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 11 9 NOVEMBER 2012 PAGES 1246 TO 1320

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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9th November 2012  
Marikana Commission of Inquiry  
Rustenburg

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[PROCEEDINGS ON 9 NOVEMBER 2012]

[09:05]  
CHAIRPERSON:  
Good morning, the
Commission resumes. This afternoon, we are going to have
to adjourn at 3 o’clock, so in order to make up for some of
the time we will lose, I propose taking a shorter lunch
adjournment than usual, only half-an-hour, and resuming at
half past one, so we sit from half past one to three, and
then we will adjourn. I understand that the proposal is
that in order to give the – some of the representatives an
opportunity to consult fully with their clients, who will
be giving evidence, it’s proposed that we should resume on
Wednesday. Mr Madlanga, would you like to say something
about that?

MR MADLANGA SC:  
Thank you, Chairman,
Commissioners, that is so indeed, Commissioners and that
arises from the discussion that I had with Ms Mpofu and Ms
Barnes which was quite fruitful and I must thank my
colleagues for us having been able to reach agreement but
quite understandably and based on what they have said in
argument, on was it Tuesday? I understand their request
and I have accepted it and I hope the Commission accepts
that as well, that is that we only resume on Wednesday.

CHAIRPERSON:  
Thank you. We have to be fair, apart from all the other things we have to do, we
have to ensure that we are fair, so that the committee,


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sorry the Commission will retain credibility as an
appropriate body to investigate the matters which have to
be investigated, and I think you are quite correct, it’s
not fair to force a witness into the witness-box if he
hasn’t had an opportunity, for example, to see the videos,
to refresh his memory on the various matters that are
covered in the documents, and if we push them in the box
too early I think there might be a justifiable suggestion
that we were acting unfairly, which is a submission raised
I think by Ms Barnes which I initially didn’t appreciate
the full force of, until I thought about it. But I think
that is an important aspect.

The other aspect of course is that lest there be
any misunderstanding on the part of the public, the time
which we will not be spending here in the auditorium
listening to evidence, will certainly be used in studying
the mass of documents that are being made available to us
and we will be doing a substantial amount of work, which
will in fact shorten proceedings going forward, but on
Monday and Tuesday, we will be able to study a lot of the
documentation which has just come to hand. So thank you
very much for that. So just to make it clear, we at lunch
time, we are resuming at half past one, and going through
to three. We will then be adjourning until 10 o’clock on
Wednesday morning, and thereafter, one hopes we should be

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able to, until a date sometime in December, we should be
able to sit five days a week. Lieutenant-Colonel, I
suggest you proceed with the presentation.

LT-COL SCOTT:  
Thank you, Chairperson,
with your permission, may I just recap to put us back in
the sequence of events? If we just recap, to put us back
to where we were on the Thursday, looking back to the
Wednesday, the previous day negotiations broke down between
the protesters and the police. When the police arrived at
the protest area, and they did not have the mine management
with them, the protesters were not happy for that fact.
The protesters were visibly disappointed at this and this
is the first time that they threatened the police saying
that there are hippos, meaning the Nyalas, would not leave
there that day or would not leave there and that the police
members would die. That is from slide 118. Then we look
at - the protesters’ representatives returned and spoke
with their group, and the protesters’ actions were visibly
elevated to displaying of weapons and restlessness. Later
that afternoon the police helicopter observed a group
performing rituals again, as was witnessed on previous
days. The police represented by General Mpembe had
arranged for the unions NUM and AMCU, to address the crowd
to bring about a peaceful dispersal and the laying down of
arms. NUM was rejected, and AMCU was seen to be received.

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After the AMCU president addressed the protesters, he had
returned and told the senior police officers that the group
had committed to lay down their arms the next day,
Thursday, by 9 o’clock, but requested that the group be
left alone for that night, so that they could consult
amongst each other. That brings us to the Thursday
morning, where the Crime Intelligence briefing, the
informers that informed the Crime Intelligence members, the
information was that the protesters would return to the
koppie that morning, they would not hand down or lay down
their weapons or hand in their weapons to the police and
that they would not leave the koppie until their wage
demands were met, and the situation was reported as tense.
In light of the intelligence briefing and considering the
possible escalation of aggression of the protesters due to
their struggling negotiations the police elevated the
operational strategy to the stage 2 deployment, which is to
provide a show of force and to dissuade any possible
belligerent actions by the protesters. The Provincial
Commissioner, Lt-General Mbombo, addressed the media at
that morning, after waiting to see if the commitment
to lay down the arms would be honoured. Once the police
stage 2 deployment was in position, a representative from
the protesters approached the negotiations Nyalas, and asked
why the police were there, emphasising they did not want
the police present. The police explained that it was
safety and security purposes. The representative went back
to the protesters and after addressing them there was a visual
difference in their actions and the audible
difference as well, with the dynamics of the group. They
started singing songs and tapping their weapons together,
and a more organised group in front started marching
in front of the other protesters. And that brings
us to the slide on screen now, which we will view.

CHAIRPERSON: Mr Scott, sorry Colonel

Scott, we did see it yesterday, slide 157 –

LT-COL SCOTT: That’s right, Mr Chairman.

CHAIRPERSON: - and we adjourned just
after –

LT-COL SCOTT: Yes.

CHAIRPERSON: - the slide was seen.

LT-COL SCOTT: We would like to just show
the beginning again, the groups that’s marching, because it
bears reference to two slides later, Chairperson.

[VIDEO SHOWN]

The reference we want to show the Commission is
the group that is tightly organised and gathered together
that are marching. This group proceeded to march, we see
in two slides’ time to position themselves in front of the
last barbed wire Nyala, the defence line Nyala 6. Right,

Chairperson, we are going to run through eight slides now
which are video footage taken at that time when the AMCU
president was at the front line but we start with the
footage where he addressed the police officers first.

[09:25] When the AMCU President went forward, members of
the protestor group were first allowed to address the group
themselves, and what you’ll see is blue stripes on your
presentation but those will actually come across as sub-
titles as we had it interpreted and placed onto the video
clip. The sub-titles do move across the screen rather
rapidly, so Chairperson, if you would need, we could pause
it at times so that the interpreter could still convey.

However, what’s being said is being said in either Fanagalo
or, I believe, Xhosa. Starting with the police, Mr
Mathunjwa speaking to the police negotiators. At this
stage he’s, we’ll see in the video, he’s looking for a
megaphone to address the crowd appropriately. At the end
of the video clip it’s not clear but we do hear the
Operational Commander, Brigadier Calitz asking him to
convey the message to the protestors, the message at that
time being that he needed them to disperse, disarm.

Proceed with the video.

[VIDEO IS SHOWN]

