not bound by the
22. rules applicable to examination in chief. He’s entitled to
23. ask questions in cross-examination by asking leading
24. questions. So that I think is your answer to your point.
25. So I think Mr Burger can continue. I’ll give you the
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I’m debating with you why it would be unrealistic to have expected of Lonmin to negotiate with the strikers in that period in August and I was putting the following proposition to you, let me repeat it and we’ll pick up the threads again. The strikers at that point in time, I call it the 15th of August had killed people during the previous four days and had hidden firearms in their midst. So much so that the police believed that the firearms were carried underneath blankets. Now that was a third reason why it would be quite unrealistic to expect Lonmin to go to the koppie and to negotiate with these people. The fourth reason why they shouldn’t be expected to have done that is there was an existing wage agreement in place which had until October 2013 to run and that was agreed to with a full mandate from the workers previously. The strikers were at the time taking part in an unprotected strike, was part of an illegal gathering and were acting in contempt of a court order and there’s evidence before the commission, inter alia by the President of NUM that it would have been dangerous to try and negotiate with the striking workers. Then what I want to put to you is, General, in view of circumstances then prevailing. The other question is whether they should have agreed to negotiate as I said put in circumstances of safety where the considerations that you’ve mentioned are not, were not present. That was Mr Budlender’s point as I understood it and as it appears from the passage I read. So if you want raise that point with the witness you may do so. But I don’t think it’s appropriate to talk about circumstances of negotiation on the koppie in the presence of armed people who are illegally there, disobeying a court order.

Mr Burger SC: Sir, I will certainly put that. Let me just say why I’m putting what I’m putting is, this finds its genesis in the opening by the police where the criticism is that Lonmin management had to address the workers but the constant refrain was they’re not prepared. That’s, I read that as addressing the workers. Secondly, I didn’t believe my learned friend Mr Budlender would suggest that you would send in a mediator where you’re not safe enough to go yourself and there’s just no scenario here that there were representatives willing to go to a neutral ground and talk. That’s just not on the cards. But let me put that and then I’ll go back to my proposition which is the more serious one. General, you’ve heard the debate or what the Chair, indicated to me on what was put by –
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1 Generaal-Majoor Annandale: Voorsitter,

2 die enigste delegasie wat daar was, was die vyf persone wat met ons onderhandel het. Ek weet nie of daar 'n verdere gesprek was en dit het nie onder my aandag gekom dat hierdie delegasie sal nou pertinent as die amptelike verteenwoordigers wees nie. Ek het dit altyd gesien dat sou deur, pertinent, AMCU, as 'n unie wees.

3 MR Burger Sc: And, General, there was never during that period a suggestion either by Lonmin or by AMCU or by NUM or by the strikers that a trusted mediator with experience in labour matters be brought into the equation?

4 Generaal-Majoor Annandale: Voorsitter,

5 nie waarvan ek bewus is nie.

6 MR Burger Sc: And what we can be confident on is that the South African Police Services won't make such a suggestion, because that's pure labour politics and you wouldn't meddle into that.

7 Generaal-Majoor Annandale: Voorsitter,

8 dit is onder die Arbeidswetgewing. Ons het van die eerste toeligting aan ons onderhandelaars gesê dat ons moet fokus in terme van polisie operationele aspekte en nie namens die werkgewer gaan optree in terme van arbeids aspekte nie.

9 Chairperson: - said, were they not to speak on behalf of the employer, as I understood the answer. Am I right, Major-General?

10 Generaal-Majoor Annandale: On behalf the employer on labour-related aspects or matters.

11 MR Burger Sc: Sir, I'm at the end of my two major questions. I just want to end off with a short debate on Potchefstroom, but is this perhaps a convenient time for the tea adjournment?

12 Chairperson: We will take the tea adjournment at this stage.

13 [Commissie adjourns] [Commission resumes]


15 I'm sorry we took time to come back, but there were matters we were attending to in chambers. Generaal-Majoors, u is nog steed onder eed.

16 Charl Annandale: s.o.e.

17 Chairperson: Mr Burger?

18 MR Burger Sc: General, why was General Naidoo not invited to Potchefstroom?

19 Generaal-Majoor Annandale: Het ek u reg gehoor, Naidoo?

20 MR Burger Sc: Ja.

21 Generaal-Majoor Annandale: Voorsitter,

22 see hy was teenwoordig.

23 MR Burger Sc: I don't see him on GGG3 on the name list of officers and members. I might have
Ons het nie gehad nie. Ons het geglo dat die eindprodukt "generaal-majoër Annandale": Voorsitter, 20 ons het nie amptelike notules gehou nie.
3 CHAIRPERSON: Ja, jy seer waar. Dit moes reg toon.
4 MR BURGER SC: General, daar is 'n fasiliteerder, 21 waar het die begroeting gemaak, waar die ontmoeting 5 generaal-majoër ANNANDALE: Kommissaris, 22 het plaasgevind.
6 MR BURGER SC: Dit was reg, daar was nie 'n formele agenda, of 23 Dit is 'n manlike persoon, dit is Brigadier Van Graan, 7 se was nie 'n program nie. Die program het homself 24 die narratiewe dokument. So tipies, aan die einde van die 8 afgespeel in terme van die verwikkelinge op die dag in 25 dag hulle het gewys – sal dit vertoon word, is waar ons 9 terme van groepings wat moes ontmoet.
10 CHAIRPERSON HEMRAJ: Is there not a 26 groepering, was dit dan nou vervat in bewysstuk L en ook 11 programme at least of which units were supposed to meet on 27 vertoon gewees. En dan was die struktuur daarna basies 12 which days, who were to attend which meetings, at least? 28 gewees om terug te gaan na die 10de – ek dink ons het 13 generaal-majoër ANNANDALE: Kommissaris, 29 teruggegaan tot die 10de. En dan ook die agtergrond voor 14 daar was nie 'n program nie. Die program het homself 30 dit in terme van gebeure by Implats en dan - so, 15 afgespeel in terme van die verwikkelinge op die dag in 31 Voorsitter, die struktuur was basies dat daar chronologiese 16 terme van groeperings wat moes ontmoet. En dan was die 32 volgorde was, beginnende - tyd en dan elke dag soos dit 17 struktuur het homself. En dan, soos wat die terugvoer gegee is deur 33 ontvou het. En dan, soos wat die terugvoer gegee is deur 18 die onderskeie groepe van die betrokke dae, die 34 die onderskeie groepe van die betrokke dae, die 19 betrokkenes, hetsy dit dan nou per eenheid was of per 35 betrokkenes, hetsy dit dan nou per eenheid was of per 20 groepering, was dit dan nou vervat in bewysstuk L en ook 36 groepering, was dit dan nou vervat in bewysstuk L en ook 21 nie amptelike notules gehou nie.
22 voorsitter. 37 dié narratiewe dokument. So tipies, aan die einde van die 23 I find that strange. You have a large number of 38 dag hulle het gewys – sal dit vertoon word, is waar ons 24 polisie. En die aanvanklike aanleiding was dat dit sou 39 nou staan met die konsep samestelling van die PowerPoint.
25 I find that strange. You have a large number of 40 Voorsitter, die struktuur was basies dat daar chronologiese 26 We haven't seen an agenda, and we haven't seen minutes of 41 volgorde was, beginnende - tyd en dan elke dag soos dit 27 what happened day-by-day. I know we've got exhibit L, but 42 ontvou het. En dan, soos wat die terugvoer gegee is deur 28 that's an end product. What was the agenda like for the 43 die onderskeie groepe van die betrokke dae, die 29 first morning, for example? Where do we find that? 44 die onderskeie groepe van die betrokke dae, die 30 We haven't seen an agenda, and we haven't seen minutes of 45 die onderskeie groepe van die betrokke dae, die 31 what happened day-by-day. I know we've got exhibit L, but 46 die onderskeie groepe van die betrokke dae, die 32 that's an end product. What was the agenda like for the 47 die onderskeie groepe van die betrokke dae, die
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1 die laaste gedeelte van u opmerking gehoor nie.
2 MR BURGER SC: I don’t understand the structure of the debate. We’ve heard from Luitenant Colonel Botha, who was called there for his video footage, but he can’t remember whether it was ever shown.
3 GENERAAL-MAJOR ANNANDALE: Voorsitter, nee, daar was niks vreemd nie. Ons wou pertinent nie gehad het dat een van ons wat betrokke was dit fasiliteer nie, dit was maklikker as ‘n persoon wat nie daar was nie dit fasiliteer sodat daar nie aannames gemaak word nie, dat ‘n persoon wat glad nie bewus is van die omstandighede nie, dat hy dit kan vat stap vir stap kronologies.
4 MR BURGER SC: General, and you now spend six days there on what was a very traumatic incident, and it unfolds before your eyes and it’s debated and written down. Apart from the lack of cameras and video cameras and radios - I’m not really interested in that, you’ve dealt with that – at the end of that period, as a general in the South African Police Service, if I ask you what had gone wrong – what, in your view, had gone wrong at Marikana from a SAPS perspective, what would you answer me?
5 GENERAAL-MAJOR ANNANDALE: Voorsitter, dit gaan ongeldig ‘n taamlike lywige antwoord wees. Voorsitter, hier het ons ‘n groep rotsbreek operateurs gehad wat hulle benadering - het op dit wat hulle gedink het. As ons kyk na die tipiese kleredrag wat die korporale druk hulle teen die polisie begin rig.

