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 10 8 NOVEMBER 2012 PAGES 1154 TO 1245

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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8th November 2012
Marikana Commission of Inquiry
Rustenburg

[PROCEEDINGS ON 8 NOVEMBER 2012]

[10:18] CHAIRPERSON: Good morning, the Commission resumes. Before we continue with the presentation I have to give our ruling in respect of the matters that were debated earlier, relating to the issues to be considered during the first phase and those who were present will appreciate that by the end of the argument the parties were substantially in agreement on what the first phase would cover and the terms of what amounts to the consensus are set out in the documents from which I shall now read.

1. The first phase of the Commission will examine the events of 9 to 16 August 2012 at Marikana which led to the deaths of at least 44 people, more than 70 people being injured, approximately 250 people being arrested and damage and destruction to property. Those topics are covered by the phrase “the events.”

2. The first phase will be confined to the following issues:

2.1 An investigation of the facts directly relating to and relevant to the events themselves;

2.2 An investigation into the lawfulness of the conduct of the SAPS and its members in fatally shooting 34 people on 16 August 2012 and in injuring protestors who were not fatally wounded, and

3. The first phase would cover and the terms of what amounts to the consensus are set out in the documents from which I shall now read.

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corner, that's actually the slide number.

LT-Col Vissier: Yes.

Chairperson: Yes, thank you. Please proceed.

LT-Col Vissier: Thank you, Mr Chair.

We're moving over now to Monday the 13th of August. Again Monday evening, after the escalation of violence, the joint operational centre was also established at Lonmin mine and every morning at the start of the day a briefing is being held then at this joint operational centre.

Starting on the Monday morning, again reports were that the situation about protestors are still very serious and that high police visibility is still needed in the area to maintain peace and order. To address the situation, the contingency plan of the previous day was still put in place and initially 121 members of the police were deployed for the day, that included members of our public order policing, the POP, TRT stands for tactical response teams, NIU our national intervention unit, VISPOL our normal visible policing members and there were also members from detective services. Except for 121 members initially deployed, that evening after the incident with the protestors an additional 96 members were also deployed.

If we move over to the next slide, the sequence of the events of the day. 10 past five in the morning there was already reports about 50 persons that were intimidating workers around the Wonderkop hostels. Police members were on the scene. One of the members shot two rubber rounds and the crowd dispersed peacefully.

20 past six Monday morning, mine security reported about a body with bullet wound. It was later linked to the violence on the Sunday. Referring back to the slides on Sunday, that was Mr Langa.

8:30 again that morning mine security reported one of the mine employees has been robbed and stripped naked for going to work, because of intimidation no cases were registered.

10 o'clock Monday morning there was a meeting between Lonmin mine management and police management. On this meeting the police were updated about the latest situation about the mine. The police were informed that employees who were involved at the current strike action at this stage were faceless, the mine management could not identify if they were part of the mine or not. On this meeting mine management indicated about the property that was damaged and the members that were killed and they requested the police to prevent any further killing of the mine's personnel and to protect their property. The police were also informed about the gathering of rock drill operators at koppie 1, which was also joined by other persons that were sympathetic to their cause.

We go over to the next slide. After the meeting at 12:45 the Provincial Commissioner of North-West, Lieutenant-General Mbombo, instructed the police members the following – the gatherings had to be dispersed, the dangerous weapons that are part of these gatherings had to be confiscated, persons identified from the mine footage who were involved in criminal activities had to be arrested, deployment to key strategic areas had to be enhanced, members of the police had to act professionally and to ensure that peace prevailed. An OB entry in this nature was also made.

Simultaneously at this time it was noticed on one of the mine security cameras that a group of protestors armed with dangerous weapons were gathered near the K3 shaft near the Karee hostel area. 70 members of the police, under the command of Major-General Mpembe of North-West, were deployed with the intention to disarm and arrest the group of protestors.

If you move over to the next slide, on arrival at the scene Major-General Mpembe addressed the group of armed protestors and it was indicated to them that it was unlawful for protestors to be in possession of dangerous weapons. They were also informed that the police were present as a result of all the violent incidents that had been occurring since the Friday the 10th August.

Representatives from the protestors informed Major-General Mpembe then that their fight was not with the police but with Lonmin mine. They also informed Major-General Mpembe that the possession of dangerous weapons was for their own protection against the mine security and to oppose union members attacking them, referring to the incidents that happened from the Friday itself. They demanded then to be left alone so that they can join the members that were already gathered at koppie 1.

At this stage, as will be indicated on a video clip later on, we talked to the protestors in Fanagolo but to make sure that there was no misunderstandings, Major-General Mpembe asked for an interpreter from Lonmin mine.

At this stage Lonmin mine denied the request and they also indicated that they are not prepared to negotiate with the protestors. The request at this stage was made to Mr Blaauw of Lonmin mine.

At this stage after the protestors were addressed and it was indicated that the possession of dangerous weapons is illegal, Major-General Mpembe made a decision that the group must be disarmed and dispersed.

[10:38] Major-General Mpembe indicated to the protestors that they would not be allowed to proceed to the koppie 1 and they need to surrender their weapons. The group of
protestors then became very aggressive and they moved around the police line that was formed by armoured vehicles and members on foot and they continued in the direction of Wonderkop koppies.

Looking at the posture and the nature of the group and the possession of dangerous weapon, Major-General Mpmembe realising that by trying to stop the group now it will lead to a violent confrontation that would take place and it could lead to serious injuries, he then decided to allow them to proceed, but with the police following them. Keeping in mind the history of violence that we saw at the mine and looking at informal settlements that were lying between the protestors and koppie 1, it was decided that the police must follow the protestors to prevent them from entering the informal settlements to the left of their route, to prevent possible incidents of looting and to safeguard innocent lives and property.

Going to the next slide, the group of protestors proceeded then to koppie 1. On their way to koppie 1, with the police following them, some of the protestors changed direction to enter the informal village. To prevent them from entering the village, the police used teargas and stun grenades. Teargas is a grenade that releases smoke that cause intense burning of the eyes and involuntarily causes you to just run away from it. A stun grenade, if thrown, causes two loud bang noises that also cause you to run away from it.

After the teargas grenades were thrown, it had no effect on the protestors and they kept on walking through it in the intended direction. It was only after the stun grenades were thrown that a response was received from the protestors. After the stun grenades were thrown, a group of the protestors turned around and charged at the police with their dangerous weapons. Two of the members of the police who died at the scene were retreating and fired at the protestors with shotgun rubber rounds but they were overwhelmed and hacked to death. In order to defend themselves and their colleagues against the imminent attack, members of the police started retreatting and fired at the charging protestors with live ammunition. The airwing helicopter of the police also witnessed these incidents and to protect the members of the police services, out of the police helicopter they threw 10 stun grenades and 20 teargas grenades in an attempt to stop the attack.

We proceed to the next slide. Two members of the police were killed in this incident and a third was seriously wounded. These three policemen were also robbed of their firearms that included two 9 millimetre pistols, one R5 rifle, one shotgun, one police radio and the magazines with ammunition.

One of the protestors was found dead at the scene after the incident. A second was found about 300 metres further after the informal village. A third was found dead in the village with a stab wound. It was not clear if it was an innocent bystander or a member that was part of the protest. Four of the protestors responsible for the attack on the members of the police were pursued by members of our tactical response teams. They were, however, shot at with some of the weapons that had been robbed from the other members of the police. They returned fire but the protestors managed to escape.

The next slide is just for geographical orientation again. Initially the group of protestors were gathering at the Karee hostel. That is to the left bottom of the screen that you see there in front. They demanded to join the other protest that was already gathering at the koppie 1, that is approximately about seven kilometres from where they were gathering.