Alright, we can proceed to the next video. The
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<th>Page 1255</th>
<th>Page 1256</th>
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<tbody>
<tr>
<td>1 next video is of who we call protestor 1 and, but you need</td>
<td>1 thinks is not correct. Oh, my learned Junior, Ms Pillay</td>
<td>1 as evidence leaders, would like to see the original source</td>
<td>1 Tel: 011 021 6457 Fax: 011 440 9119 RealTime Transcriptions Email: <a href="mailto:realtime@mweb.co.za">realtime@mweb.co.za</a></td>
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<td>2 to go back, thank you.</td>
<td>2 tells me that it has been circulated already, so the idea</td>
<td>2 footage from which those clips are taken so that we can</td>
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<td>3 [VIDEO IS SHOWN]</td>
<td>3 in circulating it was to see whether all concerned agree</td>
<td>3 investigate their authenticity and – ja, thank you.</td>
<td>3 25 suggestion about something that should happen before the</td>
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<td>4 MR MAHLANGU: If I may, Mr Chairperson, this discussion here is in the Sesotho language and</td>
<td>4 and whether it can then just be handed up by agreement.</td>
<td>4 CHAIRPERSON: Thank you, Mr Chaskalson.</td>
<td>4 25 the SAPS is putting forward. Together with those clips we,</td>
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<td>5 fortunately it has been transcribed and translated. If the</td>
<td>5 Thank you, Chair.</td>
<td>5 MR SEMENYA SC: Chair, the proposal is</td>
<td>5 25</td>
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<td>6 Chairperson would just allow me to explain it to the other</td>
<td>6 MR CHASKALSON: Mr Chair, it goes back to</td>
<td>6 reasonable. I just want to dispel an unintended</td>
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<td>7 people in Xhosa.</td>
<td>7 an issue that I touched on yesterday, which is this</td>
<td>6 interpretation that we have ever been difficult with the</td>
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<td>8 CHAIRPERSON: Certainly, please do that.</td>
<td>8 presentation is not evidence but the videos on this</td>
<td>6 evidence leaders in not giving the information. I engaged</td>
<td>7 1 next video is of who we call protestor 1 and, but you need</td>
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<td>9 MR SCOTT: Alright, we move onto</td>
<td>9 presentation may at some stage be introduced as evidence.</td>
<td>7 Mr Chaskalson this morning to say that we intend to give</td>
<td>7 to go back, thank you.</td>
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<td>10 protestor 2 addressing the crowd. Allow the slide to run on its own.</td>
<td>10 We would submit that it is very important that the videos</td>
<td>8 that information as best as we know, you have it. You have</td>
<td>7 25 suggestion about something that should happen before the</td>
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<td>11 [VIDEO IS SHOWN]</td>
<td>11 that do get introduced as evidence are clips taken from original</td>
<td>9 invited us to go and show it to you what it is, and we are</td>
<td>7 25</td>
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<td>12 CHAIRPERSON: You were indicating you</td>
<td>12 source footage, not compilations. We’ve already</td>
<td>10 going to do exactly that.</td>
<td>7 25</td>
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<td>13 want to say something.</td>
<td>13 identified one or two of these presentations, which are</td>
<td>11 CHAIRPERSON: He was about to say</td>
<td></td>
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<td>14 MR MPOFU: Yes, Chairperson, I wouldn’t</td>
<td>14 actually an assembly of clips that present what is frankly</td>
<td>11 something. I’ll give you an opportunity when he’s</td>
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<td>15 want to waste the time of the Commission, I just want to</td>
<td>15 a misleading sequence that looks as though it’s continuous</td>
<td>11 finished.</td>
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<td>16 register now, since this is not evidence that when this</td>
<td>16 in fact is not. So we would propose that in relation</td>
<td>12 MR BIZOS SC: Yes, I’m sorry.</td>
<td>11</td>
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<td>17 evidence is led, we’re going to contest the interpretations</td>
<td>17 both to video evidence and in relation to translation, the</td>
<td>12 MR SEMENYA SC: Chair, the proposal is</td>
<td>11</td>
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<td>18 on the tickertape. In the one case it’s not even 50% of</td>
<td>18 SAPS should produce a set of clips taken from original</td>
<td>13 reasonable. I just want to dispel an unintended</td>
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<td>19 what is being said and some significant things that are</td>
<td>19 footage, put it on a separate disc or stick and submit that</td>
<td>13 interpretation that we have ever been difficult with the</td>
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<td>20 being said having been omitted. I just wanted to register</td>
<td>20 as the video evidence that it will subsequently want</td>
<td>16 evidence leaders in not giving the information. I engaged</td>
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<td>21 that so when the time comes the –</td>
<td>21 introduced as evidence in this Commission together with the</td>
<td>17 Mr Chaskalson this morning to say that we intend to give</td>
<td></td>
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<td>22 CHAIRPERSON: Well may I make a</td>
<td>22 translations of whatever dialogue the SAPS want translated</td>
<td>18 that information as best as we know, you have it. You have</td>
<td>17</td>
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<td>23 suggestion about something that should happen before the</td>
<td>23 and accepted as translated and then our reference point</td>
<td>19 invited us to go and show it to you what it is, and we are</td>
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<td>24 time comes, as you put it? I would suggest that you sit</td>
<td>24 will not be what’s in the presentation but the clips that</td>
<td>20 going to do exactly that.</td>
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<td>25 down with the video, make your own transcription or get</td>
<td>25 the SAPS is putting forward. Together with those clips we,</td>
<td>23 [09:45] MR BIZOS SC: We are concerned about the</td>
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<td>your own transcription made, discuss it with the evidence</td>
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<td>leaders and with the interpreter, who is a highly qualified</td>
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<td>interpreter who speaks Sesotho and IsiXhosa and IsiZulu and</td>
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<td>so on and it may well be that you will be able to come to an agreement. Firstly, as to the point in respect of which</td>
<td>25</td>
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<td>you say the interpretation is incorrect and secondly, in</td>
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<td>respect of the points where it is said to be inaudible, but</td>
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<td>you feel let's listen to carefully, possibly even slow it down. What is presently regarded as inaudible can be</td>
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<td>rendered audible and there can be an agreed translation of that as well. I think that will save a lot of time, and do</td>
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<td>that before the time comes, as you put it, so that when the evidence is led, we can have an agreed statement possibly</td>
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<td>on the matters that you had discussed, right?</td>
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<td>17 MR MPOFU: Thank you, Chair, agreed.</td>
<td>25</td>
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<td>18 MR MADLANGA SC: Chair, let me just quickly, quickly. Chairman, Commissioners, perhaps it will</td>
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<td>save my learned colleague a lot of trouble, not to say that he will just have to accept what I’m going to refer to as is. We were given translations by SAPS, we are going to</td>
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<td>circulate those to everybody. So my learned friend perhaps could just have a look at that, compare with what's being said in whatever language and then correct, perhaps what he</td>
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<td>18 MR CHASKALSON: Mr Chair, it goes back to</td>
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<td>19 MR BIZOS SC: We are concerned about the</td>
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<td>20 MR SEMENYA SC: Chair, the proposal is</td>
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<td>21 [09:45] MR BIZOS SC: We are concerned about the</td>
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<td>22 process that is being followed at the moment. If in fact</td>
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| 23 what we are shown on the film, and what the summary that is
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Chairperson.

Mr Madlanga:

Alright.

You did not see me.

Okay, anyway, you are his senior, so I suggest you speak first.

Thank you, Chair.

Chair, Commissioners, I consider it only fair and proper to place it on record that from the word “go” up to this stage, Mr Semenya has been very co-operative with the evidence leaders, thank you.

Mr Mpofu, against that background what do you want to say.

No, Chair, well I don’t want to spoil this conciliatory mood, Chair, and I accept your proposal regarding the translations and so on, I think it will shorten the proceedings and any other interjections that we might have. What I do want to register Chair, now that we are talking about it, is that whatever the value of this exercise what our learned colleague, Mr Bizos, calls a PR exercise, we want to make it clear that we understand it, as you say Chair, as the version of the SAPS, so obviously at a particular time, those aspects of it that he might want to contest will be contested and those aspects that might be contradictory within the broader SAPS version will be pointed out. What we do want to object to, is the editorial comment that seems to accompany this presentation. We understood this presentation to be a dry presentation of a sequence of events, but you know, all sorts of comments are sneaked in, certain murders are gruesome, others are just murders, and you know there’s a whole plethora of those kinds of uncomfortable remarks which have been made, that those also Chair, at the appropriate time as it were must – the comments we hope will come from the Chair to make it very clear that what is being accepted is really just the dry presentation insofar, for whatever it is worth, thank you Chair.

CHAIRPERSON: I don’t think it’s even correct to say anything is being accepted. All that is happening, as I understand it, is the presentation which we are watching and listening to at the moment, is in effect an extension of the opening statements by the police. And that is just as you accept – you don’t necessarily accept anything in the opening about the police as correct. The same thing applies to this. So I thought I’d made that clear before but for the benefit of those to whom I didn’t make it clear, I now make it clear. Can we now carry on? The point is also made that judging by the documents we’ve been given, there isn’t much more material of this kind likely to be the subject of debate and possible controversy, so it will be quicker just to go through it and carry on, subject to the points, the reservations that have been uttered.

LT-COL SCOTT: We can continue. You need to go back a slide, protester 3. Chair, there seems to be a glitch with the video.

[VIDEO BEING SHOWN]

CHAIRPERSON: The video operator has heard the complaints about the translation, we will take them away, but –

LT-COL SCOTT: You know, I am not sure, the video seems to have gone at a slower place that the translation, we’ve lost he translation on that one. I don’t know if you want to try and start it.

CHAIRPERSON: Is there any chance of our getting the translation now, I mean, as far as I can see from your presentation, there isn’t much more of this material left. Maybe when we come to the stage when this...
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1 stuff becomes evidence, and we have agreed translations and  
2 so forth, then we can deal with it quite quickly but I  
3 don’t think there’s any point in just searching for the  
4 missing translation at the moment, unless if we can get it  
5 within the next couple of minutes.  
6 LT-COL SCOTT: Chair, we have it here in  
7 English and in both languages, so – okay, we will move onto  
8 the next video.  
9 MR MAHLANGU: If it could be restarted  
10 again, so that I see if there’s anything I missed.  
11 LT-COL SCOTT: Could you play the video  
12 again, the interpreter would like to see if missed  
13 anything.  
14 [VIDEO BEING SHOWN]  
15 Moving on, protester 5. Next video.  
16 [VIDEO BEING SHOWN]  
17 MR MAHLANGU: If they could play it once  
18 more.  
19 LT-COL SCOTT: They would like to play  
20 that same slide again. Right moving on. The following  
21 video clip is long, it is hyperlinked, Chairperson, it’s  
22 also sub-titled for us.  
23 CHAIRPERSON: What do you mean by saying  
24 it is hyperlinked?  
25 LT-COL SCOTT: It is too big for in the

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1 presentation, so we’ve hyperlinked it, it’s just a video  
2 that will now play attached to the presentation.  
3 CHAIRPERSON: Can you tell us at point  
4 the gaps take place, where the linking happens? Or will be  
5 told that later?  
6 LT-COL SCOTT: This is an original video,  
7 the full length of it is there. There’s been no cutting  
8 done to any of these videos that you see presently.  
9 [10:05] Stop a moment. Stop the video.  
10 MR MAHLANGU: Mr Chairperson, this has  
11 been translated, and I’ve been reading through the  
12 translation. I just want to confirm that that translation  
13 has been done to the best of the person’s ability, as I was  
14 listening and reading at the same time. May I then read in  
15 the Xhosa version what has been translated?  
16 MR MPOFU: Chairperson, I am sorry, Mr  
17 Madinya is prompting me to talk, because we both  
18 understand the language. Just to save time again, I think  
19 Mr Mahlangu is making a mistake. The speaker was speaking  
20 in IsiXhosa –  
21 CHAIRPERSON: Repeating it in Xhosa.  
22 MR MPOFU: Subtitles are in English so he  
23 is repeating it in –  
24 CHAIRPERSON: He is repeating in Xhosa  
25 but I thought, he thought the people couldn’t understand