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1 waargeneem het in die Implats staking vroeër in die jaar van 2012, en hulle het buite die strukture van die arbeidswetgewing het hulle gegaan om loon eise daar te stel. En gegewe hulle kritiese belangrikheid in die mynwese, is daar toe met hulle in gesprek getree oor ‘n toelaag. Hulle het dit ervaar as ‘n – en dis my perspektief – as ‘n relatiewe maklike proses om ‘n toelaag te kry, nie noodwendig ‘n loonverhoging maar ‘n toelaag, en gesien dat dit ‘n proses is moontlik om dan groter voordele trek in terme van ook ‘n loonverhoging. Die proses het momentum gekry en AMCU, pertinent, het die geleiëheid gesien om hulle te ondersteun en dan sodanig potensieële lede te werf. Daar word toe potensieel nie-haalbare eise gestel in terme van ‘n sekere bedrag. NUM het in die proses begin lede verloor. Daar was ‘n konflikt tussen die unies. Die situasie het verder ge-eskaler en daar is prosesse van intimidasie en geweld gebruik. Die unie leierskap het nie noodwendig totale beheer gehad oor hulle lede nie. Die polisie het toe op ‘n stadium betrokke geraak as bemiddelaar in terme van die onderhandelingsprosesse wat ons gevestig het. Maar toe hierdie groep merk dat dit ook nie lei dat hulle, hulle sin kry in terme van die betrokke eis wat hulle gemaak het vir R12 500 nie, het hulle begin ekstra druk op die owerhede uitvoer in terme van die – basies hulle toe hulle toorn en geweld het hulle teen die polisie begin rig.

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1 geweld het hulle teen die polisie begin rig.
3 CHAIRPERSON: Anger, I would imagine.
4 GENERAAL-MAJOR ANNANDALE: Voorsitter, die, wat ons geglo het dat ons voldoende maatregles daar gestel het en dat ons het nie ‘n volskaanse aanval verwag op die polisie lyn nie.
5 CHAIRPERSON: Full scale attack on the police line, I think.
6 GENERAAL-MAJOR ANNANDALE: Ons geloof dat ons voldoende voorbereid was, was gebaseer op ons ervaring en oor die duisende gevalle wat ons suksesvol hanteer het oor baie jare. Ons inligting en informasie was ongelukkig baie beperk en eers met 20/20 nabetragting het ons bewus geword daarvan dat daar is sekere aantal dinge plaasgevind het wat ons nie bewus was van nie.
7 CHAIRPERSON: 20/20 hindsight he became aware of a number of things we weren’t aware of initially, I think that’s what he said.
8 GENERAAL-MAJOR ANNANDALE: En na die tyd was, voor die tyd beplan was op die polisie en dat die moeti pertinent dalk ‘n groter rol gespeel het as was ons gedink het. As ons kyk na die tipiese kleredrag wat die korporale druk hulle teen die polisie begin rig.

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1 pertinent militante groep gedra het in terme van ekstra laag klere, komberse. As ons kyk dat daar duidelike hergroeperings punt beplan was.
2 CHAIRPERSON: The moving points was planned, I think.
3 GENERAAL-MAJOR ANNANDALE: Dat daar pertinente formasies was in terme van die beweging.
4 CHAIRPERSON: Pertinently or specific formations in terms of movement, in terms of the beweging. 
5 GENERAAL-MAJOR ANNANDALE: Voorsitter, die groep het die heeltyd by mekaar gebleef, hulle het saam beweeg in drie aanslae op die polisie lyn. Die grootste meerderheid, waarskynlik 90% van die mense het hoofsaaklik in ‘n westelike rigting weg beweeg, slegs hierdie groep het dit goed geag om in ‘n oostelike rigting te beweeg. Die veld was beplan en gekörverde om verskeie plekke amper gekyktydig aan die brand gesteek. CHAIRPERSON: Various spots of the veld was set alight at the same time, simultaneously I think.
6 GENERAAL-MAJOR ANNANDALE: En na die tyd was, voor die tyd beplan was op die polisie en dat die moeti pertinent dalk ‘n groter rol gespeel het as was ons gedink het. As ons kyk na die tipiese kleredrag wat die korporale druk hulle teen die polisie begin rig.
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Legal measures, he means unacceptable illegal measures to reach a particular goal.

Generaal-Majoor Annandale: Voorsitter, en ons het baie lesse daaruit geleer en daar is redes aangedui ek dink ons Advokaat Semenya dat ons sodanige lesse gaan ons in 'n amptelike ekstra verklaring gaan ons dit beskikbaar stel tot hierdie kommissie.

Chairperson: Extra additional statements which will be made available to the commission.

MR Burger SC: To bring that nearer home to the SAPS itself any special lessons that you learned at the end of Potchefstroom for example of what happened between scene 1 and scene 2. If one has a look at exhibit L and you go to page, to slide 208 and you go then from there to slide 252 that's really the burning point between scene 1 and scene 2. It seems to me that there's very little by way of photographic recording, video recording, blow by blow information as to what happened in that 18 minute period.

Ms Jele: Chairperson, sorry before we show those photographs perhaps a warning might be given. Chairperson: I hadn't spotted photographs were being shown. Thank you for drawing it to my attention. We're going to see a number of slides I think which will depict dead bodies of people who were

family members or loved ones of some of the people in the auditorium and I think that seeing those photographs may cause them distress as in the past. So I would ask that the pictures not be shown or images not be shown until two minutes have elapsed after what I've now said has been interpreted. If everyone who is reminded to leave has left so I think we can proceed.

Generaal-Majoor Annandale: Ekskuus, meneer, u het verwys na die video gebrek aan pertinente video of foto's.

MR Burger SC: Ja, it strikes me that we have very little information in that critical period to assist us to see exactly what had happened. Did that weigh with you and the other generals or is that not surprising?

Generaal-Majoor Annandale: Voorsitter, nee vir seker het dit, ons het gesien dat ons vermoë om opnames te maak is totaal ontoereikend en sonder om in te veel besonderhede in te gaan pertinent dat ons dan op ons helikopter, alle helikopters met ons tegniese beeldvormingskamera hê. Maar, Voorsitter, ook dat ons 'n lewendige lyn kan hê, a live link vanaf so helikopter na byvoorbeeld 'n JOC area en dan het ek verwys na die opgradering in terme van video kameras in gebruik deur openbare orde, die opleiding, tegniese aspekte, die bewyslevering daarvan. Maar, Voorsitter, om verdere te gaan in iets wat ons moet
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[12:10] GENERAAL-MAJOOR ANNANDALE: Voorsitter, ja, die verklaring of die verslag vir die President was eintlik voorberei vir die Minister – ek dink van DIRCO, maar, ja, bedoel vir die President.

CHAIRPERSON: Minister of International Relations and Cooperation, DIRCO, but, as you've added, also for the eyes the President.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, en soos ek dit het is die kern van die versverklaring asook die verslag is dit baie dieselfde.

CHAIRPERSON: Thank you, Mr Burger. Ms Jele, do wish now to proceed with your cross-examination into which Mr Burger's cross-examination was inserted, as it were.

MS JELE: I would like to, yes, please, Chairperson.

CHAIRPERSON: Well, please do so.

MS JELE: Thank you, Chairperson.

General Annandale, as I mentioned earlier, I'll try to deal with issues with you in a somatic manner and the next theme that I would like to address is broadly the theme of issues relating to planning. It encompasses issues related not only to the process of making plans that were implemented during the course of the fateful week, but also the information available and that fed into that plan as well as the personnel available to implement that plan – put it together. And firstly, as a reference, I would like you to look at FFF1, which is the policy document on crowd management, and specifically to look at paragraph 4.3.2, which I believe is on page 8 of the document.

CHAIRPERSON: What is the exhibit number, Ms Jele?

MS JELE: FFF1, Chairperson.

CHAIRPERSON: Thank you. Chairperson.