The incident happened – there’s a little red area, a triangle with a white outline where the incident happened and in front of them to the left, encircled in blue, you can see some of the informal villages that were lying between them and koppie 1.
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<td>1</td>
<td>you. The problem we have is what you have in your hand. I am pleading with individuals to come to me and hand over these items. It's illegal for you to possess these things.</td>
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<td>2</td>
<td>I must also say that such a gathering as you're gathering here is contrary to the law, it's illegal to form such a gathering. From here we're going to go to those people on the mountain, we're going to tell them the same thing but before you disperse, the – the weapons that you have are illegal. We only have these weapons here to indicate to you that we are fighting nobody. What we want are those assegais that you have and the other weapons only, that's all. Unless you disarm, unless you give me those weapons, I'm not going to allow you to proceed.</td>
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<td>3</td>
<td>LT-COL VISSER: This is where the group decided to proceed anyway, in disrespect of the instructions that were given by the police. The police then allowed them to proceed and again you can see the difference between this group of people and the original march on the Friday.</td>
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<td>4</td>
<td>This footage is from the mine security since the police video unit was not very close by. At this stage they're proceeding towards koppie 1 with the police following them. This is the best footage that we have, although it's from a distance and it's not very clear.</td>
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<td>5</td>
<td>There the first teargas grenade is being thrown.</td>
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<td>[10:58] It had no effect and it didn’t change the direction of the protesters. They just continued through it. There first stun grenade was thrown, and that had reaction. There you can see it. The majority of the protesters ran away, but a group of them turned around and charged at the police. You cannot see them, it’s there behind the bushes. Other police members ran to their rescue. That’s where the incident took place.</td>
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<td>[VIDEO IS SHOWN] Again looking at the video footage, injured policemen, the injured policeman that is still serious in hospital, policemen that were killed. Again the force and the nature and the gruesomeness of the attack is visible. In the informal settlement the body that was found there with a spear lying close to it, it had a stab wound in the leg and it bled to death. At this stage it was not clear if he was part of the protest, or he was an innocent bystander in the village.</td>
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<td>3</td>
<td>Again some of the following slides again show some of the bodies, the policemen that were hacked to death, and again the severity of the attack can be seen on his face and the wounds. Also looking at some of the footage you can see the force that was used in these attacks, looking at the wounds. The second policeman that was shot and hacked to death, you can see the bullet</td>
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<td>that's happening you can also show – tell me something else. The railway line you say is, one sees actually touching this triangle at the bottom left hand corner, that's the railway line, right. Then also there was a river that we saw and there was an informal settlement in front of one of the houses one of the bodies, I think, was found. Where's that? That's –</td>
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<td>LT-COL VISSER: That's the informal settlement and the body was found –</td>
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<td>3</td>
<td>CHAIRPERSON: Alright, alright. Now I think you should repeat what you've said into the microphone so that members of the auditorium can follow and also, I'd be grateful if that cell phone were turned off.</td>
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<td>4</td>
<td>I'd also be grateful if you could indicate, as you indicated to me, where the informal settlement was where the house was in front of which one of the bodies was found. You showed that to me but I think those in the auditorium are entitled to see it too.</td>
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<td>5</td>
<td>LT-COL VISSER: If you look at the television screens where the mouse cursor is – first of all we're going to indicate to you the railway line where the protesters were gathered. If you look at the mouse cursor, that is where the railway line is. The next thing we want to indicate to you is the informal settlement where one of the bodies was also found. It's just in front, encircled with the blue. If you look again at the mouse cursor there, that is where the informal settlement was where also one of the bodies was found. And then there's also a river that went through, if you look at the mouse cursor there it indicates to you the flow of the river as well.</td>
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<td>6</td>
<td>The railway line on the footage that we're going to show you, will also see the members are gathered directly next to the railway line. What we've done is we've looked at footage that is available from our public order policing unit. At the end we also added some footage from the mine security. All the original clips are available at the evidence leaders. We tried to put the incident together to make logical sense out of it and again I want to repeat the warning, there will be some images –</td>
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<td>CHAIRPERSON: We'll wait a minute so - to give people who wish to leave, an opportunity to do so.</td>
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<td>8</td>
<td>LT-COL VISSER: Thank you, Mr Chair, can we continue? Please ask the police family members - This is the video footage when General Mpembe came to the group and addressed the group. Then you can see the change in posture from this group and the march that we indicated on Friday. That is General Mpembe talking in Fanagolo to the group.</td>
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<td>9</td>
<td>[VIDEO IS SHOWN]</td>
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<td>10</td>
<td>MR MAHLANGU: We have not come to arrest</td>
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25 98 sharp point ammunitions were expended.
24 than lethal munitions were expended at the scene. In total
23 retrieved at the scene. In total 56 non-lethal or less
22 retrieved. Stun grenades, 12, of which all 12 casings were
21 Tear gas grenade, 25, of which only 21 casings were
20 were retrieved at the scene. 5.56-millimetre, 34 were expended although only 19 casings
19 were retrieved, but 64 were expended. R5 rounds, that the
18 millimetre rounds, 64 were expended. Only eight cartridges
17 helicopter that was on top of the scene. In total 9-
16 POP, Public Order Policing, helicopter refers to the police
15 Intervention Unit, TRT for our Tactical Response Teams,
14 on the scene, NIU again stands for our National
13 lives of their colleagues. Members of various units were
12 top corner, the one with the white overall, Chair.
11 found on the other side of the river?
10 CHAIRPERSON: Colonel, which body was
9 to enter the informal village, and later on sharp point
8 first of all to get the protesters to change direction, not
7 incident three, two policemen were killed, one was
6 Stun grenades and teargas grenade was thrown. In this
5 to prevent them from entering the informal settlement and
4 to protect the lives of innocent members and property.
3 escort these members on their way to Koppie 1, doing this
2 protesters that was gathered near the railway line. They
1 property. At that stage police met with a group of

Continuing to the next slide, looking at the
following events still on Monday, the 13th, at 6 o’clock in
that evening personnel from our Employee Health & Wellness
arrived at Marikana to debrief the members that were
involved. This was done to assist members in dealing with
the events of the day and post-traumatic stress.
7 20 minutes past eight that evening a police
6 delegation, which the National Commissioner led and also
5 included the Provincial Commissioners of the North West
4 province and Gauteng province arrived and was also briefed
3 by our joint operational centre. After they were briefed
2 about the events of the day, round about half past nine
1 that evening they had a meeting with management of Lonmin.
0 Lonmin mine management were briefed about the events of the
The following munitions were expended by police members, either
first of all to get the protesters to change direction, not
to enter the informal village, and later on sharp point
ammunition was used in defence of their own lives and the
lives of their colleagues. Members of various units were
on the scene, NIU again stands for our National
Intervention Unit, TRT for our Tactical Response Teams,
POP, Public Order Policing, helicopter refers to the police
helicopter that was on top of the scene. In total 9-
millimetre rounds, 64 were expended. Only eight cartridges
were retrieved, but 64 were expended. R5 rounds, that the
5.56-millimetre, 34 were expended although only 19 casings
were retrieved at the scene. Rubber rounds, 19 were
dispersed. All 19 cartridges were found at the scene.
Teargas grenade, 25, of which only 21 casings were
retrieved. Stun grenades, 12, of which all 12 casings were
retrieved at the scene. In total 56 non-lethal or less
than lethal munitions were expended at the scene. In total
98 sharp point ammunitions were expended.

CHAIRPERSON: Before we take the tea
adjournment, I take it from now on you, at this point you
move on to the unrest on the Tuesday. In your slide 61
where you talk about casualties, people who were wounded,
in respect of Monday the 13th there’s a gap before the word
"protesters." It reads, "On Monday, protesters wounded,"
LT-COL VISSER: If you read the sentence, “The protesters wounded, one member of the police and the police wounded five protesters.” Sorry, the gap is just an alignment –

CHAIRPERSON: I understand, thank you.

LT-COL VISSER: Just a rectification

there, Mr Chair, on Saturday it was three persons that were wounded, not eight, but the total tally is still 16 members. The three members on Saturday was during the clashes of the protesters itself.

CHAIRPERSON: - point we’ll take the tea adjournment for 15 minutes.

[INQUIRY ADJOURNS INQUIRY RESUMES]


Colonel, before you move on to the events of the 14th of August, I’d be grateful if we could go back to the video of the General addressing the protesters and if the video could be stopped at various points because the interpreter was doing his best to interpret what was being said but I’m not sure that we got everything– particularly, we didn’t get, at least I didn’t get what was said by what one could describe as the leading member of the protesters. The

General spoke, the interpreter interpreted what the General said, the leading member of the protesters replied and I’d be grateful if we could just go through that again and it may be necessary, to assist the interpreter, if those responsible for showing us the video could stop after the General has spoken to give the interpreter a chance to interpret and then proceed with another stop at an appropriate stage. I’d appreciate that, before we move on to the events of Tuesday the 14th.

LT-COL VISSER: No problem, Mr Chair, we could slowly go through the video and we’ll stop to give the interpreter time to do it.

[VIDEO IS SHOWN]

Okay, the first part is only where they’re sitting in the crouching position, they’re singing songs and they’re clapping their weapons together and in a moment it will start where the General –

CHAIRPERSON: It might be helpful to know what they’re singing. I take it they’re not singing “bring me my machine-gun,” but what are they singing?

MR MAHLANGU: It’s not very clear what they’re singing, what the words are of the song.

CHAIRPERSON: We’ll have evidence on that if it’s necessary or relevant.

LT-COL VISSER: We’re going to start

LT-COL VISSER: From the people that were on the scene, General Mpembe and his members, the estimate was between 200 and 300 members, part of the group. That was their estimate on the ground that day. We are going to continue with the video, step by step.

[VIDEO IS SHOWN]

MR MAHLANGU: Here the General says the reason we have come to you –

LT-COL VISSER: Continue.

[VIDEO IS SHOWN]

MR MAHLANGU: I want to tell you that we have not come here for any reason to arrest you.

[VIDEO IS SHOWN]

LT-COL VISSER: Stop.

MR MAHLANGU: But we have a very serious problem. The problem we have is the things that you are carrying, the weapons that you are carrying. This is illegal.

LT-COL VISSER: Okay.

[VIDEO IS SHOWN]

LT-COL VISSER: Stop.

MR MAHLANGU: Now you tell me you want to move from here, but my request to you is, I want each and every one of you to please hand over those things, one person at a time.

LT-COL VISSER: Okay.

[VIDEO IS SHOWN]

LT-COL VISSER: Stop.

MR MAHLANGU: Listen, and repeats, please listen. Those things that you have in your possession are illegal. You are in possession of illegal weapons.

LT-COL VISSER: Okay.

[VIDEO IS SHOWN]

LT-COL VISSER: Stop.

MR MAHLANGU: You want to – you say you want to go and meet those people at the mountain, but I want to say to you such gatherings like the one you are
holding and the one they are holding there are illegal in terms of law.