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1 it.  
2 MR MPOFU: Oh, couldn’t hear properly.  
3 CHAIRPERSON: So I was going to ask him  
4 when Mr Mathunjwa starts speaking, if it is necessary, he  
5 must repeat it again but I didn’t want to interrupt him, I  
6 think the people in the auditorium would like to hear him  
7 repeating it. It was clearer from him that it was on the  
8 sound track. Is that right?  
9 MR MAHLANGU: Unless, Mr Chairperson, the  
10 speakers are so clear that the people in the public gallery  
11 heard what he was saying, it then would not be necessary  
12 for me to repeat it.  
13 LT-COL SCOTT: Maybe ask them.  
14 CHAIRPERSON: Well let’s –  
15 MR MAHLANGU: Possibly –  
16 CHAIRPERSON: You are near the end,  
17 aren’t you, the section you were reading?  
18 MR MAHLANGU: I am actually still on the  
19 first page.  
20 CHAIRPERSON: How many pages are there?  
21 MR MAHLANGU: Four pages.  
22 CHAIRPERSON: Well, it was in IsiXhosa.  
23 It did seem to me to be fairly clear. I am hearing it here  
24 with the speakers here on the stage, if the people in the  
25 audience, in the auditorium didn’t hear it correctly, and

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1 would like it read out again by the interpreter, would they  
2 please raise their hands. You hear that, the point being  
3 made is a different one, and that is that the – apparently  
4 the IsiXhosa speakers can understand it, but the Sesotho  
5 speakers can’t, and they would like you to interpret it  
6 into the Sesotho. I think that’s correct, is it? Now can  
7 we do that then?  
8 MR MAHLANGU: If I may again at this  
9 point say, Mr Chairperson, we have on repeated occasions  
10 said there are two halls where the Sotho interpretation,  
11 Tswana and Venda in the other hall, and we’ve been  
12 repeatedly asking the people, those who do not understand  
13 Xhosa to please make themselves, to go to those other  
14 halls.  
15 CHAIRPERSON: I understand that point,  
16 it’s the point we made before, but I take it the Sesotho  
17 speakers, it’s not convenient for them to go out now, it’s  
18 only four pages, so give that to them in Sesotho, and then  
19 we can carry on.  
20 MR MAHLANGU: Thank you.  
21 CHAIRPERSON: We are now carrying on with  
22 the slide, are we?  
23 LT-COL SCOTT: Yes, Chairperson, I am not  
24 sure if you can then request if there are Sotho speakers  
25 that can move out, or are we going to go through the same
Chairperson: I think that's a sensible point. Those people in the auditorium who speak and understand Sesotho, may I suggest that at this stage, if you want to understand what is going to be said on the video by the president of AMCU, that you go to the hall where there will be a Sesotho interpretation provided because it's obviously unnecessary for us to repeat the interpretation into Sesotho, if a Sesotho interpretation is in fact available in another hall, as is the case. So those who are Sesotho speaking, if you wish to hear the Sesotho interpretation I will give you a minute to leave, and then we will carry on.

Chairperson and Commissioners that the Sotho speaking will in a minute's time be at the door there, so they will have to go with him to the other hall.

Chairperson: Thank you.

[10:25] Mr Mahlangu: May I be excused for one, just one minute? Mr Chairperson, thank you. My leader here, Mr Masai has come to take all the Sotho and the Tswana-speaking people to another hall.

Chairperson: I did see some people leaving the hall while you were still outside, and I understand the widows, for example, from Lesotho, obviously we'd appreciate, I take it we appreciate the Sesotho translation. And among the people who left while you were outside were two ladies, who I suspect may be the widows from Lesotho. Anyway, thank you, Mr Mahlangu for the efforts you've made. I think we can now carry on.

[VIDEO IS SHOWN]

[10:45] Mr Scott: Chairperson, I'm not sure if you want to adjourn for tea.

Chairperson: Very well, we'll take the tea adjournment at this stage.

[INQUIRY ADJOURNS INQUIRY RESUMES]


Mr Mahlaku: Mr Chair and commissioners, whilst the last video was showing I was looking, listening and at the same time reading the translated version. I want to draw the attention of the Commission to page – the President starts and at page –

Chairperson: We haven't got a copy of the document that you have but if there was a passage in the translation of the President's speech which is incorrect and it's important that you bring it to our attention now, I suggest you do so.

Mr Mahlaku: Yes.

Chairperson: Otherwise you can speak to Mr Mpofu and Mr Madlanga and when evidence is led in this exercise again?

Chairperson: Thank you, Mr Mahlangu.

Mr Mahlangu: Thank you.

Chairperson: Thank you for that. I think we now carry on with the presentation. Colonel, I think we're on slide 170, is that correct??

Lt-Col Scott: That's correct,

Chairperson. Presentation, continuing with the detailed sequence of events, 25 minutes past one in the afternoon the South African Police Service media liaison officer, Captain Dennis Adrio was informed by members of the media that both of the video operators of SAPS were identified as possible police spies by the protesters and that they may be killed if they remain in the general area of the media group. The public order policing information or video officers then withdrew, they returned to the JOC, thus the footage that we've seen previously was the last footage that they had taken.

We move to slide 171. After the President of AMCU had addressed the crowd and left, the media reported moving away from the same meeting and this is a reflection on the media report given at that time. We need volume.

[VIDEO IS SHOWN]

Moving on, it's just two slides depicting the photographs with some of the traditional weapons or dangerous weapons. Slide 174, continuing with the detailed sequence of events. Half past one that afternoon Major-General Annandale called a special JOC COM meeting to evaluate the current strategy and the possible implementation of the stage 3 deployment. The Provincial Commissioner, General Mbombo, informed the JOC COM that she had been involved in a meeting the whole morning with the President of AMCU, Mr Joseph Mathunjwa, to resolve the
25 current situation. Mr Mathunjwa was supposed to indicate
23 at nine o'clock that morning whether or not the protesters
21 on the koppie were prepared to lay down their weapons but
19 he failed to provide feedback, as he'd agreed to do.
17 After evaluating the situation and from the
15 reports on the ground, the Provincial Commissioner
13 instructed Major-General Annandale to proceed with the
11 implementation of stage 3 of the operational plan, which
9 was to disperse the gathering into smaller groups,
7 encircling in order to disarm them.
5 Moving on to slide 175, still with the special
3 JOC COM meeting at half past one that afternoon, Major-
1 General Annandale informed the meeting that the approach
0 would be as follows, that the police would communicate with
2 the group on the koppie to try to resume negotiations for
0 the protesters to disarm and leave the koppie. Protesters
2 had to be asked to leave their dangerous weapons behind at
0 the koppie as they voluntarily dispersed. After those that
2 have voluntarily dispersed, those who refused to leave
0 would be searched and the whole area would be swept for
2 dangerous weapons. If the protesters refused to put their
0 weapons down and leave the koppies, phase 3 of the
2 operation would be implemented as a last resort.
0 Lieutenant-Colonel Scott then gave a visual presentation of
2 the proposed implementation of the stage 3 deployment

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1 strategy.
2 Moving on to slide 176, it shows the picture –
3 MR BIZOS SC: Mr Chairman, I'm sorry to
4 interrupt. As we have the non-witness there, can he please
2 tell us whether this visual presentation done by him is
0 available and whether it has been handed over and, if not,
2 when can we have it please?
0 CHAIRPERSON: I don't know if it's
2 actually necessary to interrupt the presentation and ask
0 him the question now, you could have asked it after we
2 adjourned but seeing you've asked the question, let's get
0 the answer. You heard the question, Colonel?
3 LT-COL SCOTT: I'm not sure if my counsel
1 would – was reflecting to answer that, Chair.
5 MR SEMENYA SC: It's in the earlier
3 presentation by the witness. We would recall that the
1 witness said certain aspects were not there during
3 presentation but the visual presentations were done by,
1 during the briefing. Am I correct, Colonel?
3 MR BIZOS SC: I'm not clear what their
1 answer is. Has this been shown to the Commission?
3 CHAIRPERSON: The answer is, what he then
1 – the presentation he then gave is included in the material
3 we've already seen as part of the presentation. Can you
1 just give us the slide numbers, Mr Semenya?
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as to assist with the direction of the dispersion towards the westward areas.

Phase 2 was to form two lines, the first line being public order policing with the Nyalsas with cannons, had to be strategically placed in the front line.

The second line and the lines behind the POP line would be the tactical response teams, the national intervention unit and the special task force and their job was to sweep and clear the kopries and provide protection to the POPS members who were geared for crowd control. Phase 2 continued –

CHAIRPERSON: Sorry, before we carry on with that, on this slide 176 I see there are two blue vehicles which are marked with “W”. I presume that’s W1 and W2, certainly W2 is visible immediately above P11.

LT-COL SCOTT: One water cannon –

CHAIRPERSON: And the other W, which is

LT-COL SCOTT: Yes.

CHAIRPERSON: In the blue line.

LT-COL SCOTT: To the west of the yellow line –

LT-COL SCOTT: Ja.

CHAIRPERSON: That’s in the blue line.

LT-COL SCOTT: That’s right.

CHAIRPERSON: That’s –

LT-COL SCOTT: Also a water cannon.

CHAIRPERSON: Yes, thank you.

LT-COL SCOTT: Continuing with slide 178

–

MR MPOFU: Sorry Chairman, another two on that picture – could the Colonel explain that green rectangle?