General Annandale, as I mentioned earlier, I'll try to deal with issues with you in a somatic manner and the next theme that I would like to address is broadly the theme of issues relating to planning. It encompasses issues related not only to the process of making plans that were implemented during the course of the fateful week, but also the information available and that fed into that plan as well as the personnel available to implement that plan – put it together. And firstly, as a reference, I would like you to look at FFF1, which is the policy document on crowd management, and specifically to look at paragraph 4.3.2, which I believe is on page 8 of the document.

CHAIRPERSON: What is the exhibit number, Ms Jele?

MS JELE: FFF1, Chairperson.

CHAIRPERSON: Thank you.

CHAIRPERSON: Number 8 in the top right-hand corner of the page.

GENERAAL-MAJOOR ANNANDALE: Voorsitter, ek het die betrokke paragraaf voor my.

MS JELE: General, I would like to refer you specifically to the last – the sentence before last, as it were. The sentence beginning, the planning, and it's the sentence that reads, "The planning and operational command of public order operations must always be entrusted to commanders of POP units in consultation with the Provincial Commissioner, as they are trained and usually experienced in such matters. Do you see that particular sentence, General?"
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everyone who’s following this has marked his or her documents accordingly, and the witness has too, I take it. So for ease of reference you can just refer to the exhibit numbers and we can proceed, hopefully, with expedition. Ms Jele: I’ll do that. Thank you, Chairperson. General, in your own history I note that during the course of a certain period in the mid-eighties, so to speak – it’s the second bullet point under your career developments, you were part riot and crowd control. Is that correct?

Generaal-Majoor Annandale: Korrek.

Ms Jele: And what would be bullet point 17 of exhibit GGG 27.1 indicates further that some 13 years ago, 12 years prior the incident at Marikana, you underwent a crowd management – some crowd management training, correct?

Generaal-Majoor Annandale: Dis korrek.

Ms Jele: Despite these elements of your history, you assert that you are not, yourself, an expert in public order policing. You’ve said so consistently, General, have you not?

Generaal-Majoor Annandale: Dis korrek.

Ms Jele: Now, if one turns to exhibit GG 27.2, one sees the courses undertaken in her career by General Mbombo. One presumes that the SAPS has provided us with the complete history of her training experience. As you will note that there is absolutely no crowd control or public order policing training at all in her history.

Generaal-Majoor Annandale: Voorsitter, net Generaal Mbombo sal kan bevestig of dit die volledige rekord is. Ons vervat rekords op wat ons verwys na as ’n SAP96, waaronder dit pertinent dan nou opleiding gereflekteer word.

Ms Jele: General, are you suggesting that there are other documents that we might be referred to that would be more complete in terms of this history, if only to be able to note its contents for the purposes of the questions that I will be putting to you?

Generaal-Majoor Annandale: Voorsitter, ek het nog nie klaar geantwoord nie, ek het net gewag dat daar vertolking gedoen word. Wat ek verneem het van lede is dat die SAP96 van hulle is nie noodwendig ’n totale refleksie van die opleiding wat hulle gedoen het nie. So wat ek sê daar is nie noodwendig dokumente nie, ek sê net elke individu sal sy of haar pertinente rekord moet bevestig vir die korrektheid daarvan.

Ms Jele: I appreciate that, General, but when we requested specifically all of the records that were available for the training history of the individuals that we identified, this is what your legal team provided us with. For our purposes, this is the information that we have and we can work with. Could we at least note that this is what they have provided us, and should there be a need to follow up in respect of any further information, we will either deal with it with their legal representatives in terms of further documents or alternatively with the witnesses themselves.

Chairperson: Mr Semenya, if there are further documents, it’s clearly desirable that Ms Jele get them before the witnesses come, because it’s going to waste a lot of time if the witness goes in the box, information is then made available and there’s cross-examination on it. So if there are other documents which are relevant in this regard, the SAP96, is that the name of the document? If they are available, or can be made available, I think it would be helpful if Ms Jele got them sooner rather than later, before the witnesses come, so that we can deal with this aspect – this particular point she’s busy with, as expeditiously as we can. I’m sure you’ll be able to assist in that regard.

Mr Semenya SC: I have already given the direction, Chair.

Chairperson: Thank you. I’d expected that something of the kind had happened.

Ms Jele: I’m sorry to belabour the point, Chairperson, but in order to prepare and to establish whether or not there would be any value in waiting in respect of this witness, might Mr Semenya be able to give me some indication, or at the very least during the lunch break give us some indication of when that documentation might become available?

Chairperson: It sounds as if this particular witness, you’ve got the information you need to cross-examine him. I take it you want to cross-examine him on the others as well, do you?

Ms Jele: I have a few questions related to their training history as we have it, Chairperson, but I would like to ask –

Chairperson: Well, carry on for the moment, and then it may be that further cross-examination on the point may have to be deferred until tomorrow or even later, but it sounds as if Mr Semenya has given the necessary instructions. So one hopes that it will be promptly attended to.

Ms Jele: I’m sure it will. I look forward to it. Thank you, Chairperson. General, can we at least confirm that from the face of GGG 27.2, General Mbombo has no – taken no courses in public order policing, taken no training in crowd management?

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byeenkomste.

CHAIRPERSON: Regulations of Gatherings

Act.

GENERALA-MAJoor ANNANDALE: Soos wat ek onthou was daar omvattende werkssessies wat deur ons polisie regsafdeling aangebied was reg deur die land, maar die offisiële sal moet getuig of hulle ook sodanige werkssessies bygewoon het. Ek weet nie of –

MS JELE: Certainly, but General, on the face of it, if your history is anything to go by and you don't consider yourself a POP expert, we could consider that the course that General Mpembe attended would not also make him, on the face of this document again, an expert in public order policing. I'm speaking of his training, not of his experience. You've spoken about his experience.

[12:30] GENERALA-MAJoor ANNANDALE: Voorsitter, ja daar kan 'n reuse debat wees in terme van watter kundige daar stel. Maar wat ek weet dit is nie uitsluitlik beperk byeenkomste. Ek weet nie of –

CHAIRPERSON: If one compares your training with his I take it the course in riot and crowd control which is the second entry under your - on exhibit GGG27.1 was presumably more or the less the same as the course which General Mpembe took also 1986.

GENERALA-MAJoor ANNANDALE: Voorsitter,
that the training that occurred, that's the first bullet
point 1987 in March would have been similar training that
yourself and General Mpembe attended. On my reading and
again to the extent that there are certain courses
described in Afrikaans, was there any other training course
directed at crowd management, or riot control, riot and
crowd control attended by Brigadier Calitz that you can
discern from this document General?

GENERaal-MajoR ANNANDALE: Voorsitter,
tel wat my pla en ek het nou baie vinnig deur General Mpembe
en ook deur Brigadier Calitz se uiteensetting gegaan en
tensy ek het dit mis merk ek nie op hulle offisier's kursus
tie.

MS JELE: Just in practical terms,
General, so we can just be organised going forward. The
listed documents we would refer to were sent on Friday and
you were provided with copies on Monday. Were you provided
an opportunity to look through these? Just so I know ahead
of time as I ask the question.

GENERaal-MajoR ANNANDALE: Voorsitter,
Ek het 'n geleentheid gehad.

CHAIRPERSON: Opportunity.

MS JELE: General, can we take it that on
the face of these documents as far as things are concerned
Brigadier Calitz has no more specific public order policing

and training than General Mpembe certainly?

CHAIRPERSON: General, I'm sorry to
interrupt you. There's a workshop on pepper spray. I take
it that also is part of public order policing isn't it?
Isn't pepper spray used as a means of dispersing a crowd or
am I reading more into it than is there?

GENERaal-MajoR ANNANDALE: Voorsitter,
dit is nie beperk tot die gebruik net in skade bestuur
oor teders nie. Om terug te kom na die Advokaat se vraag.
Dis moeilik net in terme van die kursus en ek weet nie wat
is die modules binne die kursus nie so ek weet werkelik nie
of daar dalk pertinent in een van die kursus geraak word
aan 'n openbare order hantering nie. Ek weet nie.

MS JELE: Well then perhaps that's the
kind of detail we might further need from the SAPS but that
as it may based on the description of these specific
courses especially some of which you have also taken, if I
can turn to GG27.5 which is the training course history of
General Naidoo. I see again the same course in 1987 which
you referred to for General Mpembe which Brigadier Calitz
also took. I don't see any other training directed at
public order policing, specifically directed at it.