Lt-Col Visser: Okay.

[VIDEO IS SHOWN]

Lt-Col Visser: Stop.

Mr Mahlangu: You are not supposed to form such gatherings.

Lt-Col Visser: Okay.

[VIDEO IS SHOWN]

Lt-Col Visser: Stop.

Mr Mahlangu: Because such gatherings as the one you are forming is against the laws.

Lt-Col Visser: Okay.

[VIDEO IS SHOWN]

Lt-Col Visser: Stop.

Mr Mahlangu: We have come here today in order to stop this thing. My plea is do not again in future gather in this manner.

Lt-Col Visser: Okay.

[VIDEO IS SHOWN]

Lt-Col Visser: Stop.

Mr Mahlangu: From here we are going to those people at the mountain and we are going to tell them that they are not supposed to gather at the mountain.

[VIDEO IS SHOWN]

And further that you are not supposed to gather in this manner.

[VIDEO IS SHOWN]

And you are not supposed to be carrying sticks, you are not supposed to be carrying the weapons because the spears - the spears that you are carrying are illegal weapons.

[VIDEO IS SHOWN]

Just to have that bit again for the start of the speech of this man.

[VIDEO IS SHOWN]

The very first part of the speech is not very clear but in the middle he says, we are going to go there but one thing I want to say is that these things that we have here – he points at the weapons that he has – we are just carrying them for our own protection, we want to show you we are not fighting.

[VIDEO IS SHOWN]

I'm sorry, Chairperson, I'm sorry to do this. There is an important part that's been left out. What the interpreter said was quite correct but one of the things the man said is that you, meaning the police, must come with us and that was left out.

Chairperson: - part wasn't clear, obviously wasn't clear to him. Maybe it was clear to you.

Mr Mpolu: It was in the clear part at the end.

Chairperson: Mr Interpreter, you heard what Mr Mpolu says. Is he correct?

MR MAHLANGU: I would ask that it be repeated, please.

[VIDEO IS SHOWN]

Chairperson. He says all of us, that is us together with you, should go over there. We want to show you we are not fighting.
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I have no problem with you. The only thing we want is the spears, that is the police officer.  [VIDEO IS SHOWN]  
I [inaudible] the spears.  [VIDEO IS SHOWN]  
Everything, if I do not get the spears I will not allow you.  [VIDEO IS SHOWN]  
I must say here there’s some singing in the background. The song is not very clear, what is being said, but what is very clear is there’s some ululating in the background.  
LT-COL VISser: The rest of the video was just video clips and the part of the mine without any sounds.  
CHAIRPERSON: That was the part I wanted you to replay because it seemed to me we didn’t get a full interpretation of what had been said, which we now have, thanks to the interpreter and Mr Mpofu.  
MR MAHLANGU: I want to thank Mr Mpofu.  
MR CHASKALSON: Mr Chairperson, if I may make a request on behalf of the evidence leaders. To the best of my knowledge we haven’t yet received the underlying source footage in relation to this video. It’s clearly not a continuous video, it’s a compilation of various shots and further source footage that we’ve received.  

we haven’t receiving the underlying footage and I’d ask the SAPS to make that available to us. I understand it may come from Lonmin, if it comes from Lonmin I’d address that request to Lonmin.  
MR SEMENYA SC: Chair, it’s possibly a matter we can tidy with the evidence leaders. As far as we know, we would have given a 41 minute video in totality.  
It is correct that these are excerpts but to the extent that there is a disconnect there, we’ll tidy it up.  
CHAIRPERSON: Thank you, Mr Semenya. Colonel, you can now proceed with slide 62 and following, which deal with the events of Tuesday, the 14th of August.  
LT-COL VISser: Thank you, Mr Chair. Looking at the sequence of events from Friday the 10th up until the Monday the 13th, 16 people wounded already, nine people dead already. It became quite clear that we are not dealing with a normal public order policing situation here and that in order to disarm and disperse this group, a different strategy than normal should be followed.  
Looking at the Tuesday itself, the joint operational centre that was in operation, reports were given, information was available that the group of protesters was expected to increase and become more aggressive the longer the strike continues. Additional deployments were called up from other provinces to come and assist with the situation. At six o’clock the initial interim operation strategy considered was to prevent the protesters from coming to the koppie armed, by deploying a filtering police line to search those approaching or moving along the approach route, encircle a few protesters at the koppie, estimated at less than 50 by that time, disarm the rest and transport for processing to Marikana police station.  
[12:06] After discussion and consideration it was deemed not feasible, due that some of the forces are still coming from provinces as far as KwaZulu Natal and they haven’t arrived yet, and those that already have arrived had not yet been orientated to the mission and the area and briefed sufficiently. As alternative, the next slide, the visible policing strategy was put in place from 11 o’clock till two o’clock in order to monitor the gathering protesters around the koppie, familiarise the members with the newly - road conditions, approach routes and the koppie itself and the proposed neutral area, that we will indicate later on, where they will be deployed.  
A concept operational plan was finalised for implementation later in the day, of which stage 1 focused on a peaceful solution through dialogue with the protesters. Initially during the course of the day 548 members were deployed from various provinces, followed by an additional 41 members of the police later that evening.  
The next slide, just again the orientation about the areas identified where we increased our visibility.  
Area number 1, area number 1 is the incidents that took place earlier in the week where the mine security were killed, various incidents, members were wounded. It also included various hostels in the area. Area number 2 on the map, that was specifically looking at the informal settlement where the incident of Monday also occurred.  
Area number 3 is the informal settlement just next to the koppie 1 where the people were gathering. Area number 4 is the same informal settlement, it’s just further away from the koppie. So the initial strategy was to increase our visibility in those areas, also to allow the members coming from other provinces and areas to get familiarised with the area itself.  
The next slide, with the arrival of external role-players from other provinces itself, the joint operational co-ordination committees, or the JOC COM as we call it, was established to enable the effective management of the different units within their roles and responsibilities during the operation. Each field of functionality was represented within the structures of JOC COM to ensure effective command and distribution of.
The designated command positions of the JOC COM was as follows, the commander of the JOC was Major-General Mmeme. His role was the overall command of the operation. Chief of Staff, Major-General Annandale, his role was to co-ordinate the running of the operation by managing the JOC, with the designated role-players representing each field. The operational room commander, Brigadier Pretorius, her role was to manage the information flow and recordkeeping in the joint operational centre. Commander of the reserve and support forces, Major-General Naidoo, his role, to manage the reserve and support forces kept at forward holding area 1, deploy the resources as required by the operational commander. Operational commander, Brigadier Calitz, his role to co-ordinate the operation on ground level. That was the command structure. The representatives in the JOC COM itself, the special task force was Brigadier Fritz; national policing, Brigadier Tsiloane; public order policing, Brigadier Calitz, but he was also the operational commander; detectives representative by Brigadier Van Zyl; crime intelligence, Brigadier Engelbrecht; visible policing, Brigadier Sebokole; planning, Lieutenant-Colonel Scott; legal services, Captain Moolman.

Looking at the operational plan that was developed for implementation from two o’clock that afternoon, looking at the role of the police service, although the Constitution guarantees the rights and imposes responsibilities on the citizens of the Republic, looking at section 7, “to peacefully and unarmed, demonstrate, picket,” section 205 also put the responsibility on the police, “to prevent and combat, investigate crime, maintain public order and protect and secure the inhabitants of the Republic and their property.” So the role of the police was to restore and maintain law and order in the Marikana area. The strategy that will be followed, looking at negotiation for a peaceful solution, protect the life and property necessary, also looking at the previous instances, protect the police members deployed as well.

Next slide, the emphasis was to engage in dialogue to seek a non-violent solution through the use of crisis negotiators. The group at the koppie needed to be monitored, but not approached without reason, in order to prohibit opportunity for confrontation. Available reserve forces were to be kept at a fair distance, out of the vicinity of the gatherings, as not to provoke unnecessary confrontation. Caution was to be taken not to search individuals of the group without due vigilance and the necessary cover. Soft skin vehicles - that is referring to normal sedans, bakkies, not armoured vehicles like Nyalas in the police – needed to be kept in reserve. Utilise only armoured vehicles near the crowd, with no police members leaving the Nyalas and exposing themselves unnecessarily for attacks.

The next slide, the operational overview of the operation contained six stages. Stage 1 was dialogue and monitor the protesters through our negotiation. Stage 2 will be a continuing of the negotiations, but with a show of force. So there will be forces behind the negotiation, positioned in case of emergency deployment. Should negotiations fail to resolve the issue, stage 3 will be a tactical option to resolve and it will entitle to disperse the crowd into smaller groups and disarm them from there. Stage 4 would be the process to arrest the protesters and handle the crime scenes and the weapons confiscated. Stage 5 of the operation were intelligence-driven follow up operations to arrest identified individuals at places of residence. Stage 6 of the operation will be cordon and search of hostels to remove all dangerous weapons in the area.

Coming back to stage 1 of the operations, the negotiations, the police had to deploy one of the public order policing’s monitoring contingents with negotiation components to engage in dialogue, seeking a peaceful disarming and dispersion solution. This approach will allow the police to move closer to the crowds of protesters gathered at the koppie in order to monitor their behaviour, and to engage in dialogue to negotiate a peaceful dispersion and laying down of weapons.