LT-COL SCOTT: The green rectangle is stage 2 immediate reaction area where initially the stage 2 high risk forces were held. We saw it in stage 2, yes.

Continuing then with slide 178, phase 2, the force continuum. The use of force in continuum was to utilise an advance line to show up as a show of force and then issue verbal instructions for the crowd to disperse, considering the language. On failure to disperse within the given time frame, the next use of force would’ve been the water cannons. If water cannons failed, it was to move to stun grenades and teargas, then to rubber bullets and the reason the water cannon was first in line was because of its ability to reach further than stun grenades could be thrown.

The tactical response teams had to be deployed as a back-up for the public order policing during the dispersion and to execute arrests and secure the high ground. The special task force, the national intervention unit and the tactical response teams had to sweep the higher ground, the kopries, after the POPS dispersion had taken place. These members were better geared to deal with life-threatening dangerous weapons being wielded against them should they have to approach protesters that were belligerent on high areas.

Phase 3 was, after the dispersion action was complete, was to encircle and disarm smaller, unorganised groups of protesters.

If we can move on to slide 179, the special JOC COM meeting continued, General Annandale instruction to Colonel Scott to ensure that all the commanders were briefed accordingly. Discussions were held and it was decided not to brief the commanders on the air, but to go to the forward holding area. This is where Lieutenant-Colonel Scott would do the briefing in person. The reason for briefing the members in person at the forward holding area was twofold. One was to ensure the understanding of the plan and secondly was that the police were of the understanding that the protesters had one of their own radios in their possession.

General Annandale instructed Colonel Scott to report back to the JOC by 15 minutes past three that afternoon as he wanted the operation to commence by 15:30, owing to the limited number of daylight hours remaining and considering the follow-up operations thereafter. These follow-up operations were as per stages 5 and 6 of the operational strategy and they were to do intelligence-driven cordon and search operations as performed by the STF and the NIU and thereafter to do co-ordinated cordon and search operations at the Karee and Wonderkop hostels, with all of the units involved, to remove dangerous weapons.

Right, we move to slide 180, the prelude to slide 181 which was the briefing given to the commanders at forward holding area 1 that day. All operational commanders – I’m on slide 181 – were called to the forward holding area, except for Lieutenant-Colonel Mere who was...
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1 left temporarily in charge of the neutral area. As we can</td>
<td>1 were redeploed from immediate response areas 1 and 2 to</td>
</tr>
<tr>
<td>2 see on the slide, phase 1 to the right with the arrows</td>
<td>2 the front line deployment in support of Brigadier Calitz in</td>
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<tr>
<td>3 facing to the barbed wire vehicles now depicted in red.</td>
<td>3 accordance with stage 3's deployment strategy. In essence,</td>
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<tr>
<td>4 Phase 1 was to deploy barbed wire to protect the SAPS and</td>
<td>4 it was the special task force armoured vehicles and then</td>
</tr>
<tr>
<td>5 the media in the neutral area. Phase 2 - you can see the</td>
<td>5 the teams from the national intervention arrived to the</td>
</tr>
<tr>
<td>6 arrows below pointing to the two lines formed - was to</td>
<td>6 neutral area.</td>
</tr>
<tr>
<td>7 regroup and push forward to employ POPS dispersion</td>
<td>7 The reserve forces, the TRT, POP and canine units</td>
</tr>
<tr>
<td>8 strategy. The other forces were deployed to protect the</td>
<td>8 from forward holding area 2 moved to the informal</td>
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<tr>
<td>9 SAPS in case of life-threatening attacks as seen on Monday.</td>
<td>9 settlement to the west of the koppies to protect - the</td>
</tr>
<tr>
<td>10 We can see the first line, again shown in blue, with the</td>
<td>10 protection thereof. The reserve forces and the teams from</td>
</tr>
<tr>
<td>11 water car in the centre, shown in orange. I must state</td>
<td>11 the emergency medical services and the fire brigade moved</td>
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<tr>
<td>12 that the picture you see in front of you is not according</td>
<td>12 with General Naidoo from forward holding area 1 and they</td>
</tr>
<tr>
<td>13 to scale. It's a map which is made on Google maps and due</td>
<td>13 positioned at immediate reaction area 1.</td>
</tr>
<tr>
<td>14 to the size of the zooming in and out, one can't use too</td>
<td></td>
</tr>
<tr>
<td>15 many icons to represent the figures. So every figures does</td>
<td></td>
</tr>
<tr>
<td>16 not necessarily represent a vehicle, it just depicts the</td>
<td></td>
</tr>
<tr>
<td>17 line. And to the bottom we can see the briefing to the</td>
<td></td>
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<tr>
<td>18 forward holding area 2 members, to deploy to protect the</td>
<td></td>
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<tr>
<td>19 informal settlement to the south-west.</td>
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<td>20 Slide 182. At 15:00, three o'clock that</td>
<td></td>
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<tr>
<td>21 afternoon, the commanders of the teams of the TRT who were</td>
<td></td>
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<td>22 responsible for supporting the dispersion of the action of</td>
<td></td>
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<tr>
<td>23 public order policing, personally briefed their own forces</td>
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<td>24 with regard to the following roles and responsibilities.</td>
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<tr>
<td>25 This included the placement of the TRT members behind the</td>
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<tbody>
<tr>
<td>1 POP line, the allocation of koppie 2 for sweeping and</td>
<td>1 CHAIRPERSON: On slide 184, took place at</td>
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<td>2 searching and the rules of engagement were emphasised - the</td>
<td>2 15:35.</td>
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<tr>
<td>3 rules of engagement for them advancing on command, to</td>
<td>3 LT-COL SCOTT: Yes.</td>
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<td>4 perform a planned role during the dispersion and clarifying</td>
<td>4 CHAIRPERSON: Now obviously you'll give</td>
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<td>5 private defence, when to engage without instruction. The</td>
<td>5 evidence on this in due course, or he will, but I take it a</td>
</tr>
<tr>
<td>6 briefing that the commander of the teams at forward holding</td>
<td>6 decision was taken to postpone or delay the beginning of</td>
</tr>
<tr>
<td>7 area 2 were, amongst others, the TRT, POP and canine unit,</td>
<td>7 the operation, the commencement of the operation, because</td>
</tr>
<tr>
<td>8 was to move to the informal settlement and protect against</td>
<td>8 13:30 had come and gone.</td>
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<td>9 violent actions of dispersing protesters from the western</td>
<td>9 LT-COL SCOTT: Yes.</td>
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<tr>
<td>10 side. Their commanding team leader reinforced the rules of</td>
<td>10 CHAIRPERSON: And the operation hadn't</td>
</tr>
<tr>
<td>11 engagement with the members as well.</td>
<td>11 yet commenced.</td>
</tr>
<tr>
<td>12 Slide 183. At 20 minutes past these the national</td>
<td>12 LT-COL SCOTT: Yes. Again sir, there's –</td>
</tr>
<tr>
<td>13 intervention unit commander briefed his members with regard</td>
<td>13 as I say, when the planning or the guidelines are given,</td>
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<tr>
<td>14 to their roles and responsibilities.</td>
<td>14 these can become, to some degree, flexible. If forces are</td>
</tr>
<tr>
<td>15 [12:01] He briefed them according to their position of</td>
<td>15 not in place yet, we can't commence the operation.</td>
</tr>
<tr>
<td>16 the members of the NIU behind the POPS line, the allocation</td>
<td>16 CHAIRPERSON: Yes. So is the reason that</td>
</tr>
<tr>
<td>17 of koppie 1 for sweeping and searching, flankng the STF</td>
<td>17 it didn't commence at 13:30, was because the forces weren't</td>
</tr>
<tr>
<td>18 members and the rules of engagement were emphasised.</td>
<td>18 yet in operation.</td>
</tr>
<tr>
<td>19 The STF commander briefed his members with regard</td>
<td>19 LT-COL SCOTT: Yes. We wanted to ensure</td>
</tr>
<tr>
<td>20 to their roles and responsibilities and this was the</td>
<td>20 that all members down to ground level were thoroughly</td>
</tr>
<tr>
<td>21 placement of the STF in armoured vehicles behind the POPS</td>
<td>21 briefed on what was expected and –</td>
</tr>
<tr>
<td>22 line, allocation of koppie 1 for sweeping and searching,</td>
<td>22 CHAIRPERSON: Right, thank you.</td>
</tr>
<tr>
<td>23 flanked by the national intervention unit members and he</td>
<td>23 LT-COL SCOTT: - that took a bit longer</td>
</tr>
<tr>
<td>24 emphasised the rules of engagement as well.</td>
<td>24 than expected. The operational commander, Brigadier</td>
</tr>
<tr>
<td>25 Slide 184. At 15:35 additional armoured vehicles</td>
<td>25 Calitz, was also aware of the time of 15:30. However, he</td>
</tr>
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</table>
also held back on the operation stage 3 due to the AMCU
President and members of the media still being at 15:30 at
the protestors at the front.

On slide 185, at about 14:40 the AMCU President
returned to the koppie and the SAPS again asked the
representatives of AMCU to request the protestors to put
down their weapons. This request was made in the presence
of the media at the koppie. Representatives of AMCU moved
forward to address the protestors and informed them that no
persons from the mines management or the leadership of the police were willing to meet with them.