GENERaal-MajoR ANNANDALE: Voorsitter,
behalwe die J unior Commander Level 2 Warrant Officer ek
weet nie of daar module is nie, ek kan regtig daaroor
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1 question.
2 MR SEMENYA SC: Chair, I must still
3 repeat it does not talk about being a POP expert.
4 CHAIRPERSON: No, no it doesn't say that,
5 but Counsel, Ms Jele's point is that it does say they must
6 have been trained in such matters and she's probing their
7 training in such matters. I think - the point you made
8 on record but I think she can proceed so you may proceed,
9 MS Jele.
10 MS Jele: Thank you.
11 CHAIRPERSON: While you are concentrating
12 on the training, I understand Mr Semenya's point, if you
13 can call it an objection is related more to the other half
14 of what's required and the experience. But you're busy
15 with training at the moment so proceed.
16 MS Jele: To the extent that the General
17 actually referred to their expertise I thought it more
18 appropriate to ask them about that rather than the General
19 in question. I did want to focus on training and
20 specifically on the fact that we're speaking of individuals
21 who have to be "in operational command of such gatherings."
22 Now perhaps this is an appropriate time to dive into a
23 different question which would be linked to that. You've
24 mentioned General that you were chairing the JOCOM, does
25 that acquaint you to the concept of C JOC in standing order

26 262?
27 GENERAAL-MAJOR ANNANDALE: Voorsitter,
28 net voor ek dit antwoord, dat bewysie GGG27.1 tot 6 met die
29 uitsondering van General Mbomo is al die ander offisiere
30 opgelei in skade bestuur. Voorsitter, dan moet ons nooit
31 vergeet dat hierdie nie 'n suiwer generiese skade operasie
32 was nie, dit was die hibriede operasie.
33 CHAIRPERSON: The hybrid operation en dat
34 die betrokkenheid van iemand soos byvoorbeeld Brigadier
35 Fritz was binne sy veld van verantwoordelikheid, binne sy
36 veld van opleiding en sy veld van kennis rondom die
37 spesiale taakmag. Voorsitter, en dan die voorsitter van
38 die JOCOM vergadering en die C JOC is nie die selfde
39 persoon nie.
40 MS Jele: Well we'll have to come back to
41 that, General. Just to confirm a couple of things for the
42 sake of clarity. Firstly those individuals that you
43 referred to and for the sake of argument exclude Brigadier
44 Fritz all underwent the course that was available between
45 1985 and 1987 which you said is still relevant today, is
46 that correct?
47 GENERAAL-MAJOR ANNANDALE: Ek het gesê
48 die kursus is steeds geldig.
49 MS Jele: I accept that. We would put it
50 to you that amongst that senior leadership responsible for
51 operational command in their various roles within that
52 particular context it will be our submission that they had
53 insufficient training and public order policing to comply
54 fully with the requirements of the policy on crowd
55 management.
56 CHAIRPERSON: Before you answer the
57 question, Major-General, Mr Semenya wishes to say
58 something.
59 MR SEMENYA SC: Well, Chair, in all
60 fairness perhaps Ms Jele may want to put it to the witness
61 what adequate public order policing training is there, what
62 the yardstick for it is, etcetera.
63 [12:50] CHAIRPERSON: There is something in that
64 point, the witness will have difficulty in answering that
65 question as you framed it but perhaps you can reframe it in
66 a way that successfully evades or avoids the objection.
67 MS Jele: Respectfully, Chairperson, I
68 will take the time to look through the transcript but we
69 made a number of submissions to Brigadier Mkhwanazi, who is
70 directly responsible for that course development, with
71 respect to whether to not it was or was not sufficient and
72 made direct submissions in that respect. So that has
73 already been dealt with in the record and secondly -
74 CHAIRPERSON: We know that, but remember
75 you are asking questions of a witness. The witness wasn't
76 here when Brigadier Mkhwanazi was giving evidence. So you
77 can't say, you can understand my question in the light of
78 what I put to Brigadier Mkhwanazi because the witness will
79 say I'm sorry I wasn't here when Brigadier Mkhwanazi gave
80 evidence, and remember the purpose of your question has to
81 be in such a way that it has to be so framed that it's fair
82 to the witness so that he can answer it. So if you will
83 take that to heart and take a couple of steps back as Mr
84 Mpofu likes to say, and reframe the question I'm sure we
85 can proceed.
86 MS Jele: I appreciate that, Chairperson.
87 To the extent that that training, according to the
88 information provided to us, does not go beyond a couple of
89 days worth of training, would you submit that within those
90 couple of days having taken place in 1986, if an individual
91 does not steep themselves constantly in the work of crowd
92 management, it would be fallacious to suggest they have
93 sufficient training and it is stated in FFF1, experience to
94 be at the helm of even that portion of this particular
95 operation that requires crowd management?
96 MR SEMENYA SC: Chair, I thought my
97 learned colleague is dealing with training, not courses
98 attended. Training would entail all operations that they
99 have been doing over the years.
100 MS Jele: Apologies to my colleague, Mr
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MAJoor-GENERaal AnnANdAle: Voorsitter,

nie net ? paar dae was nie. Ek weet nie waarop baseer

wat ? senior betrokke pos is binne so ? openbare eenheid.

dit is oor baie-baie jare, en baie-baie gevalle. Soos ek

ervaring, in terme van die hantering van skade bestuur en

Ek is amper klaar, Voorsitter. Dan ek het verwys na my

tyd en ek is nie bewus van die totale tyd nie, en as ek dit

nie mis het nie dink ek hy was selfs ? peltonbevelvoerder

wat ? senior betrokke pos is binne so ? openbare eenheid.

Een van hulle sal uit daar kan ontplooiing en toe hy gestasioneer was in die provinsie van

Generaal Naidoo het baie blootstelling gehad tydens sy

onttopping en toe hy gestasioneer was in die provinsie van

Kwazulu-Natal. Maar elkeen van hulle sal uit daar kan

uitbri in terme van hoe betrokke hulle was en waste

ervaring hulle het.

Ms JeLe: And we certainly look forward

to probing their experience with them to get the full

picture of the fulfilment of the requirements of that

policy. Thank you, General. Chairperson, I’m about to

move to another subcategory, would this be an appropriate

time for the lunch break?

[COMMISSION ADJOURS COMMISSION RESUMES]


Kolonel-Majoor, jy is nog steeds onder eed. Ms JeLe, do

you have more questions for this witness?

Ms JeLe: Chairperson, I understand my

colleague, Ms Lewis, would like to say a couple of words.

CHAIRPERSON: Oh, yes Ms Lewis, you’re

back appearing for the families?

Ms Lewis: For the families and for AMCU,

Mr Chair.

CHAIRPERSON: And for AMCU.

Ms Lewis: Mr Chair, I would like to make

an application on behalf of both the families and AMCU.

The memorial service for Mr Stevens, the AMCU official and

member who was killed over the weekend, is scheduled to

take place tomorrow at 4 o’clock. Mr Stevens has come to

be known personally by the legal teams for both AMCU and

the families and by the family members and I believe also a

large number of Mr Mpofu’s clients. On that basis, Mr

Chair, I would like to request that we adjourn tomorrow at

2:30 to enable those who would like to attend the memorial

service to do so.

CHAIRPERSON: We will take a half hour

lunch break tomorrow, resume at half past 1 and, has anyone

got any objection to this proposal? No. So we will take a

dedicated day tomorrow, resume at half past 1, sit

until half past 2. Does it have to be half past 2? Can it

not be a little bit later? I know they have got to get

somewhere by 4 o’clock.

Ms Lewis: Mr Chair, the reason for the

requested time is that apparently the memorial service will

be very full and it will take some time for people to get

there.

CHAIRPERSON: Alright, we will then

adjourn at half past 2 tomorrow.

Ms Lewis: I’m indebted to the

commission.

CHAIRPERSON: I can understand from what

Ms Lewis said, that it’s important for a number of the

people who are connected with this commission, those who

are in attendance in the auditorium from day to day, and

also some of the legal representatives it very important

that they should be at that memorial service. Clearly it’s

an appropriate request in the circumstances.

Ms Lewis: I’m indebted, Mr Chair.

CHAIRPERSON: Are you now in a position

to proceed?

Ms JeLe: Chairperson, firstly might I

ask Mr Semenya, we have come to some kind of clarification

with regards to the records and/or further documentation

that we might need to deal with, sorry dealt with earlier.

Mr Semeny?

MR SEMENYA SC: Chair, there was mention

made of SAP96. We have all of those and we have compared

the documents we have on the career paths of the

individuals. They are accurate as far as the SAP96 goes,

it’s just that that document has a whole host of personal

information about the individuals which my learned

colleague would not need for the purposes of questions.