The police armoured vehicles were then positioned as such between the protesters on the koppie and the informal settlements behind them to create a neutral area, that we will indicate later on a map for you. The negotiators and members of public order policing in the armoured vehicles will have a response group of members of the tactical response team approximately 100 metres behind them to respond and assist their colleagues should the protesters threaten the members of public order policing’s lives to the point where they could not escape, or were forced to exit their armoured vehicles.

Continue to the next slide, the reserve groups consisting of additional public order police in armoured vehicles with barbed wire trailers to form barriers should it be needed. Tactical forces from the national intervention unit, special task force, emergency medical
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services, fire brigade, crime scene and investigation
experts, et cetera, were put at forward holding areas,
about one kilometre from the frontline in order to respond
as a backup, if necessary. Helicopters from the police and
the South African Air Force were also used as command post
and specialised force response platforms that were based at
the joint operational centre at Lonmin.

[12:26] The next slide is a visual representation of
stage 1 of the deployment. First of all on the screens I'm
going to indicate with the computer mouse, koppie 1 where
the protesters were gathering. The blue line of vehicles
that is visible there, that will be the negotiation line of
armoured vehicles and that consists out of negotiators and
public order policing members. Behind them, the orange-red
line, that will be tactical forces for their protection,
should something happen, about 100 metres behind them.

These two lines formed a line between koppie 1 and the
neutral area at the back of them that consisted out of
various informal settlements, hostels, so as protection as
well a neutral area is formed behind those two lines.

Out of sight of the protesters on the koppie
there was reserve forces placed, forward holding area 1,
where we have basically crime scene experts, detectives,
medical personnel. Also at forward holding area 2 outside
of the people at the koppie, we had forces on standby,
should they be necessary.

Going over to the next slide, stage 2 of the
operational plan, should negotiations during the stage 1
not render a successful solution, we will go over to stage
2. That will still be negotiations, but with a show of
force. It starts with the deployment, exactly the same as
stage 1, again the public order policing contingent with
negotiation to engage in dialogue, seeking a peaceful
disarming and dispersion. In addition to stage 1
deployment, the reserve forces would be brought forward to
the neutral area as a show of force with the intent to
dissuade confrontation with the police. The public order
policing and technical response team reserves would be
moved to the police rear formation as a show of force.

The defence assets for crowd control, being six
armoured vehicles with barbed wire trailers, would be
positioned between the first line of the police and the
protesters. The wire would not be deployed yet, only be
prepositioned. This will allow the police to rapidly
deploy the barbed wire to close off the neutral area from
aggressive approaches by the protesters.

The special task force members and national
intervention unit would move to the immediate reaction
areas to the south, generally still out of sight behind the
power station, and the remainder of the NIU in their soft
preparedness in view of protecting the police members,
other supporting elements co-opted into the operation whose
services are required for contingency procedures in the
event of emergency, and media members.

Okay, the next slide is again a visual
presentation of stage 2. First of all just an indication
on the screens where koppie 1 is. The blue line and the
red line behind that, that was the stage 1 deployment, the
negotiators with technical response teams behind them for
protection. The biggest change from stage 1 to stage 2 is
the barbed wire vehicles, the yellow line in front of the
blue line, were positioned without the barbed wire being
deployed, and additional forces were added behind the blue
line. Also additional forces were moved a little bit
closer to response area 1 and 2, indicated there with the
mouse pointer. So if emergency response is needed, that
they are closer than the forward holding areas.

If we go to the next slide, the implementation of
phase 1 and 2, the main focus was still negotiation to get
a peaceful solution to the situation. Only if negotiation
should seem not feasible anymore we would go over to stage
3 of the operational plan. Still it will mean addressing
the protesters, ask them to voluntarily lay down their
weapons; if not, disperse them into smaller groups,
encircle and disarm them. Again it was emphasised, this is
only where negotiations are deemed unsuccessful or no
longer feasible by higher authorities and a tactical option
was needed. The option then was considered and deemed
preferable, was to disperse them into smaller groups,
encircle and disarm. The dispersion strategy would enable
the police to deal with more manageable disorganised group.
This would prove easier than to handle a group of about 3
000 persons at the koppie. It would also allow for the
water canons to be used to break up the more militant
groups, site information and structuring.
Continue to the next slide, the force continuum
that could be used during the dispersion were as follows.
Giving a verbal command to disperse, in languages that will
be understandable to the group. Members that will still
remain and do not want to disperse, advancing the water
canons to engage the protesters, getting them to disperse,
flanked by Nyalas with members of public order policing
deployed outside the armoured vehicle, using the armoured
vehicles only as a safe haven to climb back into should
they be attacked by the protesters. Should a verbal
command and the use of water canons don’t cause the
protesters to disperse, teargas will be used as the next
phase, whereafter stun grenades will be used to force the
dispersion, and then advancing rubber rounds from the
public order police members to encourage dispersion.

Going over to the next slide, should the
protesters attack members of the public order policing in a
dispersion line who would be outside their Nyalas at that
stage, the second line of armed members of the tactical
response teams, the TRTs, backed up by NIU and the special
task force and following behind the POP line, would respond
proportionately to address the threat and to protect their
lives. In addition to this, these forces will also be
responsible for close-quarter confrontation to approach
smaller groups armed with sharp-edges weapons that refuse
to disperse and move to higher ground where the armoured
vehicles and water canons could not access them.
The next slide again is a visual representation
of stage 3. Again firstly I will indicate to you the
koppie. During stage 3 deployment the barbed wire will be
deployed, that’s the yellow line that is visible. The
deployment of the barbed wire will keep the protesters from
entering the neutral area and running into the informal
settlements behind the wires that is indicated there.
After the barbed wire has been deployed, there will be
Nyalas, flanked with water canons, to disperse the people
on the koppie and disperse them in a positive direction.
That will be into the open field away from the informal
settlements and the hostels that were at the other side of
the barbed wire. Forces that were placed at forward
search of hostels in order to complete the disarming
process in the Marikana area. The Karee and Wonderkop
hostels will be cordoned off, searching operations executed
to remove any further dangerous weapons in order to bring
back stability in the area.
That was the six phases of the plan that was
decided on to resolve the situation after the initial
visible policing plan ended.
Going to the next slide, taking you through the
sequence of events, Tuesday the 14th. 8:30 in the morning
another meeting was held between Major-General Mpembe and
the mine’s management. After the initial indication from
the mine management the previous night that they do not
know who’s the members that are involved in sitting at the
koppie. They were referred to as faceless. Video footage
and footage was presented to the mine management and some
of the persons on the available footage were identified as
employees by Lonmin, by the mine management.
By 12:30 the negotiators had already arrived.
They were briefed by Brigadier Calitz and Brigadier Fritz
with regard to the situation and the striking workers at
koppie 1. After two o’clock that evening when all – that
afternoon, when all the additional forces arrived, first
the commanders and then the full visible policing
employment was recalled and briefed on stage 1 of the
LT-COL VISSER: Mr Chairperson, with your permission, I had one or two enquires in the break. I would like just to recap from three slides back about the rituals, if I have your permission.

CHAIRPERSON: Yes.

LT-COL VISSER: Okay, we’re going to go back to slide 86, the first picture about the ritual. Just one thing I want to clarify, out of all the photos that were taken we synchronised photos according to a time line, the standard time line. That’s the time that is in the right bottom corner, 6:21 to 15:23, that is on top of the screen. That was the original time on the camera, if we can just change that also to 16:21 on both pictures. The actual time after we re-synched the cameras was 16:21 according to a standard time line and not 15:23 anymore.

CHAIRPERSON: Does the same apply to slide 87?

LT-COL VISSER: Yes. So slide 86 and 87. Then just to highlight, just before the police arrived at the scene these photos were taken out of the police helicopter. Again the two lines of naked men that underwent some sort of ritual. Simultaneously to those photographs being taken, the police depart from the forward holding area to deploy phase 1 of the operational plan, negotiations.
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Slide 89 just shows the police coming into position in front of the kopje and then we’re quickly going to play the video again. As soon as the police stopped at the scene, the last part of the rituals, and then we’re going to continue.

[VIDEO IS SHOWN]

As soon as the police came in position they started to get dressed and this is the last part we got on video. There you can see the sprinkling of the muti.

CHAIRPERSON: You can only really see the sprinkling of a liquid. One doesn’t know what it actually is, but there may well be evidence that it’s muti but all we can see on the video is liquid, isn’t it?

LT-COL VISSER: Yes.

[VIDEO IS SHOWN]

Also the dangerous weapons that are still visible in the group. Then just the last part of the footage.

[VIDEO IS SHOWN]

Thanks, we continue and that is where we ended.

The next slide, slide number 91 shows 16:39 just before the first contact. The police phase 1 is in place. What is eminent about all the days leading up to the protests were gathering, on all the days leading up to the first contact. The police phase 1 is in place.

The next photograph is just stage 1 of the first dialogue, the group of protesters.

It’s also that group that was involved in some sort of ritual.

Continuing to the next slide, the next contact that was made over the armoured vehicle’s public address system informed the protesters that the police were there in peace and we try to find a peaceful resolution through negotiations. Throughout the negotiations a Fanagolo interpreter from Lonmin mine was used. After the incident on Monday they availed a permanent interpreter that was used. Police negotiators requested representatives to come forward to talk to the police so that a communication line could be opened and eventually five men approached from the group of protesters.