Slide 186. SMSs sent between the AMCU President
and Major-General Annandale. Mr Mathunjwa had arrived at
the police’s joint operational centre at about 10 to two
that afternoon. This was while the police leadership were
in a briefing session regarding stage 3. Mr Mathunjwa left
shortly thereafter, after not being attended to, sending
the following message to Major-General Annandale at 15
minutes past two. The message reads as such from Mr
Mathunjwa, "Since no person is available to give feedback
to, we are going back to the employees to inform them that
no-one is available, we have tried our best without co-
operation from anyone, let peace prevail."

At 14:28 General Annandale replied as follows,
that "The SAPS is available at exactly the same spot as we
had our earlier discussion. We are always available and
willing to have discussions towards finding an amicable and
peaceful solution."

We move to slide 187 where we see a media report
on the President of AMCU’s plea.

[VIDEO IS SHOWN]

Chairperson, if we can just again issue a
warning. The next slide we’ll go through is a video and
photograph summary of the incidents before we get into the
detail of those incidents, of the occurrences. We have, as
best possible, tried to sequence the photographs according
to time lines. We have a numerous amount of photographers
that have provided photos and we needed to zero those in
onto the standard time line of South Africa. The videos
that we’ve got as well, were difficult at times with time
lines but we tried to slot them in into the correct places
as we could see where they were filmed from and in the
correct time slots when they were filmed. I believe a
warning is due, it’s going to be graphic.

CHAIRPERSON: As you’ve heard, what we’re
now going to see are pictures are very graphic, as has been
described, which will cause a lot of grief and unhappiness
and psychological trauma to family members whose loved ones
will be depicted on the screen. So I will ask, I’ll give
you – I’ll ask the people who are showing the video to hold
back for a minute after what I’m saying has been
interpreted, so those who wish to leave will have an
opportunity to do so.

LT-COL SCOTT: Right, we can proceed.

The sequence of events that you’ll see now, it pretty much
speaks to itself. It starts where Mr Mathunjwa is still at
the front and speaking to protestors.

[VIDEO IS SHOWN]

What we’re seeing on screen now is an aerial
photograph. The yellow depicts the first Nyala deploying
its barbed wire. The more organised protester group we can
see is ringed in red, directly in front of the police line.

[VIDEO IS SHOWN]

On screen now is what we’ve related to as
incident 1 where the protesters first approached the police
line. The significance is the pole in the background
behind the Nyala, that is Nyala 4 in picture and it’s the
direct approach from the protesters on the first attempt.

At this time three of the Nyalas have deployed their barbed
wire. Mr Noki had come forward and spoken to the
negotiation Nyala, gone back to the group and formed a
group and then started walking towards the police line.
The Nyala in picture again, as I say, is Nyala 4 with the
barbed wire and Nyala 4 started driving and cut off the
approach. There was no other method of force continuum

used at that stage, as the police at this stage had not
anticipated that the protesters would try to enter into the
neutral area. Can we just go back to the – slightly back.

[12:21] After the first attempt, the operational
commanders on ground saw what was transpiring and formed
the public order policing up to assist Nyala 4 deploying
the barbed wire to prevent the protesters from entering
into the police neutral area. At this time there were no
tactical response teams present, only public order
policing.

[VIDEO IS SHOWN]
The picture on screen now shows the second
attempt of the protesters. They have now at this stage all
moved off the koppies and we can see a spearhead type
movement moving towards the police line. This is
approximately two minutes after the initial approach.

Nyala 4, if the cursor can depict Nyala 4 with the barbed
wire – it’s just to the top of the crowd, still driving,
deploying the barbed wire.

This is the second photograph taken by a
journalist to the northern side, this is the approach, the
second approach, Nyala 4. And to the left of that picture
we can see the barbed wire of Nyala 5. Nyala took the
decision, the driver took the decision to continue driving
and drove his Nyala against the kraal, as he saw that if he
The next clip, the TRT members can be seen picture now – they are using non-lethal force. But when the POPS members are dressed – as they are seen in intervention unit or some public order policing members, mixture between tactical response team or national policing. Should we see police members wearing berets, blue berets, those are the tactical response team members, that’s the public order policing, they were on the right flank. They were shooting and they were only utilising less than lethal force, rubber, teargas, et cetera. And if we see police members with black ballistic helmets, it’s a mixture between tactical response team or national intervention unit or some public order policing members, but when the POPS members are dressed – as they are seen in picture now – they are using non-lethal force. The next clip, the TRT members can be seen. The public order policing use of force continuum moving out to try and block the advance of the protesters between the kraals and the picture in view now is the third attempted approach into the police area. The videos to follow will be shown now from media representatives that took from different angles and the first videos we will see are to the left-hand side of the kraal where the protesters are coming through. So you’ll notice that the videos were taken from behind the Nyala, focusing through the Nyala, and this was known as the right flank. These were the armoured vehicles that were moving out to try and block the advance of the protesters. The public order policing use of force continuum was being used, but to no effect. The protesters advanced regardless. We can see the tear smoke at this stage. The protestors advanced by the approaching armed protesters. The shooting incident only lasts eight seconds.

The videos to follow will be shown now from media clips from the right flank. These are the police members utilising rubber rounds before the protesters went past them and were engaged by the members of the TRT. Chair, just for the reference, if we see police members wearing the shiny blue helmets with the black piece of protection for their necks, that’s public order policing. Should we see police members wearing berets, blue berets, those are the tactical response team members, that’s the public order policing, they were on the right flank. They were shooting and they were only utilising less than lethal force, rubber, teargas, et cetera. And if we see police members with black ballistic helmets, it’s a mixture between tactical response team or national intervention unit or some public order policing members, but when the POPS members are dressed – as they are seen in picture now – they are using non-lethal force. The next clip, the TRT members can be seen. The public order policing use of force continuum moving out to try and block the advance of the protesters between the kraals and the picture in view now is the third attempted approach into the police area. The videos to follow will be shown now from media representatives that took from different angles and the first videos we will see are to the left-hand side of the kraal where the protesters are coming through. So you’ll notice that the videos were taken from behind the Nyala, focusing through the Nyala, and this was known as the right flank. These were the armoured vehicles that were moving out to try and block the advance of the protesters. The public order policing use of force continuum was being used, but to no effect. The protesters advanced regardless. We can see the tear smoke at this stage. The protestors advanced by the approaching armed protesters. The shooting incident only lasts eight seconds.

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25 armoured vehicle as well as special task force armoured
24 forward, with the protection of public order policing, an
22 reorganising of the water cannons after noticing that many
21 and disarm a number of protesters. In green we see the
20 action there to arrest, which they did, encircle and arrest
19 noticed that there's a number of protesters to the north of
18 [12:41] What can be seen on screen now, depicted in
17 yellow, are three Nylas which have lined up. They've
16 noticed that there's a number of protesters to the north of
15 the koppie and they eventually moved in a dispersion or an
14 action there to arrest, which they did, encircle and arrest
13 and disarm a number of protesters. In green we see the
12 reorganising of the water cannons after noticing that many
11 of the protesters have fled to koppie 3 and they went
10 forward, with the protection of public order policing, an
9 armoured vehicle as well as special task force armoured
8 unit members coming forward to assist with the disarming
7 national intervention unit who came in from the western
6 vehicle standing right next to the bushes. We've got the
5 is the canine units with the special task force armoured
4 group of protesters who were armed and made, carried out
3 moved to the northern side of koppie 3 and apprehended a
2 were the arrests made by the Nylas ringed in yellow, they
1 dog unit vehicles are approaching from the south. These

[VIDEO IS SHOWN]

That's the national intervention unit line that

[VIDEO IS SHOWN]

was sweeping over koppie 1.

[VIDEO IS SHOWN]

This is when the dispersion action phase 2 was
completed, there was a reorganised line established where
the forces would assess the situation again and move
forward with the arresting and disarming of groups of
protesters.

[VIDEO IS SHOWN]

[12:41] What can be seen on screen now, depicted in
yellow, are three Nylas which have lined up. They've
noticed that there's a number of protesters to the north of
the koppie and they eventually moved in a dispersion or an
action there to arrest, which they did, encircle and arrest
and disarm a number of protesters. In green we see the
reorganising of the water cannons after noticing that many
of the protesters have fled to koppie 3 and they went
forward, with the protection of public order policing, an
armoured vehicle as well as special task force armoured

[VIDEO IS SHOWN]

This is a picture of koppie 3 and we can see the
members are ringed in blue from forward holding area 2, who
have started moving towards the situation, the koppie as
well – many of these photographs are further in the
presentation for you. It is broken obviously into four
quadrants for the northern, southern, eastern and western
just for better reference.

[VIDEO IS SHOWN]

We can see the water cannons are spraying the
water and they're trying to move the protesters along and
out of the bushes and from the rocks.

[VIDEO IS SHOWN]

Koppie 3 is ringed in yellow and the canine or

[VIDEO IS SHOWN]

[VIDEO IS SHOWN]

[VIDEO IS SHOWN]
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You did apologise to me, Colonel, that there was a problem with your computer which is why you were late coming back.

So we will proceed.

LT-COL SCOTT: Chairperson, with the video that we were watching there is possibly about two to three minutes left. I think we can maybe move past the scene we were looking at.