CHAIRPERSON: Ja, the documents we have

got of course have got their ID numbers which should have

actually been blocked before we got them, but that’s water

under the bridge to some extent, I suppose. Is there a

problem in showing the documents to Ms JeLe if she is an
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1 issue of planning. One of the issues that you dealt with
during your earlier testimony is the role that Lieutenant-
Colonel Scott had in putting the plan together, correct?
4 MAJOR-GENERAL ANNANDALE: Korrek,
Voorsitter.
6 MS JELE: You also in your testimony
referred to a number of individuals whom you stated
contributed to the plan to the extent that it was, if I
might paraphrase your testimony General, a group effort.
10 Would that be correct?
11 MAJOR-GENERAL ANNANDALE: Korrek,
Voorsitter.
13 MS JELE: Could I ask you to go to the
statement of, I believe I can't see his rank but Pitsi,
William Mthate Pitsi which was also distributed during the
16 course of Monday by Ms Hardy. I understand he is a
Colonel. Pitsi, Chairperson P-I-T-S-I. Indeed,
Chairperson. I suppose we must, Chairperson, GGG28, Ms
Pillay?
20 CHAIRPERSON: Yes Ms Pillay is not with
us, so we will make it Exhibit GGG28. I'm told she nodded
her head, I didn't notice that. She is with us, welcome
aboard. Let's carry on.
24 MS JELE: Thank you, Chairperson. My
25 first reference would be to the very first paragraph of
26 this statement and specifically it's last sentence which
27 was that on 16 August at 6AM Colonel Pitsi was called up to
28 Marikana. Do you see that, General?
30 MAJOR-GENERAL ANNANDALE: Ek merk dit
31 so op in paragraaf 1 dit is korrek, Voorsitter.
32 MS JELE: Now in the remaining paragraphs
33 of the statement, he describes the work that he did on the
34 16th but my query is this, according to Lieutenant Scott's
35 statement, his work on the plan was done on the 14th and we
36 shall go to Lieutenant-Colonel Scott's statement at that
37 stage. I'm somewhat perplexed to how Colonel Pitsi, who is
38 one of the individuals if I'm not mistaken that you
39 mentioned, had contributed to that plan and to the putting
40 together of the plan, could have done so if he was only at
41 Marikana on the 16th.
43 MAJOR-GENERAL ANNANDALE: Voorsitter,
44 nee hy was voor die 16de betrokke selfs in paragraaf 2
45 verwys hy na 2008-12-08 15, during the day a large group of
46 people assembled, dan gaan hy aan en sê hy, this gathering
47 continued on the 16th of August.
49 MS JELE: In that paragraph, with respect
50 General, he mentions what had been going on, on the 15th.
52 He doesn't suggest he was there. He suggests that this is
54 what happened on the 15th and thereby on the 16th when I
55 arrived things continued. Nowhere in his statement and we
58 last page.
60 page just for the signature and Commissioner of oaths, the
63 paragraph 1, 2 and 3 and then it goes to paragraph 8 on
65 the next typed page and then we have a manuscript page
67 attached with paragraph 4 and 5, and then what looks like a
69 page just for the signature and Commissioner of oaths, the
71 last page.
75 MS JELE: My apologies, Commissioner,
perhaps there is a difficulty with the photocopies. My
understanding is the handwritten document that you have was
typed for the benefit of the reader, and that perhaps those
paragraphs that you are missing in typed format might be
available to you in handwritten format. Might I ask my
attorney, Ms Mahonde, to just have a look at the document
that you have before you to make sure that you do have the
full statement.
79 CHAIRPERSON HEMRAJ: The manuscript is
80 only paragraph 4 and 5. It does not have a 6 or a 7.
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<td>MS JELE:</td>
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<td>to be made for the weapons they were having. You see that,</td>
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<td>General? Now in reading that, our query is that seemingly</td>
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<td>CHAIRPERSON:</td>
<td>Sorry, before you carry on.</td>
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<td>Let me ask has the Major-General if he has got a copy of</td>
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<td>the correct document? Have you got a copy of the full</td>
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<td>statement entirely.</td>
<td>sections or anything like that?</td>
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<td>MAJOR-GENERaal ANNANDALE:</td>
<td>Dit blyk so</td>
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<td>te wees dat ek die volledige een het, Voorsitter.</td>
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<td>CHAIRPERSON:</td>
<td>Have you got paragraph 6</td>
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<td>MAJOR-GENERaal ANNANDALE:</td>
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<td>van die handgeskrewre een, dit is korrek, Voorsitter.</td>
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<td>MS JELE:</td>
<td>Chairperson, would you wish for</td>
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<td>me to read into the record paragraph 6 and 7, at the very</td>
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<td>document that I was hoping to refer to, is Exhibit GGG9,</td>
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<td>which is the statement of Colonel Makhubela, General. Do</td>
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<td>you have that in front of you, General?</td>
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<td>MAJOR-GENERaal ANNANDALE:</td>
<td>If I can just</td>
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<td>have a moment, please.</td>
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<td>CHAIRPERSON:</td>
<td>What did you say the</td>
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<td>exhibit number was?</td>
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<td>MS JELE:</td>
<td>GGG9, Chairperson.</td>
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<td>MS JELE:</td>
<td>Colonel Makhubela.</td>
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<td>MAJOR-GENERaal ANNANDALE:</td>
<td>I do have the</td>
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<td>statement in front of me.</td>
<td>statement in front of me.</td>
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<td>MS JELE:</td>
<td>Now I'm certainly hoping that</td>
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<td>the photocopy that everybody has includes this paragraph 6,</td>
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<td>could you turn to that paragraph, General.</td>
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<td>MAJOR-GENERaal ANNANDALE:</td>
<td>Ek het die</td>
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<td>betrekke paragraaf.</td>
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<td>MS JELE:</td>
<td>Colonel Makhubela is one of the</td>
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<td>individuals you had mentioned, if our notes are correct.</td>
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<td>had contributed to the formulation of the plan?</td>
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<td>MAJOR-GENERaal ANNANDALE:</td>
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25 statement.
23 Chairperson, perhaps we should look at the handwritten
22 MS JELE: Let’s deal with that shall we,
21 before.
20 questions now put to him which had not been put to him
19 statement says, it’s purpose is to deal with specific
18 MS SEMENYI SC: No but, Chair, the
17 proposed the SAPS mission which,” and that would be the
16 strategy.” If one then moves to paragraph 9, “I therefore
15 before the three bullet points, “I presented the following
14 team effort. Might I read from paragraph 8, certainly from
13 Lieutenant-Colonel Scott says that he stated to the extent
12 MR SEMENYI SC: No but, Chair, the
11 statement says, it’s purpose is to deal with specific
10 questions now put to him which had not been put to him
9 MS JELE: Chairperson, to the extent that
8 he was there on the 16th I would like to flag, with respect,
7 for the plan and the implications that had, that had given
6 White’s conclusion that Lieutenant Scott was responsible
5 respect to Gary White’s statement had to do with Gary
4 Commissioner, if I might have a moment to consult with my
3 of that statement, Ms Jele. as yet.
2 CHAIRPERSON: I’m sorry to hear that,
1 CHAIRPERSON: We can’t be sure unless we

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1 handwritten version are you not, General, there should be a
2 typed version that begins at paragraph 1 and ends at
3 paragraph 9. It was listed amongst the statements provided
4 to us by the SAPS, it’s number 46A, the handwritten version
5 you’ve just referred to having been number 46. Does that
6 assist you?
7 GENERAL-MAJOR OR ANNANDALE: I do not have a
8 typed version. I just have the handwritten version.
9 MS JELE: [Inaudible].
10 GENERAL-MAJOR OR ANNANDALE: I now have a
11 typed version which I haven’t studied.
12 MS JELE: I appreciate that, General, I’m
13 sure I’ll give you whatever time you need through this
14 particular statement. My first reference would be to the
15 first sentence on paragraph, in paragraph 2. Lieutenant-
16 Colonel Meyer refers to his work on the 16th again. There
17 seems to be an indication and you had testified to his –
18 CHAIRPERSON: I’m sorry, Ms Jele, you
19 notice that this is a further statement and he refers to an
20 earlier statement he made in August September. So it may
21 be that the reason that this statement concentrates on
22 things that happened on the 16th is because it’s possible
23 really that other dates were dealt with in the earlier
24 statement.
25 MS JELE: There were -

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1 CHAIRPERSON: We can’t be sure unless we
2 know what the other statements said.
3 MS JELE: There were indeed two
4 statements and I will refer to the second statement. I
5 wanted to refer to this one first, if I might.
6 CHAIRPERSON: I’m just saying the fact
7 that he only deals with events on the 16th in this statement
8 doesn’t mean he wasn’t there earlier.
9 MS JELE: Chairperson, to the extent that
10 he was there on the 16th I would like to flag, with respect,
11 to this particular statement that he makes no mention of
12 having done anything to contribute to the plan itself. As
13 a matter of fact with regards to paragraph 3 he certainly
14 deals with Lieutenant Scott making the presentation of the
15 operational plan for the day. So he refers to the plan at
16 the top of paragraph 3 but he does not mention that he
17 contributed in any way to it.
18 MR SEMENYI SC: No but, Chair, the
19 statement says, it’s purpose is to deal with specific
20 questions now put to him which had not been put to him
21 before.
22 MS JELE: Let’s deal with that shall we,
23 Chairperson, perhaps we should look at the handwritten
24 version of the statement since that is the earlier
25 statement.