The following is a short video clip just indicating the first contact that was made.

[VIDEO IS SHOWN]

Then eventually the five representatives came forward.

[VIDEO IS SHOWN]

During the first contact, looking at the incidents that happened, all negotiations from the police’s side was from inside the Nyala. After the five representatives came forward they were again reassured that their safety was a police concern and they would be free to return back to the group after negotiations. After they were reassured about their safety, the police armoured vehicle and the negotiators moved forward, they met one another halfway and then entered into dialogue with the representatives a short distance away from the Nyala. The next photograph is just stage 1 of the first dialogue, the five representatives that came forward from the group of protesters.

To continue with the sequence of events, the initial greetings were made to the representatives and again their safety was reassured. The representative doing most of the talking did not want to give his name and was therefore dubbed as Mr Green for identification purposes within the police deployment, as he continuously wore a green blanket around his upper body. He was later identified as Mr Noki. Mr Noki was also one of the main representatives from the group that we saw on the Monday before the attack on the police.

The negotiators explained that the police’s purpose was to try and find a peaceful solution to the situation as aggression and fighting were not the solution. The representative stated that the protesters wanted the mine management to give them an increase to ensure that the salaries were at R12 500 per month. The group was informed that their request would be forwarded to the joint operational centre and that the police cannot force the mine to negotiate with them, the police could also not negotiate any labour issues on anybody’s behalf.

We continue to the next slide. The three representatives then indicated that their fight is not with the police and that there are members of AMCU, had been shot and killed by persons of NUM, the mine security and the police. The representatives of the protesters were informed that several people had been killed in the recent past, including two of the mine security personnel and two members of the police. The protesters became very aggressive, stated that they don’t know why the police are present and that their fight is with the mine management. The representatives were informed again that the police could not negotiate on labour issues, but were present to engage in dialogue to bring about a peaceful solution with regard to the protesters gathering at the kopje.

The following is a short video clip about this first engagement and dialogue between the police negotiators and the representatives.

CHAIRPERSON: May I suggest that if there is audible dialogue we should deal with it the way the earlier one was dealt with, with pauses to give the interpreter a chance to interpret what can be heard.

LT-COL VISSER: That’s fine, sir.

[VIDEO IS SHOWN]

MR MAHLANGU: They was talking, Mr
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[VIDEO IS SHOWN]

LT-COL VISSER: Stop.

MR MAHLANGU: The first thing I heard was, “what is your name” and somebody interpreted in Fanagolo - what is your name?

[VIDEO IS SHOWN]

Again the same question is asked – “what is your name?”

[VIDEO IS SHOWN]

One can hear the word Macintosh and then he was saying – “but that is mine.” And then the next thing that followed was Macintosh and I don’t know who was asking who.

[VIDEO IS SHOWN]

LT-COL VISSER: Can we wind a little bit, we just want to get the headphones?

[VIDEO IS SHOWN]

MR MAHLANGU: Something said in Fanagolo – “we want to see our manager."

[VIDEO IS SHOWN]

[14:30] LT-COL VISSER: So Mr Chairperson, it’s just a short clip, basically just the initial greetings and the opening of the communication lines between the police negotiator and the five representatives. If we continue with the sequence of events after the initial greetings, as a gesture of goodwill the representatives were requested to allow investigating officers and crime scene personnel to access the scene where the body was found next to koppie 1.

The protesters then gave feedback that the police could attend to the crime scene, they would not interfere with the process. The representatives further stated that they did not know anything about the body or the circumstances of the death. At about 20 past five detectives and members of our local criminal record centre crime scene experts were transported to the crime scene.

Just some geographical orientation again. The red circle that you see is the koppie where the protesters are gathered and then roughly 100 metres away from the koppie in the yellow circle is where the body of the supervisor was found. The supervisor was killed round about two o'clock and four o'clock in the afternoon while the police had withdrawn from their visible policing strategy and were busy with the briefings with regard to deployment and reorganisation to implement stage 1.

Mr Chairperson, again a warning. There will be some footage now of the body of the deceased supervisor, Mr Twala. Again if we can have the same opportunity, if there’s family members or members that do not want to see these graphic images, to give them an opportunity to leave.

I’m going to continue. The next slide shows an image of the body that was found with the skull on its chest. The second image again indicates the gruesome and the violence of the attack. Nobody was spared by the violent nature of this group, not co-workers, not mine security, not mine supervisors, not even the police were spared.

The next slide indicates also a number of stab wounds to the body of the supervisor. Next is a short video clip of the body and the surroundings where the body was found. There is no [inaudible], it’s only images.

The crime scene was secured, there are people [indistinct] to the crime. Then the skull that was found on the body of the supervisor. In the surrounding areas that we will show you just now there were various skulls lying in the field, so whether the skull had any significance is unknown to us. That’s just a short indication of what the scene was like.

We continue with the last part of Tuesday, the 14th. At six o’clock the representative requested the police to postpone any further meetings to the following day at nine o’clock to allow the group to discuss the process they wanted to follow. The representatives were also informed by the police not, they do not wish to negotiate in an aggressive atmosphere and they should not bring any weapons of any nature the following morning. 20 minutes later at 20 minutes past six the representatives gave feedback to the group of protesters at the koppie and they dispersed peacefully. The members of the public order policing, including the negotiators then monitoring the group dispersion while the soft skin vehicles behind them returned back to the joint operational centre.

Round about half past eight that evening, all forces proceeded back to the rear staging area at the joint operational centre. In this period Major-General Mpembe had also arranged with the two union presidents of AMCU and NUM as well as representatives of COSATU to meet the following day to discuss the situation.

Looking at the rituals that were witnessed and looking at the role of the sangoma in hindsight, various articles were placed in various newspapers – this is just a couple that was highlighted. The Sunday Times online 2012.08.25 reported that the sangoma had performed rituals on the hill where the strikers were gathered and had dished out muti to make the men invincible. It was also reported that the sangoma, also known as the medicine man from the Eastern Cape, had cut the workers with a razor blade and then had the muti smeared on their bleeding wounds before...
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he sprinkled them with Ntelezi, a herbal poison. These procedures as reported by the some of the ritual participants, were part of a process to make them invincible to bullets. After they got the muti, people were so aggressive, they just wanted to fight, they felt so invincible, Lonmin miner Bulelani Malawana told the Eastern Cape Daily Dispatch newspaper on the 21st August.

To continue with the sangoma, in hindsight, through the media, on the 21st August the Daily Dispatch also broadcast an interview with the President of the Congress of Traditional Leaders of South Africa and ANC MP, Chief Phathekile Holomisa who stated, "He did not say they must go to war. When the healer was called, these miners had already taken a decision to go to war. What was required from him was to administer the medicine."

The South African Press Association also reported on the 21st August that they interviewed a mineworker, Nothi Zimanga, who explained the ritual. "They were cut several times on their upper bodies and a black substance was smeared on the wounds. They were then told when they confronted the police they should not look back and should instead just charge forward. If you look back then the muti will not work. Miners had also drunk a brown muti poison to strengthen them ahead of the confrontation with police," Zimanga explained.

Looking at the summary of the day’s, of the events of Tuesday the 14th, additional deployment arrived from other provinces to assist with the escalation situation. One of the mine's employees was killed and an animal skull put on his chest. Again reports were received about protesters involved in some sort of rituals. These reports had, however, no effect on the operational plan that had been put in place on the Tuesday. The police implemented stage 1 of the operational plan to engage in negotiation with the protesters for a peaceful resolution.

The mine management was still not prepared to engage in negotiations with the protesters. Violence and casualties kept escalating and it was becoming clear that this incident differed from other incidents at platinum mines.

The next slide are casualties as you stand at the end of Tuesday, the 14th of August. Wounded, the same as the previous day, 16 members were wounded, that included co-workers, also members of the police. Deaths, 10, that also included co-workers, mine security, police members and the latest casualty was a mine supervisor.

Thanks, Mr Chairperson, we're going to move over to Wednesday, the 15th August 2012, slide number 111. Continuing, looking at the sequence of events, early in the morning, at quarter to three in the morning there was an ATM bombing at the supermarket in Wonderkop, close to the Wonderkop Stadium. Explosives were used at the ATM but also on the scene a live R5 round was found. Through ballistics, this round was linked to a batch of ammunition that was issued to the police service and it was also linked to the round that was recovered on the scene of Monday where the police were robbed of the R5 and its ammunition. This incident raised the possibility that some possession of explosives now, despite the various firearms that had been robbed from mine security and police members.

[14:50] Continuing to the next slide, half past five in the morning of the 15th a meeting was again held between Lonmin mine management and the police management. Lonmin still stated that the mine would not negotiate with striking mineworkers as there was a 2-year wage agreement in place with all the applicable unions. They also stated that the strike was unprotected and they would only talk to the unions again when the protesters put down their weapons and returned to normal duties. The police requested the mine again to engage with AMCU and NUM for them to address the protesters at the koppie so that a peaceful solution can be achieved.

To continue to the next slide, six o'clock in the morning in the sitting of the JOC COM, the reports that was available indicated the protesters did not want to surrender their weapons as they alleged that they needed them for protection against members of NUM. The protesters’ behaviour was becoming more aggressive and the senior command of the police put the emphasis on negotiations. This was not only a security issue and the root of the conflict was outside the mandate of the police.