[VIDEO SHOWN]

We are at a place now where the arrests were taking place inside the koppie 3. There were approximately 250 plus arrests made. We can see possibly a number of 50 to 70 which have already been arrested. The rest of the protesters are still between the rocks and the bushes. I must speak to stage 4, it was the processing of the scene, any crime scenes as well as the processing of arrested persons to be dealt with. The video footage now being seen is of the medical practitioners who were held in reserve that have been brought up to the scenes. Initial media reports were that the police withheld the medical treatment for up to two hours. The photograph and video footage as shown, can prove that the police had medics on scene within ten minutes of the shootings.

Now if we can proceed now to breaking down the video photo sequencing on slide 189, we look at the detailed sequence of events. At 15:35, the AMCU president and the representative of AMCU prepared to leave the scene. Mathunjwa remarks to the protesters that they would die that day if they continued with their course of action to which they responded that they were prepared to die there that day. Some of the media reported to Captain Adrio that they sensed a change in the protesters’ mood and were withdrawing out of fear for their own safety. They also reported to him that they saw a protester in the group concealing a firearm in a blanket which was revealed to them. The media retreated to a neutral area behind the police lines. At this stage, all negotiations and discussions had ceased between the police and the protesters, and the information about the firearm, etcetera was given to Brigadier Calitz. Slide 190, the photograph depicts in the yellow circle the silver Fortuna of the AMCU president, addressing the crowd. As far as we could possibly achieve it, the timing that you see in the bottom right of the photographs from sequentially right, the time is 15:35. If we see barbed wire Nyalas to the left of the yellow ringed vehicle, we notice that they have been turned towards the police line, instead of initially to throw a wider barrier and that was in defence of the Nyalas as well as the police neutral area.

Slide 191, what is noticeable in his slide is how the protest group has started thinning out, just before the mobilisation towards the police line. To the bottom left of the screen, we see a number of protesters have left koppies and are walking away. As we proceed now, you will see the distances just to orientate you to the – in white, we’ve got the distance of the defensive group, where they were to deploy. In yellow we have the distance between the crowd, and from the northern flank to where kraal 1 was, and in black, we have the distances of the TRT members.

Moving on, slide 192, the detail sequence of events at 15:40, 20 minutes to 4, Brigadier Calitz gave the command to Colonel Makubela to start with the deployment of the barbed wire. When the first Nyla started to deploy, the barbed wire one of the representatives came to the front window of the negotiation Nyla and stated that “these hippos,” referring to those Nyalas, “would not leave this place, and you will all die today.” The interpreter interpreted it, and that he would not be returning again. This followed the representative’s earlier comments made at 13:40, 20 minutes to 2, where he approached the Nyalas and said that he can see that the SAPS are making ready for war now. He informed Lt-Colonel McIntosh who was the negotiator, “we must sign a paper, so that we could see, the world can see how we kill one another today.” In slide 193, shown with the white arrow and the circle is Mr...
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<tr>
<td>1 4 starts deploying the barbed wire, no public order police</td>
<td>1 photograph, sorry, it's in the next photo to come. The</td>
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<tr>
<td>2 engagements, the protesters cut off by the Nyala barbed</td>
<td>2 water canons started spraying the attackers, the attacking</td>
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<tr>
<td>3 wire prevented from entering. Incident 2 is where the</td>
<td>3 protesters, to prevent them from entering the police</td>
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<tr>
<td>4 protesters have a second attempt before the kraal, public</td>
<td>4 enclosure. This action of the public order policing with</td>
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<tr>
<td>5 order policing engages with less than lethal force. Nyala</td>
<td>5 less lethal force had no effect on the protesters, and they</td>
</tr>
<tr>
<td>6 4 cuts off the advance for the second time. Incident 3,</td>
<td>6 kept coming forward.</td>
</tr>
<tr>
<td>7 the protesters' further attempt is around the kraal, the</td>
<td>7 [13:53] This gave the use of the non, less than lethal</td>
</tr>
<tr>
<td>8 public order policing engages from the right and the left</td>
<td>8 force, enabled Nyala 4 time to close the gap with the</td>
</tr>
<tr>
<td>9 flanks with less than lethal force. The public order</td>
<td>9 remaining barbed wire. Allegedly in this incident, various</td>
</tr>
<tr>
<td>10 policing armoured vehicles attempt to move past the kraal</td>
<td>10 shots were fired from the protesters at the police Nyala of</td>
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<tr>
<td>11 to form a dispersional blocking line. Then we have</td>
<td>11 Colonel Pitsi. We move to the photograph of slide 200, and</td>
</tr>
<tr>
<td>12 incident 4, where the tactical response team line shoots at</td>
<td>12 this shows the protesters' second attempt to Nyala 4.</td>
</tr>
<tr>
<td>13 the advancing armed protesters which is known as scene 1.</td>
<td>13 Again, it is not visible, there are no longer protesters or</td>
</tr>
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<td>14 Slide 196, dealing with incident 1, this is a detailed</td>
<td>14 very few that we can see left on the koppies, and to the</td>
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<td>15 sequence of events. Nyala 1, 2, 3, deployed their wire</td>
<td>15 right of the picture, where the beacon is showing north, we</td>
</tr>
<tr>
<td>16 without any influence or interference from the protesters.</td>
<td>16 can see the small white dots where the beginning of the</td>
</tr>
<tr>
<td>17 Before Nyala 4 started deploying its wire, a group of armed</td>
<td>17 fires are that had been started. Slide 201 is showing us</td>
</tr>
<tr>
<td>18 protesters in formation moved forward and tried to enter</td>
<td>18 the alleged damage from sharp point ammunition. If we move</td>
</tr>
<tr>
<td>19 the police enclosure in front of Nyala 4. It was almost a</td>
<td>19 to slide 202, this is the same Nyala. It was video footage</td>
</tr>
<tr>
<td>20 direct movement from where they were positioned, straight</td>
<td>20 taken after scene 2.</td>
</tr>
<tr>
<td>21 towards the police line. At this stage, Brigadier Calitz</td>
<td>21 [VIDEO SHOWN]</td>
</tr>
<tr>
<td>22 gave the command for the water canons to come in behind the</td>
<td>22 I think it's a bit difficult to see the alleged</td>
</tr>
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| 23 line of the negotiation teams. The protesters were | 23
damage on the smaller screens. It's more visual on larger |
| 24 aggressive, tapping their weapons against each other, and | 24 screens. Slide 203, looking at incident 3, the detailed |
| 25 went into a perceived attack formation. Nyala 4 cut the | 25 sequence of events. After incident 2 when the protesters |