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1 CHAIRPERSON: - not in possession
2 of that statement, Ms Jele. as yet.
3 MS JELE: I’m sorry to hear that,
4 Commissioner, if I might have a moment to consult with my
5 team.
6 CHAIRPERSON: Yes of course, I’m not sure
7 a moment will be enough but we’ll give you time.
8 MS JELE: We do have one copy available,
9 might it - might it be photocopied for the benefit –
10 CHAIRPERSON: Yes, yes.
11 MS JELE: Of the commissioners.
12 CHAIRPERSON: Do you have to deal with
13 this particular topic now or can you move onto another
14 topic while this statement’s being copied and then when
15 it’s ready, when you're finished the other topic we're
16 dealing with in the meanwhile you can then come back to
17 this point or would that unduly disturb the cross-
18 examination that you’ve prepared?
19 MS JELE: I can certainly deal with other
20 elements of this exact topic and perhaps my colleagues
21 could arrange, with the assistance of the evidence leaders
22 a photocopy of the last version. I see, Mr Chaskalson is
23 kindly nodding his head, I’m hoping that that’s feasible.
24 In that case I’d turn next to the statement of Lieutenant-
25 Colonel Scott himself which I believe is exhibit SSS18. I
Chairperson: Let’s look at the statement of Lieutenant-Colonel Scott –

MS JELE: I want to interrupt you, Chairperson. I just want to make reference to those paragraphs, four lines above, or in fact five lines above, 
“1 conclude in appreciation of the environment 
2 incorporating the background information I had been given 
3 during the course of the night,” and now these words, “and 
4 reflected the police’s views on how to deal with the 
5 situation as was discussed that evening.” Doesn’t that 
6 indicate that inputs he had received from other officers 
7 were taken into account by him and incorporated in what he 
8 produced.

MS JELE: I will get to those issues,
Chairperson, if I might just be allowed to deal with 
certain other aspects of Lieutenant-Colonel Scott’s 
statement. I will deal thereafter not only with events of 
that evening but also naturally with any input and 
contribution of Colonel Merafi.

CHAIRPERSON: In fact he said that the 
appraisal that he concluded reflected the police’s views 
on how to deal with the situation. Now that seems to 
indicate that there were police inputs which he took into 
account. That’s the only point I put to you. So the 
question that you put was what constitutional lawyers call 
over broad.

MS JELE: I appreciate that, Chairperson, 
my point and it was something that I was hoping to show 
through the testimony of the general was that no individual 
mentions at any time other then Lieutenant-Colonel Scott 
2 having anything to do and or any input informally or 
3 otherwise in the formulation of the plan and it is based on 
4 that information that Gary White’s comments with respect to 
5 its formulation were made and I was hoping to show that the 
evidence does not suggest any one other then Lieutenant-
Colonel Scott has done so to the extent that it does.

CHAIRPERSON: There’s two issues. The 
first issue is the criticism of Mr White for saying that 
mister, that Colonel Scott was the sole author of the plan, 
that you explained he relied upon what he saw in the 
document and you want to understand why he came to that 
conclusion. The second question of course is whether the 
conclusion in light of all the information we have or are 
going to have is correct and that’s the point I take it 
you’re now dealing with?

CHAIRPERSON: May I just 
inform and or being part of this planning process.

CHAIRPERSON HEMRAJ: May I just 
understand your position on this please, Ms jele, before 
you answer, General. The position that the, that 
Lieutenant General Scott drafted this plan entirely on his 
own without input from anyone else or that having received 
the input he alone drafted the plan without any assistance?

CHAIRPERSON: Yes, Commissioner, our difficulty is 

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that part of the criticism that has been geared towards Mr White is that his conclusion that there was a difficulty in the manner in which the SAPS put together was the plan was based on information provided to us that suggested that Lieutenant-Colonel had done essentially all the work himself and that that information in Gary White's preliminary opinion was being challenged by the SAPS in providing us with information at this stage with respect to input provided by others. This is not information that we have from any other source but the general. There is nothing in any of the statements of the individuals that the general referred to as having contributed to the plan that so much as mentioned having had so much of a chat with Lieutenant-Colonel Scott and Lieutenant-Colonel Scott speaks of formulating the plan as though it was indeed his baby. After that the discussions with regard to adoption would be a separate set of issues that I would like to canvas with the general, Commissioner.

CHAIRPERSON HEMRAJ: Do I understand that to mean that yes he might have received input but that according to the statements he alone drafted the plan, is that what I understand?

MS JELE: No, Commissioner, it's, no he did not receive input –

CHAIRPERSON HEMRAJ: He did not receive input –

MS JELE: The input is an afterthought after having seen Gary White's statement.

CHAIRPERSON HEMRAJ: Thank you.

MS JELE: And as I see it you might now omit to call upon Semenya who turned his light on.

MR SEMENYA SC: Chair the, MR SEMENYA SC: Chair the, MR SEMENYA SC: The proper version now made has far serious consequences. I can understand Mr White coming to conclusions as he did on secondary information. This witness tells us I was as a matter of fact in the JOC I know these people contributed to the plan and to then suggest it as an afterthought would want to know what the basis of that evidence will be.

CHAIRPERSON: To be fair, she's given the basis. She says it's based on the fact that in the statements of these people none of them mention having taken part in the planning. Now whether that's a good point or a bad point is another matter. But she has provided the basis upon which she is putting forward the proposition, I think, isn't it so?
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1. I, what I said a few moments ago. If that passage that was
read is also the passage that I put to you earlier where,
this is exhibit FF18 statements, this is Scott’s
statement.
2. MS Jele: I believe you’re looking for
paragraph 8 if I’m not mistaken, Chairperson.
3. Chairperson: No it’s his statement dated
the 18th of October, I was just looking for the date. In
that, in paragraph 8 he says he concluded, I mentioned to
you before, conclude an appreciation of the environment,
incorporating the background information I had been given
during the course of the night and reflected the police’s
views on how to deal with the situation as was discussed
that evening. So doesn’t that say on the 18th of October
already that, I didn’t, I may have drawn up the plan by
myself but in, in drawing it I took into account what
had been put to me during the course of the night and the
views of the police which were expressed during the
discussion. So isn’t it fair to say that the inference you
draw is to some extent contradicted by the passage that Mr
Semenya read as well as that passage?
4. MS Jele: I can take it no further then
the individuals in questions certainly don’t mention it.
5. The individuals that were, excluding General Mpembe, the
individuals that were specifically identified by General