To continue to the next slide, a briefing of the morning – operational commanders were briefed again about stage 1 deployment, to continue negotiations and monitor the protesters. Again looking at the information that was available and the nature of the protest, 746 members were initially deployed, followed by an additional 36 members in the area. The operational plan implemented, again at nine o'clock stage 1 of the operational plan was implemented, the same as the previous day.

The next photograph indicates again the aerial photograph of the deployment on the day at 10:27 in the morning. Again the first thing we're going to indicate on the photograph, if you look at the mouse pointer, position 20 of koppie 1 where the protesters were gathering. Again in front of the bigger group on the koppie there was a smaller, more organised group that was visible on all the days. Approximately 80 metres from that group the first line of police with armoured vehicles – that includes members of our public order policing and the negotiators –
24 or her with the telephone number of their Adv Shapiro. The
23 he or she had to come forward as they wanted to provide him
22 number of the commander of the operation and, if present,
21 representatives stated that they wanted the telephone
20 down their weapons and return to normal duties. The
19 they would not negotiate with them unless the workers put
18 and they were informed that the mine had indicated that
17 representatives asked if the mine management was present
16 relationship that had been initiated the previous day. The
15 their safety and the police wanted to build on the trust
14 moved forward to the Nyala. 15 minutes later the group of five
13 The larger group was again requested to put down
12 wanted the commander’s telephone number first.
11 Shapiro’s telephone number, to which he refused as they
10 representatives returned and he was asked to provide Adv
9 Calls were made for them to return. One of the
8 At this point one of the representatives became
7 very aggressive and stated that the police should not be
6 these and that the people in their hippos – referring to
5 the armoured vehicles of the police – would die there and
4 that not one Nyala would leave the ground. The group of
3 five representatives then turned around and walked away.
2 The placard that is
1 LT-COL VISSER:  The placard that is
1 visible there only indicated a 12 500 salary demand.
24 [VIDEO IS SHOWN]  LT-COL VISSER:  Mr Chair, can I just
25
1 [VIDEO IS REWOUND AND SHOWN AGAIN]
2 LT-COL VISSER:  Stop.
3 MR MAHLANGU:  The person speaking said,
4 “We want to say the only thing we want is the following” –
5 if you could just turn back a bit?
6 LT-COL VISSER:  Rewind a little bit.
7 MR MAHLANGU:  To rewind a bit, yes.
8 [VIDEO IS REWOUND AND SHOWN AGAIN]
9 MR MAHLANGU:  What we want is that the
10 employer should come forward to us and not the police.
11 [VIDEO IS SHOWN]
12 LT-COL VISSER:  Rewind a bit?
13 [VIDEO IS REWOUND AND SHOWN AGAIN]
14 MR MAHLANGU:  If they could stop bringing
15 the police, what we want is the person who employs us to
16 come and talk to us.
17 [VIDEO IS SHOWN]
18 MR MAHLANGU:  It’s not very clear.
19 LT-COL VISSER:  Okay, the last part is
20 not very clear but the video is just to show the mood of
21 the protesters and the crowd’s behaviour. The majority of
22 the footage is focused on the front part of the group that
23
22 were gathered in front of the koppie.
21 To continue then with the sequence of events on
20 Wednesday, the 15th. At 11:30 that morning feedback was
19 given that, to the protesters that Major-General Mpembe,
18 the overall commander, is available at the joint
17 operational centre and they provided the representatives
16 with the telephone number. At 12 o’clock negotiations to
15 disarm and disperse the protesters were at a deadlock and
14 the decision was made to monitor the situation forward.
13 At two o’clock in the afternoon of the 15th,
12 Major-General Mpembe held a meeting with the leadership of
11 AMCU and NUM where he negotiated with them to address the
10 protesters. He requested that a peaceful solution had to
9 be found and that the firearms that were stolen from the
8 policeman who was killed on Monday had to be returned.
7 The next slide, slide 121, is a small collage of
6 photographs to indicate some of the dangerous weapons that
5 were present in the group of protesters on Wednesday the
4 15th.
3 [15:10]  If this footage is compared with the initial
2 march on the Friday where we looked at traditional weapons
1 like knobkerries, it escalated a lot and the weapons that
23 were present here is a lot of dangerous weapons.
22 To continue with the sequence of events,
21 Wednesday the 15th, at four o’clock that afternoon the
20
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25 Thursday 16th of August 2012, to give feedback to the group they had offered their assistance in every way needed. The representatives of AMCU reported that they would meet with their members at the kopgie again at nine o'clock the following day and a peaceful solution will be achieved for the situation.

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1 police arranged to take the leadership of the unions in separate Nyalas to address the group of protesters at the kopgie.
2
3 At 10 past four that afternoon members of the police second helicopter reported again naked men were performing rituals at the kopgie and an occurrence book entry was made in that regard.
4
5 At quarter past five that afternoon a delegation of three members, including the President of NUM, were taken to the kopgie to allow them to address the crowd but they were chased away by the protesters before they could say anything. The crowd was very aggressive at this stage and the Nyala was withdrawn and the NUM delegation left the kopgie.

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1 with regard to their meeting with the mine's management.
2 The following are two very, very short video clips that we have just to indicate that the leadership of NUM and the leadership of AMCU was on the scene – it's very, very short, we're just going to indicate it. The first one is the NUM representatives that were at the scene and then were chased away.

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1 following day – again, that being Thursday, 16th of August 2012, and there was a commitment that protesters would surrender their weapons. This commitment was given in the presence of Major-Generals Mpembe, Annandale and Naidoo in the joint operational centre.
2
3 LT-COL VISSER:          Here the leadership is being convinced to enter into the Nyala and not to go to the protesters on foot. As from there they entered into the Nyala and they addressed the protesters.

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1 Looking at the casualties, at Wednesday specifically there were no additional casualties, so nothing for the Wednesday. So the wounded count still stands at 16 and the death count still stands at 10 at the end of Wednesday, the 15th August 2012.
2
3 LT-COL VISSER:          Thank you, Mr Chair.

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LT-COL SCOTT: Thank you Chairperson, and greetings to the commissioners, to the legal representatives, to the family members and the media. I am Lieutenant-Colonel Scott, I am from the South African Police Service and I’ll be presenting the second half of the presentation which predominantly deals with the 16th of August.

Chairperson, what I would like to do at the outset is refer to a map which has been laminated and given to all parties.

CHAIRPERSON: Can it be shown on the screen so that those in the auditorium, who obviously haven’t got copies, will be able to follow what you’re going to say?

LT-COL SCOTT: I see that the computer operator is going to have a look. We’ve got it on the computer upstairs. Right, it’s on screen now. This is an orientation map which has been given out to all parties, so when we start speaking of the different koppies, if I can refer you to koppie 1 which is the larger koppie with the rocks, if you look to koppie 2 it’s a smaller koppie just north of koppie 1. Then you can see to the left of the picture, that’s to the west, that is koppie 3. You’ll notice the blue dotted line, that is initially where the stage 2 Nyalas are positioned and on to the right or to the east of the dotted line is the neutral area, what we know as the neutral area. What you see in yellow, scene 1, is at the kraal to the north of the neutral area and to the west, to koppie 3, is known as scene 2.

As we’re dealing with Thursday the 16th of August, the key marks on your maps will bear reference to the comments made inside the presentation.

CHAIRPERSON: To get it out of the way, you may tell us what the meaning of negative in respect of the red arrow and positive in respect of the green arrow refers to.

LT-COL SCOTT: Chairperson, in the terminology of the police when we have a crowd and when we create a neutral area, we’ll always create the neutral area in between what we call a negative attraction and the crowd, where the police will position themselves between what could be considered an area where destruction can be and then we’d have a position attraction direction where, if there was dispersion action to happen, we would want the crowd to move in that direction. That would normally be towards areas where there would not further unrest, destruction or violence.

The neutral area, looking at the map still, was created specifically to the east of the protesters on the koppie. The appreciation was done with regard to the clashes which happened between the two different unions between the Wonderkop hostel on the Saturday, as well as the conflict between mine security and the protesters which happened on the Sunday. So negative actions happened towards the east of the koppie and that’s why the police positioned themselves in the neutral area to prevent protesters moving in that direction again.

Continuing then with the 16th of August – we’ll just wait for the presentation to come up. Right, it’s slide 130. Six o’clock in the morning the JOC COM meeting met. The command structure as well as all the operational commanders were in attendance at the JOC meeting.

Information was presented that morning that many of the protesters had dangerous weapons with them, still in their possession, that they were armed, planning to go to koppie 1 and that they were not planning to lay down their weapons. This information was given through by the crime intelligence representative in the JOC COM. It was also reported by crime intelligence that the situation on the ground was tense.

Slide 131, the operational deployments for the day. The operational commands were brief with regard to a stage 2 deployment, to continue with negotiations and monitoring but with the pre-positioning of the crowd management assets and the presence of the reserve force as a show of force.

The stage 2 deployment, as you can see, is an elevation from the stage 1 deployment from the Tuesday and the Wednesday.

MR MAHLANGU: You say –

LT-COL SCOTT: The stage 2 deployment is an elevation from the stage 1 deployment from the Tuesday and the Wednesday. 630 members of the police were deployed on the day shift that day and 88 members were deployed for night shift that night. The next slide, slide 132.