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<tr>
<td>1 protesters off, driving towards the kraal quickly, passing</td>
<td>1 were [inaudible] by the public order policing line when</td>
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<tr>
<td>2 Nyala 5 while deploying its wire. Slide 197, the time is</td>
<td>2 Nyala 4 closed the gap with the barbed wire, the protesters</td>
</tr>
<tr>
<td>3 15:40, 7 minutes later, the armed group will approach the</td>
<td>3 regrouped and approached around the kraal towards the</td>
</tr>
<tr>
<td>4 police vehicle Nyala 4, and attempt to enter the police</td>
<td>4 police in an attacking posture, brandishing various</td>
</tr>
<tr>
<td>5 enclosure. Incident 1, 15:47, slide 198, if we take note</td>
<td>5 dangerous weapons and firearms to attempt to gain access</td>
</tr>
<tr>
<td>6 in the booklets that you have on slide 197, at the front of</td>
<td>6 into the police enclosure. The public order policing</td>
</tr>
<tr>
<td>7 the last yellow pointer is a pole. That pole is again</td>
<td>7 vehicles under the command of Colonel Pitsi and the other</td>
</tr>
<tr>
<td>8 evident in slide 198 which gives us reference to where the</td>
<td>8 team was under the command of Colonel Mere, moved around</td>
</tr>
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<td>9 Nyala was at the time of the approach. The protesters, in</td>
<td>9 the kraal to form a dispersion formation regrouping to face</td>
</tr>
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<td>10 slide 198 the protesters approach in formation towards</td>
<td>10 the approaching protesters. Nyala 6 from the defensive</td>
</tr>
<tr>
<td>11 Nyala 4, who had started deploying the barbed wire. It was</td>
<td>11 group, with the barbed wire, went around the kraal without</td>
</tr>
<tr>
<td>12 noticed that the formation is similar to the formation</td>
<td>12 releasing his barbed wire to block the protesters that were</td>
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<td>13 walked on Monday by the protesters. Slide 199, continuing</td>
<td>13 approaching from the northern side of the kraal in the</td>
</tr>
<tr>
<td>14 with the detailed sequence of events, incident 2, Nyala 4</td>
<td>14 direction of the police lines. Members from that Nyala</td>
</tr>
<tr>
<td>15 drove towards the kraal, to cut off the approaching group</td>
<td>15 could not exit the Nyala in order to deploy that wire</td>
</tr>
<tr>
<td>16 with the barbed wire. The approaching group of protesters</td>
<td>16 however with the close presence of the protesters. While</td>
</tr>
<tr>
<td>17 attempted to enter in front of Nyala 4, before it reached</td>
<td>17 passing the kraal, the protesters passed between those</td>
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<tr>
<td>18 the kraal the second time. The POP members from Nyala 3</td>
<td>18 armoured vehicles and the kraal, the armoured vehicles</td>
</tr>
<tr>
<td>19 and 4, which are both defensive Nyalas, engaged the</td>
<td>19 which had gone out form a dispersing line. They were</td>
</tr>
<tr>
<td>20 protesters with rubber and teargas. The POP vehicles from</td>
<td>20 firing shots at the public order policing members who were</td>
</tr>
<tr>
<td>21 the northern flank who had Lt-Colonel Pitsi in charge and</td>
<td>21 outside of their static Nyalas whilst they continued moving</td>
</tr>
<tr>
<td>22 the POP vehicles from the negotiation monitoring group,</td>
<td>22 in the formation towards entering the neutral where the TRT</td>
</tr>
<tr>
<td>23 which was Lt-Colonel Mere in charge, joined the engagement</td>
<td>23 had lined up at this time. The Nyala with the call sign</td>
</tr>
<tr>
<td>24 to assist Colonel Makubela’s barbed wire group. The</td>
<td>24 Papa 11, threw a stun grenade at the protesters to attempt</td>
</tr>
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<td>25 clustering of those vehicles can be seen in the top of your</td>
<td>25 to disperse them when they tried to damage the wheels of an</td>
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<td>1 Nyala with their spears and pangas. Moving to slide 204, 2 some of the protesters went past the police line of Nylas 3 charging towards the tactical response team line, 4 brandishing their weapons. Members of the public order 5 policing who had less than lethal force capability at that 6 breach point tactically withdrew towards and some of them 7 into the armoured vehicles when the less than lethal 8 weapons failed to disperse he attackers. The protesters 9 moved through the public order policing line towards the 10 TRT backup line when in defence of their own lives and 11 those of their colleagues and other individuals in the 12 police enclosure, as a last resort the tactical response 13 team’s retreating line which included a few of the public 14 order policing members used sharp ammunition to stop the 15 perceived attack. The command to cease fire was given as 16 soon as the threat was no longer evident. The immediate 17 scene, where various protesters were lying, was assessed 18 and weapons were taken away from the injured who were lying 19 on the ground. Then in slide 205, the picture here is 20 shown from the second attempt, the arrow moves into the 21 third attempt to enter the police area. The yellow dotted 22 line is showing Nyala 4, having deployed the full extent of 23 its barbed wire, stopping against the kraal, blocking the 24 entry and the rest of the public order policing vehicles 25 can be seen moving now around the kraal en route outwards 1 past. There was not two shooting incidents. There was 2 only the one shooting incident of eight seconds. If we 3 move onto slide 210, it shows the four pictures and we can 4 see at 15:40 the police line, this is just before the 5 deployment of the first barbed wire. The next aerial photo 6 we have from the same camera is at 15:40, we can see at 7 this stage, they are already busy with their second 8 approach to the police line. Public order policing assets 9 have been deployed. There is no tactical response team 10 members involved at all at this time. The time frame 11 between the photo 15:49 and the photo 15:50 when we include 12 the seconds, it’s 90 seconds. So in that one-and-a-half 13 minute gap, the TRT line has moved forward to take up a 14 defensive line and the NIU line is formed up behind it in 15 photo N50. And by 15:51 the shooting had occurred. Moving 16 to slide 211, these are the munitions that were expended at 17 scene 1. If we look at the units, it says TRT POP, what is 18 significant here is that in brackets the amount of members 19 that have fired their weapons are in the brackets, 45 and 20 55 respectively. According to the statements of the 21 members, we can see whether they fired a warning or towards 22 or both warning and towards the protesters. When we look 23 at the less lethal, less than lethal force, 533 less than 24 lethal means were used to try and riposte the protesters’ 25 advances. And when we look at the sharp point ammunition 26 used, it was 284 in total. If we move on to the next 27 slide, it’s slide 212, again I must just state with the 28 previous slide 211, this is what the members in their 29 statements have claimed to have expended, it’s more than 30 what the LCRC possibly has picked up. Part of the reason 31 for that would be that some of the members were shooting 32 from inside the Nylas, the rubber rounds, thus their 33 cartridges would have remained behind in the vehicles. If 34 we move to slide 212, this is a video, it’s a telephonic 35 call that explains the procedure as it was unfolding, or 36 the incidents as they were unfolding. 14:13] [TELEPHONE CALL PLAYED] 1 [TELEPHONE CALL PLAYED] 12 [TELEPHONE CALL PLAYED]</td>
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| 1 to form a dispersion line when the protesters moved towards 2 the police line for the third time. What can be seen if 3 the mouse cursor can show it is the TRT line that’s in 4 place, the TRT line just behind the Nylas who were in 5 defence now of their members, and approximately 100 metres 6 to the rear, we can see a second line, which is the 7 national intervention unit line. If we move on to slide 8 206, the armed protesters approaching the police line, the 9 firearm is ringed in yellow, and the protesters 10 specifically, they are numbered 1 to 4, they were in front 11 of the formation leading the formation in, with Mr Noki who 12 is just out of picture now. In slide 207, the protesters 13 are moving past the kraal through the tear smoke during the 14 third attempt to breach the police line. If one looks 15 carefully in the picture, you can see in the smoke, in the 16 rear ground the amount of protesters that were still 17 coming. 18 Moving to slide 208, this is the scene 1 after 19 the shooting and with clothing recognition the protesters 1 at 4 are amongst the front crowd. If we move onto slide 20 209, this is to give a brief reflection of the shooting 21 arcs of the tactical response team line and we notice that 22 there are protesters, deceased protesters that are just in 23 front of the line, as well as protesters that were shot on 24 the opposite side of the kraal by bullets which were moving 25 advances. And when we look at the sharp point ammunition 26
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1. veld was set alight about the retreating protesters as they moved towards koppie 3. This was possibly done to deter the police's advance which appeared to be pre-planned as it was executed in an organised manner. The POP's Nyalas with two water canons as well as the SDF armoured vehicles formed a line in front of the protesters that were standing behind koppie 2, and they moved in the direction of koppie 3. They were followed on foot by the NIU to disarm and arrest. In slide 215, this is at 16:02, just after 4 o'clock, the protesters form up following scene 1 behind koppie 2. The fire scene in the picture were lit by the protesters as early as 15:49, starting at the south-eastern end of koppie 3, as previously pointed out. In the picture, if I explain it, we can see the scene, scene 1 at the kraal, where the tactical response team members have remained behind, the pointer is showing it out now, at the top left-hand corner of your photo. If we move along the barbed wire line, you'll see the national intervention unit members who have formed a sweeping line. We see the police armoured vehicle line, with public order policing who have not as yet de-bust their vehicles and we see the protesters standing in a line behind koppie 2. We move to the next slide. There were two specific groupings, there was a more organised grouping of protesters behind koppie 2, and there were many others standing around and inside koppie 3. We go to your close up of the same photograph, 217, shows the protesters behind koppie 2 with the police line, marked in blue. And in the next photograph, in 218 we can see the enhanced, or where we zoomed in onto koppie 3, we can notice the protesters on the northern side of koppie 3, with the tail of the protesters from koppie 2, reaching back to koppie 3 on the left of the picture. Marked in blue in the photograph on 218, we can see the approaching forward holding area 2 line after hearing the shooting from scene 1.

   If we move to slide 219, the police advancing dispersion lines encircled in blue, the initial line of TRTs encircled in yellow, and are remaining at the scene 1 and an NIU, now encircled in red are moving towards koppies 1 and 2. Recalling the original plan, the TRT was to backup the public order policing, the special task force members have now taken over that role, and the national intervention unit has taken over the role of clearing koppies 1 and 2, as was originally planned for the TRT, the SDF and the NIU. Slide 220, the time is 15:57 and we can see the fires that the protesters have lit. The bushes to the bottom left of the photograph are the beginning of koppie 3. Photograph 221, the protesters are facing the direction of koppie 2 and the police dispersion line, the special task force Casspir which is encircled in green is to the right of the photograph guarding against the protesters moving to koppie 1 and to the higher ground, where the dispersion would be difficult. The NIU can be seen in the background forming the sweep line.

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1. Slide number 222, shows the protesters at the same time that were already koppie 3, on top of the rocks, and around the bushes. Slide 223, at one minute to four, this is nine minutes after the shooting at scene 1, the protesters line up, or stand behind koppie 2. The police formation is reorganised in front of the protesters. The media and other support police assets are behind the barbed wire, at the clustering of vehicles in the top right of the photo. Slide 224 shows a clustering of photographs. The middle one is showing, unfortunately on my slide there's a slight purple line, there's a pathway there, we can see in the slide bushes and the protesters on that pathway were protesters which have decided to disperse voluntarily and are moving away. Slide 225, the time is now 16:05, five minutes past four, and the police dispersion line with the water canon is now being utilised in the force continuum of dispersion. On your photograph, it's not depicted very clearly, but you will notice the cursor is now showing you the water canon spraying a blue spray, and the line, the sort of dark line in front of the spray is the protester line. The plan according to the original briefing is being is being carried out pretty closely to how it was explained. We notice some of the vehicles going to the right of koppie 2, some of the vehicles, the armoured vehicles moving between the two koppies, and that was in order to disperse the protesters towards the west to open ground, where disarming and arresting could be done in a safer environment. Slide 226 is the next slide within the same minute, and we can notice that the protesters are further being dispersed by the water canon with blue. The protesters can be seen getting back to koppie 3 while others have moved off into the open fields to the west and to the north, to avoid interaction with the police. Slide 227, the time is still 16:05 in the sequence of photographs. The police armoured vehicles are manoeuvring to disperse the protesters. The water canon succeed in the dispersion action, thus the need for the POPs members to de-bust their vehicles but not necessary during the phase 2 action. Slide 228, the time is still 16:05, the sequence of photos shows the police dispersion line moving between koppie 1 and 2, pushing the protesters towards the west. Slide 229, the time is now 16:06, the photos show the police line approaching the reorganisation point, which is shown as a yellow dotted line over the indentation of the physical terrain property, some form of a dry river bed. This was the reorganisation line was a temporary stop line.