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1. Annandale as having been those that did in fact contribute
to the plan and if I might with respect for example to the
meeting of the 13th which is the meeting I take it is being
referred to by Lieutenant-Colonel Scott, my colleague Mr
Fischer will assist me but we have record of the National
Commissioner indicating that there was no discussion of the
plan at that meeting. Certainly we have no minutes of that
meeting.
2. Chairperson: No sorry, I remember that
to place the evidence very well. That’s what she said and
one of the witnesses, I can’t remember which one it was
said that there was a discussion of the plan after she
left. The evidence was that she left, I can’t remember
about midnight or shortly after that, and thereafter the
discussion was continued, the plan was then discussed. So
that passage doesn’t assist. I originally thought that was
a very important point but it fell away in the light of the
subsequent evidence that I’ve repeated to you.
3. MS Jele: Whatever might have discussed
thereafter I would have assumed would be recorded by
Lieutenant-Colonel Scott when he describes that meeting at
paragraph 5 of his statements and continues about what
further work was done in that respect which considering the
paragraph 8 starts at the next day I presume it’s a
reflection of what was done. Again nothing in the
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<td>voorgehou was in die JOCOM vergadering deur Luitenant Kolonel Scott het elke bevelvoerder teenwoordig die geleenheid gehad om kommentaar te lewer en insette te lewer rondom so ’n pertinente voorstel. Sou ’n bevelvoerder geen inset gelever het nie is dit uiteraard aanvaarding van saamstem tot die voorstel en op die einde van die dag is sodanige voorstelle word dit dan aanvaar as die amptelike polisie benadering en die oorhoofse bevelvoerder was teenwoordig tydens die JOCOM vergaderings en dit het sy goedkeuring weggedra. Ek kan pertinente verwys na Luitenant Kolonel Pitsi wat reeds op die 15de was hy teenwoordig gewees by die area bekend as forward holding area 2, en so was die ander bevelvoerders ook teenwoordig op die 16de. So die verwysing daarna is nie ’n nagedagte vanaf my self nie. Dit is ’n weergee van die feite soos wat dit plaasgevind het.</td>
<td>plan of this nature in an operation that is as complicated and as complex as this one was on your version, a hybrid plan with thousands of individuals, with individuals who had already passed away by the time this particular plan was being put together would have required the plan to be ripped apart, challenged, questioned, reconsidered with every imaginable facet thereof being taken into account.</td>
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<td>GENERAAL-MAJOR ANNANDALE:</td>
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<td>Voorsitter, ek het getuig en ek kan net getuig oor die feite aan my bekend. Ek aanvaar as ons aantal persone vat, sê ons vat tien persone om ’n verklinging te skryf onafhanklik in termie van hulle waarneming van dieselfde gebeure dan sal sodanige persone nie noodwendig almal op dieselde aspekte reageer nie want dit is individuele waarneming. Die persone na wie ek verwys het was voor die 16de reeds betrokke. Luitenant Kolonel Merafi was egter nie, op die 16de self was hy nie betrokke nie. Luitenant Kolonel Merafi het egter vir Luitenant Kolonel Scott geassisteer in die nag na waar ek verwys het, toe hulle die beplanning begin het saam met mnr Sinclair in terme om die omgewing te verstaan. Ek het ook verduidelik dat daar individuele interaksie plaasgevind het wat die offisiere kan self oor getuig, pertinent tussen Luitenant Kolonel Scott en Brigadier Calitz byvoorbeeld tussen hom en Brigadier Fritz. Voorsitter, maar baie belangrik is die, die interaksie tydens die JOCOM vergaderings. Nadat daar konsolidasie van insette geflaan is die plaasgevind het.</td>
<td>You indicated what your inference is, you indicated what you base it on and the witness can now reply.</td>
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1 Ms Jele: I do, Chairperson.
2 Chairperson: Please do so.
3 Ms Jele: Would you like to pose your
4 questions first or shall I?
5 Chairperson: No, the question I would
6 ask, is the one that you're going to ask.
7 Ms Jele: I appreciate that, Chairperson.
8 Now my question was going to be in light of the description
9 that you've made, General, of all of the inputs and of the
10 process that you described. Would you be so kind as to
11 assist us and give us an indication to your knowledge, when
12 that took place? So that we can have a clear idea for
13 example, of which witnesses we need to deal with this issue
14 with and which JOCOM minutes for example we need to peruse
15 with greater clarity. During what period, say for example,
16 evening of the 13th to whenever that process ended, were
17 these inputs and exchanges, appreciating that on your
18 version they might have been informal and outside of the
19 JOC, but during what period did this process take place?
20 Generaal-Majoor Annandale: Voorsitter,
21 vanaf die aand van die 13de Augustus deurlopend totdat -
22 Ms Jele: When you say, the end, perhaps
23 it's an interpretation issue, do you mean until for example
24 the JOCOM is half past three on the 16th, is that what
25 you're telling me?

1 Ms Jele: I do, Chairperson.
2 Chairperson: Please do so.
3 Ms Jele: It was my understanding,
4 General, that Lieutenant-Colonel Scott made a presentation
5 of plan as it stood, certainly during the morning of the
6 14th, am I correct in that?
7 Generaal-Majoor Annandale: Voorsitter,
8 nie, ek was self nie teenwoordig die oggend van die 14de
9 nie. Soos ek verneem, was daar 'n plan rondom 'n sektor
10 polisiering en hoë sigbaarheidsoperasie was bespreek op die
11 oggend van die 14de.
12 Ms Jele: Certainly out of the plans that
13 we have seen, the last one that see is that of the 14th,
14 which outlines various stages and encompasses what
15 eventually ended up being an attempted implementing Stage 3
16 on the 16th, to the extent that there might be anything
17 further thereafter, I presume that would be the portion of
18 that plan that was not recorded?
19 Generaal-Majoor Annandale: Voorsitter,
20 nie, die middag van die 13de, u sal merk in Bewysstuk SS3,
21 die betrokke slide wat sê, Coordinating Instructions 14
22 August -
23 Ms Jele: Sorry, General, could you
24 specify which page of SS3, so that I can find it, thank
25 you?

1 testimony earlier, did you not, General?
2 Generaal-Majoor Annandale: Ek het daarna
3 verwys, Voorsitter.
4 Ms Jele: General, is the lack of
5 Intelligence or the inability to gather Intelligence, not
6 something that in your experience would be worth certainly
7 noting and recording Intelligence reports?
8 Mr Hanabe: Can you repeat the question,
9 Advocate?
10 Ms Jele: Is the lack of Intelligence or
11 the inability to obtain Intelligence not something in and
12 of itself worthy recording in Intelligence reports?
13 Generaal-Majoor Annandale: Voorsitter,
14 ek weet werklik nie en ek wil nie probeer snaaks wees nie,
15 maar ons verwys altyd daarna dat ons Intelligensie mense
16 skryf met 'n uitveër. So Voorsitter, ek weet nie of dit
17 standaard is in terme van hoe hulle tipies Intelligensie
18 verslae lyk, wat hulle meld en gebrek en of hulle net fokus
19 op inligting wat beskikbaar is nie.
20 Ms Jele: General, just one thing, the
21 fact that it was conveyed to you that there was difficulty
22 garnering such Intelligence, is something that you would
23 have factored in and taken into account in considering what
24 you did know or did not know in terms of planning for the
25 operation going forward, not so?
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GENERAAAL-MAJOR ANNANDALE: Voorsitter,
ja, ons was bewus dat daar 'n gebrek is aan volledige
inligting en ons fokus was op die bietjie Intelligenisie wat
ons gehad het.

MS JELE: Thank you, General.

CHAIRPERSON: I’d like to ask a few
questions on the topic that Ms Jele has been busy with. I
understood to say that there was a PowerPoint presentation
of the plan. What date was that?

GENERAAAL-MAJOR ANNANDALE: Voorsitter,
luitenant-kolonel Scott het dit begin bou reeds die aand
van die 13de, Maandagaand die 13de.

CHAIRPERSON: Did he present it to the
JOC or to the JOCOM?

GENERAAAL-MAJOR ANNANDALE: Voorsitter,
ja, op die 13de die aand het hy dit gebruik om die
Nasionale Kommissaris te orienteer, so dit was maar
hoofsaaklik die Google lugfoto met dan oriëntasie in terme
van waar ons, ons bevind en waar die Koppie is en waar die
aanval op die polisiebeampetes en die ander persone
plaasgevind het. Voorsitter, en dan so ver ek verneem het,
het hy dit die oggend gebruik, dis in die JOCOM vergadering
op die 14de en dan die vergaderings wat ek dan nou
voorgesit het dan ook.

GENERAAAL-MAJOR ANNANDALE: Voorsitter,
specifically stated in seven, that this was the procedure always
with a tactical option and recommended that the same course
of action be utilised here, namely that the protestors
first be engaged with the SAPS hostage negotiators, to
enable them to seek a peaceful resolution, before moving to
an intervention to enforce the law. This strategy, if
successful, would defuse the situation without the need for
a tactical intervention and allow for a peaceful
resolution."

I take it that the strategy referred to, is the
strategy of negotiation first. But am I interpreting this
paragraph correctly, which says effectively, this was the
STF approach, obviously not exclusively the STF approach,
but this was the STF approach, who always used dialogue
first and if that fails, you then resolve the situation
with a tactical option. And it was recommended that that
approach be adopted at Marikana. Would that be a fair
summary of what paragraph 7 says?

GENERAAAL-MAJOR ANNANDALE: Voorsitter,
ek dink dis reedelik. STF werk baie nou saam met die
gyselaaronderhandeling en zelfmoordvoorkomingspan in terme
van die aktiwiteit wat hulle na uitgeroep word.
Voorsitter, as ek net kan meld, dis nie 'n ekslusiewe
benadering vanaf STF nie. Dit is ook 'n standaard
benadering in terme van openbare orde.

CHAIRPERSON: You see, it is specifically
stated in seven, that this was the procedure always
adopted, always adopted by the STF and it was recommended
that the same course of action be utilised at Marikana.
That’s what it says. So that seems that what I put to you
was a fair summary of what that paragraph says. Now what
I’d like to know from you is, who made that recommendation?
Or firstly, who discussed that this is the STF approach and
who recommended that the same course of action be utilised
at Marikana?

GENERAAAL-MAJOR ANNANDALE: Voorsitter,
dit was genoem deur Luitenant-Kolonel Scott die
Maandagaand.

CHAIRPERSON: Do you know what was meant
by the expression, a tactical option and then on the next
page, it’s part of the same sentence, an intervention to
enforce the law. What sort of action was envisaged by
those two phrases, tactical option and intervention to
enforce the law?