General Annandale who was addressing, who was chairing the meeting, addressed the meeting on the progress made with the mines management and the unions regarding the establishment of a common goal and a way forward for a peaceful resolution to the current situation. What the General alluded to as well was that during the negotiation
process the previous day, the AMCU President promised to provide feedback to the SAPS management on the way forward and that the police deployment would therefore be in accordance with that outcome. The AMCU President gave his assurance that his members would lay down their weapons by nine o'clock that morning. It was, however, agreed that a contingency plan had to be put in place if the call to lay down arms failed. Considering the information received from the crime intelligence brief, it was considered that police needed to be more vigilant that day as well.

I'm moving to slide 133. The police's deployment would be done in line with stage 2 of the operational strategy, which was a show of force and the pre-positioning of the assets. Right, a full deployment would be done in accordance with the strategy of stage 2 and that would mean that the barbed wire trailers would be pre-positioned but the Nyala would not deploy the barbed wire.

The briefing continued that should the situation escalate, the tenseness and the aggression, that stage 3 would be implemented, that a briefing would first be held prior to a stage 3 deployment happening. The briefing would ensure that all operational commanders understood the plan and that the plan could be revised according to the situation on the ground at that time. General Annandale again emphasised that the police's strategy would be to provide feedback to the SAPS management on the way forward, to process the previous day, the AMCU President promised to provide feedback to the SAPS management on the way forward and that the police deployment would therefore be in accordance with that outcome. The AMCU President gave his assurance that his members would lay down their weapons by nine o'clock that morning. It was, however, agreed that a contingency plan had to be put in place if the call to lay down arms failed. Considering the information received from the crime intelligence brief, it was considered that police needed to be more vigilant that day as well.

I can just recap the stages of the operational strategy. Stage 1, as we know, was the dialogue with a monitoring presence of public order policing. Stage 2 was a show of force and the proactive positioning for possible escalation for a tactical option. Stage 3 would be that tactical option to resolve the situation. Stage 4 would be to process the scene as well as the arrested persons. Stage 5 would be intelligence driven operations in order to follow upon information gained as to the whereabouts of suspects as well as evidence which needs to be seized. Stage 6 would have been a cordon and search of the hostels to remove dangerous weapons, to bring stability to the area.

Right, moving to slide 135 and just to denote that the tables that will follow slide 135 are compiled for the Commission's briefing and were not displayed at the briefing that morning of the 16th, due to the unknown numbers of personnel. Personnel would arrive each day and given the JOC COM briefing, we would need to assess what assets the police had on hand. Therefore an incomplete table would have only been able to be presented at that stage. So however, the taskings that are depicted in the table as well as the teams remained depicted as they were given on the briefing that morning. So we'll go through the tables now. This is going to be the stage 2 deployment and the briefing which was given to the operational commanders at the JOC COM that morning.

Slide 136 – and the way the tables are set out, as well as for operational briefings, is as you see them on screen or in your presentations. We have two columns and

The task was to engage in dialogue with the representatives of the protesters to seek a peaceful resolution to the situation. The planned deployment, they needed to be in mission area by 10 o'clock that morning, to be removing at 17:00, at 19:00, seven o'clock that night. Their area of mission was the neutral area. In that vehicle with that call sign papa 1 was Brigadier Calitz and the personnel specifically in his team with him, under his command directly were the negotiators and at that stage it was Lieutenant-Colonel Macintosh. With him was the interpreter from the Lonmin mine. Their equipment they needed to have with them was the police radio for communications and a megaphone for negotiation purposes. Their resources, their way of transport was with the Nyala provided by the monitoring group which was Colonel Mere's group and as for all the signals throughout the time period there, it was channel 47 was in use. Specific to the tasking was that they needed, the request remained for that negotiation – to have protesters voluntarily lay down their arms, to disperse of own accord, not to return to the gathering area armed but to meet with their unions to resolve the wage issues.

CHAIRPERSON: Before you proceed, I just want to ask you a question. I know you're not under oath but I'm sure that won't affect the veracity of your answer.
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**Chairperson:** Yes. No, I understand. He will obviously testify about those of which he has personal knowledge. I was concerned with the aspects of which he doesn’t have personal knowledge but I think you’ve satisfactorily explained what your attitude is. Thank you.

**Lt-Col Scott:** Slide 137. The designation here is the monitoring group and the call sign of that group, specifically the commander, was Papa 10. Their task was to monitor the atmosphere around the gathering crowd and provide feedback to the JOC. Again the day time group is similar to the commander and the action area is similar to the commander. The commander there was Lieutenant-Colonel Mere and he had 45 POP members and two information officers from the public order policing with him. The personal equipment that they would need to take with them was the public order policing equipment for crowd control as well as the video cameras for the information officers. Colonel Mere had five Nyalas at his disposal.

**Chairperson:** And then in respect of the next one, the monitoring group, the witness who will testify –

**Lt-Col Scott:** Mere. If you could -

**Chairperson:** Okay, thank you. Chair, in response, when we do look at the commander’s details, each specific grouping that had a different task that day, the commander is mentioned. So I’m not sure if they’re all possible for you to indicate when you deal with each segment, which witness will be able to deal with it because you obviously are just giving hearsay, I take it, yourself and if someone tries to cross-examine you on it they’ll probably just – it would probably waste a fair amount of time. So we want to know is the person or who are the persons to be cross-examined in respect of each of these segments of information that you’ll be giving us. If you can give us that I’d be grateful.

**Lt-Col Scott:** Okay, thank you. Chair, now will I be correct in saying that the witnesses who will testify with direct knowledge of this part of your report, the points you’ve just dealt with, will be Brigadier Calitz and Lieutenant-Colonel Macintosh?

**Lt-Col Scott:** That’s right, sir.

**Chairperson:** Well, Mr Semenya will deal with that in due course but it may be that if he doesn’t call someone who’s listed here and someone wants to cross-examine him, we may have to exercise our powers to call witnesses ourselves. But basically Mr Semenya is in charge of the police case and I’m sure he’ll do what he considers necessary.

**Mr Semenya SC:** We have these witnesses on our list of witnesses but so too, when the Colonel gives his own evidence, because he drafted the plan he will be speaking that this was part of the plan.

**Chairperson:** Yes. No, I understand. He will obviously testify about those of which he has personal knowledge. I was concerned with the aspects of which he doesn’t have personal knowledge but I think you’ve satisfactorily explained what your attitude is. Thank you.

**Lt-Col Scott:** Slide 137. The designation here is the monitoring group and the call sign of that group, specifically the commander, was Papa 10. Their task was to monitor the atmosphere around the gathering crowd and provide feedback to the JOC. Again the day time group is similar to the commander and the action area is similar to the commander. The commander there was Lieutenant-Colonel Mere and he had 45 POP members and two information officers from the public order policing with him. The personal equipment that they would need to take with them was the public order policing equipment for crowd control as well as the video cameras for the information officers. Colonel Mere had five Nyalas at his disposal.

**Chairperson:** The team call sign there was Tango India 1 or TI1 and this was the neutral area response team. Their task, under the command of Captain Lust was to protect the police members, members of the media and other persons in and around the neutral area when a threat against life was imminent. The personal equipment – they were 76 TRT members and their commander Captain Lust again. The equipment, personal equipment, was ballistic protective gear, their uniform overall as well as their assault rifles – and this is standard issued equipment for the TRT members. They were to deploy either on foot or in soft skin vehicles as they did not drive in the Nyala armoured vehicles. The comments for them, for their tasking, was to remain about 100 metres behind the POP monitoring and negotiation group. They needed to secure the rear and the northern flank of the neutral area with a show of force should threat become evident. They would need to respond to attacks on the public order policing line, on command of the operational commander or when the safety of the POP members or others have been compromised to the extent where their lives may be lost in the absence of a tactical response.

**Chairperson:** Moving on to slide 139. The designation here is the defensive measure team and these were the public order policing members with the armoured vehicles with barbed wire. The team’s call sign there was Charlie 4, that was the call sign of Colonel Makubela. Their task was to deploy the Nyalas with the barbed wire trailers into the positions as a proactive placement for a defensive measure to protect the neutral area against threat from the protesters. Colonel Makubela had 53 public order policing members with him, with six Nyalas with barbed wire. And the comments for this specific group was that the Nyalas needed to be pre-positioned and an estimated 80 metres apart from the south to the north, starting at the power station. The Nyala line was to be just in front of the monitoring and negotiation Nyala line, to enclose them as a defensive measure. The most northern Nyala was to angle slightly towards the west to assist in protecting a
Slide 140 and this is the immediate reaction area

1. If we recall the orientation map, it was where the
green blocks were below the power station and – the team
call sign there for the commander was Charlie 5. Their
task was a rapid response capability in case of surprise
attack on the police and the media in the neutral area.
Their action area where they were to be holding was the
holding area on the road south of the power station. Again
the commander’s details, it was Lieutenant-Colonel Gaffley.
He had with him 20 special task force members and 25
national intervention unit members. The personal equipment
that they wore, similar to the TRT standard issue, it was
their ballistic protective gear, their uniform overalls and
assault rifles. The resources there was the special task
force Casspir as well as the Scorpion and the national
intervention unit had five soft skin vehicles. The
Scorpion was to be armed to provide a visual deterrent or
posture and again the special task force and the national
intervention unit would only respond to situations where
lives were imminently threatened, to assist or protect the

possible advance towards the informal settlement by an
organised armed protester group. Now in the stage 2, the
role of the Nyalas, if they should deploy their barbed wire
in a stage 2 it would be as a contingency action and done
on command of the operational commander.