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<tr>
<td>1 to reorganise the police forces, to reassess the situation</td>
<td>1 fires shots at charging armed protesters in the bushes.</td>
<td>2 Incident 9, the national intervention unit members of the</td>
</tr>
<tr>
<td>2 and to move forward into phase 3, which was to disarm and</td>
<td>2 and to move to slide 230. The time is now 16:07 and</td>
<td>sweep line on the southern side positioned on top of the</td>
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<tr>
<td>3 arrest. We move to slide 230. The time is now 16:07 and</td>
<td>the reorganisation of the police force is as follows. We</td>
<td>4 large rocks, fired shots at protesters between the rocks</td>
</tr>
<tr>
<td>4 the reorganisation of the police force is as follows. We</td>
<td>see again in yellow, as was depicted in the video, the</td>
<td>5 and bushes on the south-western side of the koppie when</td>
</tr>
<tr>
<td>5 see again in yellow, as was depicted in the video, the</td>
<td>Nyalas preparing to approach the protesters to the north of</td>
<td>6 they see the firearm. Those members were fired at as well,</td>
</tr>
<tr>
<td>6 Nyalas preparing to approach the protesters to the north of</td>
<td>the koppie, to start disarming and arresting the identified</td>
<td>7 and retreated off the top of the rocks. Incident 10, slide</td>
</tr>
<tr>
<td>7 the koppie, to start disarming and arresting the identified</td>
<td>armed groups. The green depicts the police group preparing</td>
<td>8 233, the K9 members approach and enter the bushes on the</td>
</tr>
<tr>
<td>8 armed groups. The green depicts the police group preparing</td>
<td>to move towards koppie 3 to flush out the protesters with</td>
<td>9 south-western side of koppie 3 and shoot at armed</td>
</tr>
<tr>
<td>9 to move towards koppie 3 to flush out the protesters with</td>
<td>water canons into the open on the western side, so that the</td>
<td>10 protesters who attempt to attack them when they are moving</td>
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<tr>
<td>10 water canons into the open on the western side, so that the</td>
<td>armed protesters could be approached, disarmed and</td>
<td>11 between the large rocks. Incident 11 occurred after some</td>
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<tr>
<td>11 armed protesters could be approached, disarmed and</td>
<td>arrested. Blue depicts the forward holding area members,</td>
<td>12 of the protesters had already been arrested and the NIU</td>
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<tr>
<td>12 arrested. Blue depicts the forward holding area members,</td>
<td>the K9 dog handlers, moving forward to assist at koppie 3.</td>
<td>13 members were sweeping the bushes. One of the protesters</td>
</tr>
<tr>
<td>13 the K9 dog handlers, moving forward to assist at koppie 3.</td>
<td>Their role was to use their dogs to search for firearms,</td>
<td>14 moved out of the bushes to the northern side of the koppie</td>
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<tr>
<td>14 Their role was to use their dogs to search for firearms,</td>
<td>hidden amongst the rocks and the bush, and to assist the</td>
<td>15 and charged at the NIU line to the north. The NIU members</td>
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<tr>
<td>15 hidden amongst the rocks and the bush, and to assist the</td>
<td>NIU sweep line, if required, with their dogs. The red</td>
<td>16 fired warning shots at the armed protester who changes</td>
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<tr>
<td>16 the NIU sweep line, if required, with their dogs. The red</td>
<td>depicts the national intervention unit members’ sweep line,</td>
<td>17 direction towards the forward holding area two members to</td>
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<tr>
<td>17 depicts the national intervention unit members’ sweep line,</td>
<td>that’s completed the clearing of koppie 2, and is preparing</td>
<td>18 the west, where he’s fatally wounded where he attempts to</td>
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<tr>
<td>18 that’s completed the clearing of koppie 2, and is preparing</td>
<td>to move forward to koppie 3. This was to sweep from east</td>
<td>19 stab one of the members with his spear. As we move through</td>
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<td>19 to move forward to koppie 3. This was to sweep from east</td>
<td>west to apprehend armed protesters, still between the</td>
<td>20 the photographs, the sequence of photos, we will actually</td>
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<td>20 west to apprehend armed protesters, still between the</td>
<td>rocks and bushes as their role was for koppies 1 and 2, and</td>
<td>21 see some of the incidents. At seven minutes past four,</td>
</tr>
<tr>
<td>21 rocks and bushes as their role was for koppies 1 and 2, and</td>
<td>the purple line shows the approaching forward holding area</td>
<td>22 forward holding area 1 members approached from the south,</td>
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<tr>
<td>22 the purple line shows the approaching forward holding area</td>
<td>2</td>
<td>23 the K9 was sent forward to assist at koppie 3 while the</td>
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<td>23 2 members. Slide 231, incidents during phase 3, stage 3 of</td>
<td>operation. If we look at the synopsis of the shooting</td>
<td>24 medical and fire brigade remains behind at the power</td>
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<td>24 the operation. If we look at the synopsis of the shooting</td>
<td>incidents at koppie 3, incident 1, the members from forward</td>
<td>25 station. Slide 235, this shows the approaching in blue</td>
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25 SDF members initially deployed on to foot, to sweep and clear the koppie from the southern side. Colonel Gaffley determined that to sweep and clear at that time would be dangerous for the SDF members as gunfire was heard all around the perimeters of the koppie. When the firing ceased, the SADF members proceeded to sweep and clear the koppie, with the rest of the police members present assisting with arresting several protesters. Slide 240, the slide shows from the southern side, the approach of the K9 and we can see the directions of fire that was delivered. The dotted line to the far right was in defence of General Naidoo as he was approaching around those bushes to ward off an attack from the approaching protesters, which was hiding amongst the bushes on the south-western side. The NIU member returned fire at an armed protester as they approached the area where most of the protesters had gathered. Shots were fired to ward off the attack. Some of the NIU members who had opted for higher ground on top of the rock on the southern side, were allegedly shot at by protesters amongst the lower rocks, who were positioned amongst the lower rocks and bushes on the south-western side. The NIU member returned fire, and retreated to safety. Slide 244, depicts the NIU. The second shooting incident on the south-eastern side occurred at approximately 16:13. Members fire at an armed protester charging at them in the bushes. We can see the initial NIU line, just to the northern side of the word “eastern,” they remained in that position, and the group that approached from the south-east moved towards the large rock and split into two teams. The initial incident concerning the protester, which was hiding amongst the bushes occurred with the team to the southern side ringed in red. Slide 245, this shows the NIU second shooting incident on the south-eastern side occurred at approximately 16:15 to 16:17. Members fired shots in the bushes to ward off an attack from the approaching protesters. [14:53] And the member on top of the rock at the top fired shorts, or a shot towards the person perceived to have a firearm and firing it at him from the bushes below. We look at slide 246, the incident involving deceased C. Two police members were standing on the northern side of koppie 3 behind some bushes. Captain Kidd noticed one of the attackers running from behind some bushes and rocks on.
a hill towards the members. Captain Kidd noticed that this
man had two spears, one in each hand, these spears were
raised in the air as to attack the members. The attacker
stabbed at Constable Sibiyane with his spear narrowly
missing him. In the process, the attacker was shot and
fell with Constable Sibiyane to the ground. Constable
Sibiyane was not physically injured in the incident,
though. The incident was also witnessed by the crew of the
Oryx helicopter flying above and Colonel McIntosh, the
negotiator, was positioned slightly to the north. Colonel
McIntosh responded immediately to the injured protester, to
see if he could administer medical treatment.

Slide 247, the shooting on the northern side. As
we can see, the protester moved along the yellow dotted
line running out of the bushes, first in the direction of
the national intervention unit line who are shown just
below the word “eastern.” After the national intervention
unit fired warning shots, the protester turned in the
direction of the west where the shooting incident occurs
marked in the red ring, with the blue ring. In slide 248,
we can see the pole of the spear, it’s video-grabs that
have been taken, photographs taken out of the video
footage, Colonel McIntosh is kneeling next to the
protester, and this is the video footage from Captain
Ryland off his cell phone.

Slide 249, shows the positioning of the police
units as they converged on koppie 3, to continue with the
dismantle and arrests of the protesters. To the north was
public order policing. On board the helicopter was the
national intervention unit. The national intervention unit
approached on foot from the east, special task force were
placed with their armoured vehicles to the south, K9
vehicles were placed further back from the special task
force members on the south, and the TRT, public order
policing and K9 members positioned at forward holding area
2 were approached from the west. Sequence of events, slide
250, the instruction was given by Major-General Naidoo for
members to sweep the hill on foot in order to disarm the
rest of the remaining protesters. The attackers gradually
started to surrender, coming out of the bushes, to the
centre of the koppie. The K9 unit with their dogs were
then employed to sweep koppie 3 for any remaining weapons.
Scene 2 was then secured and cordoned off and General
Naidoo then gave the instruction that it was safe for the
medical personnel to attend to the wounded at both scenes.
The police transportation trucks, called Canters were
deployed to the second scene where 259 attackers were
disarmed and arrested, various dangerous weapons and three
firearms were confiscated from the attackers.

CHAIRPERSON: Colonel, I think we will
null
9th November 2012
Marikana Commission of Inquiry

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