GENERAAAL-MAJOR ANNANDALE: Tactical
option, Voorsitter, enige offensiewe aksie wat geneem word,
hetsy dit in Openbare Orde of dan enige ander aktiwiteit
wat geneem word deur die polisie. Die uitvoering, die
"enforce the law" is dan, sou ons dan moet oorgaan tot
enige van die offensiewe aktiwiteite wat hulle na uitgeroep word.

CHAIRPERSON: I -

GENERAAAL-MAJOR ANNANDALE: Specifically

Note: The text is a transcription of a hearing from a commission of inquiry.
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<td>the offensive actions in terms of public order policing.</td>
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<td>2</td>
<td>MR MAHLANGU: Specifically, yes, thank you, specifically the offensive action in terms of POP.</td>
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<td>3</td>
<td>CHAIRPERSON: In the context of STF operations, however, what would normally be covered by the expression, “tactical option”?</td>
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<td>GENERAAL-MAJOR ANNANDALE: Voorsitter, dit kan ’n wyse veld dek, maar dis hoofsaklik die taktiese benadering om arresties uit te voer.</td>
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<td>5</td>
<td>CHAIRPERSON: Tactical approaches to carrying out arrest? Tactical operations involve or include – if you want to arrest someone who doesn’t want to be arrested, so how do you deal with it, in the STF?</td>
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<td>6</td>
<td>GENERAAL-MAJOR ANNANDALE: Voorsitter, in terme van hulle vaardighede en hulle toerusting, sal die tipiese arrestasie wees van iemand wat hulle nie vrywillig oorgee tot arres nie. Voorsitter, dit kan behels, en ek wil regtig, en u sal my vergun dat ek nie te veel in terme van hulle taktiek ingaan nie, maar ek sal daaraan raak.</td>
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<td>7</td>
<td>CHAIRPERSON: You disorientate them, I mean, they are so ’n individu, wat dan die proses van arrestasie vergemaklik.</td>
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<td>8</td>
<td>GENERAAL-MAJOR ANNANDALE: Voorsitter, die situasie sal natuurlik afhang van hoeveel spesiale taakmaglede pertinent dan gekonfronteer word deur so ’n individu, maar hulle benadering sal waarskynlik dieselfde wees, om te probeer om so ’n persoon te disoriënteer.</td>
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<td>9</td>
<td>CHAIRPERSON: You disorientate them, I take it, by using amongst other things, a stun grenade or teargas?</td>
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<td>10</td>
<td>GENERAAL-MAJOR ANNANDALE: Meer skokgranaat as CS-gas.</td>
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<td>11</td>
<td>CHAIRPERSON: Stun grenades that were used, or a stun grenade actually was used initially on the 13th, the Monday, did it disorientate the persons concerned?</td>
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<td>12</td>
<td>GENERAAL-MAJOR ANNANDALE: Voorsitter, ek weet nie of dit net in ’n groot groep ingegooi was en of dit om pertinent ’n aanval af te weer nie. Ek het nie daai feite tot my beskikking nie.</td>
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<td>13</td>
<td>CHAIRPERSON: Now the last aspect I want to deal with, is it seems from what you say as if the basic idea as contained in para 7, was raised by Colonel Scott. I think it seems a fair inference in what you say, the proposal was accepted. He then went off and conceptualised it, I think he says in his statement. He worked out the operation strategy he says, in eight, and then he sets out in para 9 of his affidavit his proposal in relation to the guidelines and the stages and so on. I take it the broad outline of what he said, seems to have been accepted by the JOCOM, would that be correct?</td>
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<td>14</td>
<td>GENERAAL-MAJOR ANNANDALE: Dis korrek, Voorsitter.</td>
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<td>15</td>
<td>CHAIRPERSON: So I take it the plan was worked out in detail, other people contributed details and inputs as to how this plan could be made most effective? That seems to be a fair summary of the evidence, is that correct?</td>
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<td>16</td>
<td>GENERAAL-MAJOR ANNANDALE: Dit is redelik, Voorsitter.</td>
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<td>17</td>
<td>MS J ELE: Thank you, Chairperson. I’m moving on now to a different topic, to the extent, General, that you’re in a position. I know you weren’t on the ground to talk to us about elements of the implementation of the plan. I’ll just cover some of those aspects with you. And my first question is truly a question seeking your assistance and guidance, General. You have now mentioned General Mpembe was the overall commander. You chaired the JOCOM, correct?</td>
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<td>18</td>
<td>GENERAAL-MAJOR ANNANDALE: Dis korrek, Voorsitter.</td>
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<td>MS J ELE: General, would you be so kind as to point me to the document or the directive or the Standing Order that identifies the Chair of the JOCOM and the role that you would be responsible for playing – obviously I don’t want to ask you questions to the extent that you would not have had any responsibilities, but I’ve referred you to Standing Order 262. Obviously the person referred to as a C-JOC would be General Mpembe. Could you point me to a document or a Standing Order or some reference in order to provide the Commission clarity on the definition of the Chair of the JOCOM, the responsibilities of the Chair of the JOCOM, please?</td>
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<td>20</td>
<td>GENERAAL-MAJOR ANNANDALE: Voorsitter, nee, ek is nie bewus van so ’n dokument nie.</td>
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<td>21</td>
<td>MS J ELE: General, there is a difficulty there. How would your colleagues have known exactly what your responsibilities were versus the responsibilities of...</td>
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CHAIRPERSON: Are you effectively saying that in your capacity as the chairman or the person presiding over the JOCOM, you would see first that everyone was there who should be there. And thereafter call on each of them to report on those aspects that were relevant for the sections which they were responsible for. Is that effectively what you're saying?

GENERALE-MAJOR ANNANDALE: Voorsitter, dis presies wat dit is en dan is daar fasilitering, as daar dan 'n gesprek is in terme van persone geleenthede te gee om insette te kry.

CHAIRPERSON: Anything else?

GENERALE-MAJOR ANNANDALE: Voorsitter, nee, tensy daar enige verdere onduidelikhede is.

CHAIRPERSON: I must say, I got the impression that your role was a bit more extensive than that. If you look at slide 67, you are described as the Chief of Staff of the Command Cell. And your role is given as being coordinated on the running of the operation, by managing the JOC with the designated role players representing each field. I take it you accept that as an accurate description of your role?

GENERALE-MAJOR ANNANDALE: Voorsitter, dis korrek, ja, my punt wat ek oor getuig het, was my rol as JOCOM voorsitter.

CHAIRPERSON: But you weren't only the JOCOM chairman, as I understand it, you were actually the Chief of Staff of the Command Cell.

GENERALE-MAJOR ANNANDALE: Voorsitter, in the various settlements, I think that's what the witness verstaan nie, Voorsitter. Die Voorsitter van 'n JOCOM is nie niks anderste as die Voorsitter van enige vergadering nie. CHAIRPERSON: What is his role?

GENERALE-MAJOR ANNANDALE: Voorsitter, tipies sal die oorhoofose bevelvoerder sodanige vergadering voorsit. Generaal Mpembe het my egter versoek om dit te doen, synde hy besig was pertinent met onderhandelings met die unies en die myn. So die rol sal wees tipies om te kyk dat die onderskeie verteenwoordigers daar is van die onderskeie eenhede. So die bevelvoerders teenwoordig sal dan verwys dat hulle teenwoordig is en dan moet die verwagte aantal lede wat hulle ontplooi, die pertinente voertuie wat hulle beskikbaar het vir die dag. Die vergadering het dan gewoonlik begin met 'n eerste toeligting deur die Intelligensie verteenwoordiger en dan as daar pertinente Intelligensie takings is, een van die takings is pertinente rondom Intelligensie en ek weet nie of dit kommissie gesien het, daar was een of ander slide wat deur die tweede in bevel van die oorhoofose bevelvoerder nie.

CHAIRPERSON: Put informers in the plural in the various settlements, I think that's what the witness said.

MR MAHLANGU: Informers?

CHAIRPERSON: Yes, informers in the settlement.

GENERALE-MAJOR ANNANDALE: En dan op die pertinente punt het hy gesê dat dit is vir hom net moeilik om enige van sy beriggewers te kry om informasie te gee. So dit sal vir hom nie moontlik wees nie. Voorsitter, en dan as ons met die lys afgaan, dan sal die Speurdiens-bevelvoerder, Brigadier Van Zyl, sal hy vordering gee, indien enige, rondom die ondersoeke waarmee die speurders besig is.

CHAIRPERSON: Are you effectively saying that in your capacity as the chairman or the person presiding over the JOCOM, you would see first that everyone was there who should be there. And thereafter call on each
CHAIRPERSON: Can you do it tomorrow morning?

MS JELE: I can, Chairperson.

CHAIRPERSON: We'll adjourn till half past nine tomorrow morning.

[COMMISSION ADJOURNED]
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