Slide 141, the designation there was immediate
reaction area 2. The commander there was Lieutenant-
Colonel Modiba and his call sign was Charlie 6 and he had
the same tasking as the members at immediate reaction area
1 and that was to respond in case of a surprise attack onto
the police or media personnel at the neutral area. The
area for holding was on a footpath or road north of the
gathering area, adjacent to the informal settlement.
Colonel Modiba had 74 NIU members with him and had 17 soft
skin vehicles and their asking, as I say, again was the
same as the immediate reaction area 1, to respond on
instruction of the operational commander to assist in the
protection of lives within the neutral area. They were
placed to the north in case the response members from the
south, the route from the south became inaccessible due to
protester blockades. And that was what made the difference
between stage 2 specifically and stage 1, was the creation
of the immediate reaction areas to bring certain tactical
forces closer to the neutral area. A stage 2 deployment
would only be implemented when the situation on the ground
was becoming more intense.

Now, as with the stage 1 deployment, there were
two forward holding areas. Forward holding area 1, the
call sign there was Charlie 2 and that was for Major-
General Naidoo. His task was to maintain a forward holding
area for reserve tactical forces and support elements
within the close proximity of the neutral area.

[16:29] The holding area was positioned at the crossroads
at the BMR smelter to the east, about 1.6 kilometres away
from the koppies. On that Thursday morning General Naidoo
had under his control 21 TRT members, 32 dog unit members,
or we refer to them as K9. 14 mounted unit members,
members that deploy on horseback, eight public order
policing members and then to deal with the processing of
suspects or scenes, there were detectives, four local
criminal record centre members, the medical personnel and
fire fighters 5 and 2. My comments now was, General Naidoo
was to release the reserve tactical forces on command of
the JOC to the neutral area to assist the operational
commander’s contingent. General Naidoo was to release the
support forces as required for the handling of medical
casualties or fire again on command of the JOC and the JOC
would consider the safety for the support members at the
scene, when giving that instruction.

Continuing to slide 143, the LCRC and the
detectives would be released for the handling of crime
scenes, the evidence of suspects on command again of the
JOC considering the safety of these members and the
preservation of the crime scene thereafter. The forward
holding area 1 would maintain a reserve force from POP and
TRT to deploy tactical members within the force continuum
to incidents which would be away from the neutral area,
wayward incidents. Also the visible policing capability
which was represented also through the mounted police to
stabilise the environment, should there be a tactical
action employed as a defensive measure during stage 2. The
K9 capability was to be utilised to search difficult or
vast areas for weapons which had been hidden or abandoned
by the protesters should a tactical option again be
exercised.

Moving onto slide 144, the designation here was
forward holding area 2, similar to forward holding area 1
but it was to the west of the gathering. The briefing at
the JOC on that morning, Colonel Pitsi was the commander of
forward holding area 2 and his call sign was Charlie 3.
Again I needed to remain, their task was to
maintain a forward holding area for reserve tactical forces
within the close proximity of the gathering. Under Colonel
Pitsi’s command at forward holding area 2 were 57 TRT
members, six dog unit members and 70 public order policing
members. The vehicles that were utilised by the group were four Nyalas, one Casper and those are five armoured vehicles and then there were 20 soft skins vehicles. Their specific comments were to deploy a reserve tactical force again on command of the JOC to a neutral area to assist the operational commander’s contingent in that neutral area. That forward holding area 2 would also be responsible for the defence and the initial protection of vulnerable targets to the west of the protestors gathering. They too had the capability to deploy public order policing and tactical response team members to wayward incidents.

Moving onto slide 145, the air response team, we would normally work through an air force representative positioned with us at the JOC. On this day however the Oryx helicopter from the air force was retained in Pretoria on standby for us. Their call sign if they came in would be Oryx and the way we would speak to them would be through the air band radio communicating with the air force representative through the police helicopters. Their task specifically was the rapid response team to incidents on standby for us. Their call sign if they came in would be Oryx and the way we would speak to them would be through the air band radio communicating with the air force representative through the police helicopters. Their task specifically was the rapid response team to incidents.

Slide 146 was the air command post. This was the police helicopter Squirrel and its call sign was Chopper 2.

On board was placed Brigadier Fritz as the commander with the LCRC personnel to take video footage and still footage as they could. The specific comments to this designation was that they were to direct the counteraction should the tactical forces from the immediate response areas be deployed as part of the solution, to an action by protestors. Considering the POP members must have relinquished control then first and withdrawn due to the threats surpassing the POP capability. They were to provide information to the JOC on wayward incidents observed from the air and direct the tactical forces from the immediate reaction areas to those specific locations, as well as any reserve forces from the forward holding areas.

Slide 147, this is the air monitoring team and this was the police R44 helicopter, call sign Chopper 1, and Commander’s details Lieutenant-Colonel Vermaak. Their comments as well was to provide real time feedback over the police radio to the JOC and send cellular photographs from the air via the GSM network to enhance the situational awareness on the ground. So the cell phone photos were given through real time and the still cameras photos were brought as soon as the helicopter landed for downloading and viewing by the JOC personnel. The helicopter, being a cheaper running helicopter than the Squirrel would be airborne for longer periods and thus would provide sporadic feedback to the operational commander regarding the protestors’s actions around the neutral area during the day.

If we move to the visual presentation, the maps that were shown on the day, we can see depicted in red is the initial informal settlement, the greater squatter camp. If we move to the centre, we can see ringed in blue, that is the area that the protestors were gathering. We can see the red line is the Nyala line for the barbed wires, the defensive team Colonel Makubela. We can see the blue police car line which depicts the Nyalas of the monitoring and negotiation team. Brigadier Calitz and the negotiators placed in the middle Nyala and that Nyala line for monitoring under the control of Colonel Mere. Behind that we can see the blue police figures, that was the TRT and that was the neutral area response team, that was in command of Captain Lust. The immediate response area to
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Have positions their forces accordingly. It must be
stated that the tables that you seen previously are
the ideal plan that was presented. However the operational
commander's understandings to that plan is something that
would need to be tested with them. Again in stating that
the tables that you seen on your screens previously,
are the ideal plan again which have been filled in, the
numbers that were actually deployed on that day for the
commission's sake.

MR SCOTT: Slide 156, the sequence of
events continues at 10:40. The police helicopter reported
a group of women walking around in the informal settlement.
Vehicles were sent to investigate and it indicated they had
placards which again were indicating that all men in the
village had to join the men on the kopjie. The police
later again approached there group of women on their way to
the kopjie and they dispersed peacefully around 14:00 that
day. Still around 10:40 one of the protester
representatives engaged members in the Nyala through which
the main negotiation took place. This is the Nyala with
Lieutenant-Colonel Macintosh and Brigadier Calitz to ask
why the police were still there. It was explained that the
police were there for the safety and security reasons. At
this stage, Mr Nokkie or who they knew at that time, Mr
Green, emphasised that they did not want the police there.
The representative that had come to the Nyala at that stage
went back to the group and addressed the protestors, after
which it was visual and audibly the dynamics of the
protestors changed. The group that was in front started
singing songs and tapping and waving their weapons around.

COMMISSIONER: Colonel Scott, how long
will slide 157 take?

MR SCOTT: I don't think it's that long,
Chairperson.

were specifically employed to ensure the stability and
safety in the area of Marikana. Continuing on slide 154,
she mentioned that in the police's engagement with all the
relevant parties, a commitment had been reached that the
violence had to end that day, Thursday the 16th of August
2012 and weapons had to have been put down by 9 o'clock
that morning. The General mentioned that should the
commitment not be honoured that day, that the police would
need to act within their mandate to ensure that the peace
and stability were restored in the area. The official
channels were available for the resolution for the
protestor's grievances and that the current violent
situation could not be tolerated any further. She
mentioned that all efforts would be made to end the
situation amicably and peacefully as the police's role was
to ensure the stability and safety in the area of Marikana.

COMMISSIONER: Well let's have that slide
and then we will adjourn until tomorrow morning.

MR SCOTT: Okay.

COMMISSIONER: At 9 o'clock.

MR SCOTT: Slide 157 just shows the
behaviour of the crowd after the representative returned to
the crowd and had spoke to them. [video footage being
played] We suspect this to be the group that has undergone
the rituals as well. How they pack themselves together as
they walk and they march. We will see in later footage
taken from the helicopter's still photo footage that the
group actually moved in formation like that to the last
Nyala in the line of the barbed wire team, the defensive
team and positioned themselves across the last Nyala, Nyala
6. At the time that the video was made the President of
AMCU had still not been to the crowd. He had committed to
see them at 9 o'clock that morning. What you are seeing on
the screen now, the defensive team Nyalas which are
positioned and aligned from south to north, positioned in
front of the monitoring group which we can see now in
picture.

CHAIRPERSON: I take it we will be given
at some stage a transcript of what she said and presumably
she will give evidence and tell us what she said, so that
she can be cross-examined about it.