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 16 20 NOVEMBER 2012  PAGES 1751 TO 1823

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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Chairperson: Good morning, the commission resumes. You will see a notice in front of you which says, switch your cell phones off, would you please switch your cell phones off? Brigadier, you’re still under oath?

Brigadier: Yes, Chairperson.

Chairperson: To speak the truth to the commission. I think, Mr Gumbi is going to cross-examine this morning, is that correct?

Mr Gumbi: Yes, Chairperson, I am ready.

Chairperson: Are you ready for your cross-examination?

Mr Gumbi: Yes, Chairperson.

Chairperson: Would you please proceed?

Cross-examination by Mr Gumbi: Thanks very much, Chairperson. Brigadier, before I could even start with my cross-examination I would like to introduce myself to you. My name is Louis Gumbi, instructed by Mafuma Attorneys, I represent POPCRU in these proceedings. Okay, Brigadier, I have a few questions for you. I’ve gone through the training offered to various units within the SAPS and I’ve picked up that there are no negotiation skill training or conflict resolution training offered to SAPS members or offered to those various units, is that correct?

Brigadier: That is not correct, it is not reflected there but it is a standalone course called hostage negotiation and conflict resolution course. It is presented by the South African Police Service, I did not put the details in there because it is not as part of the outfit or the standard training for them, individuals get selected and trained for that.

Mr Gumbi: Will I be correct, Brigadier, that the course is not offered as a basic course or a standardised one, there are few members who are selected?

Brigadier: That is correct, yes, it is not part of the training cycle for one of those specialised units, but individuals from those units can be nominated and have attended, I am convinced that they have attended, some of them.

Mr Gumbi: Is there any criteria that is used to nominate those individuals?

Brigadier: It is dependent on the unit commanders to nominate them and as I said, it is not part of the basic training for those specialised units.

Mr Gumbi: Training offered to those various units you’ve presented before this commission, on completion of their training, the members of SAPS, are they advised about the whole critical condition, are they going to meet after completion of their training?

Brigadier: If you talk about basic training, yes, they enter into a memorandum of agreement and members are prepared for whatever functions that they are going to be doing. There is lot of communication during course and interaction with trainers so that they understand what are the functions that they are going to perform. Then we also have the websites of the police where members can get more information on the duties that are performed. Also the members enter into a job description where they sign and understand the functions that they will be performing.

Mr Gumbi: But they are prepared also mentally?

Brigadier: I believe so, yes.

Mr Gumbi: Brigadier, I wanted to put to you some certain facts that is alleged, that will be placed before this commission, then I want your comment on the SAPS training or the role of the SAPS in labour dispute situations between the employer and the employee and I would deal with those facts and you’ll comment after that, after asking the question. It is alleged before this honourable commission that before the 16th of August 2012 strikers were on strike, that is mine strikers, because they demanded a salary of R12 500 from Lonmin, okay. It is further alleged that the senior police officers went there and they tried to persuade the employer and those striking mining workers to sit down and resolve these issues of which dispute the employees were demanding.

It is further alleged that the employer avert the employees’ wage demand falls outside the collective bargaining structure, so he was not prepared to negotiate with those striking miners. Do you get those facts?

Brigadier: Yes.

Mr Gumbi: So, Brigadier, I wanted to know from you whether the SAPS or is it highly possible that the senior officials of the SAPS, they are trained to persuade the employer who is not willing to listen the wage demand of his employee?

Brigadier: If I understand the question correct, you asked where senior officers are trained specifically to persuade people to participate in negotiation.

Mr Gumbi: Labour dispute negotiation.

Brigadier: Labour dispute negotiation, yes. I cannot comment on that, I don’t have knowledge that people have done or specific people have done such courses, but taking from the seniority of the level that you are speaking from, these officers are constantly in meetings and I think that they have acquired certain negotiation skills and meeting skills that can assist in such regard.
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1 MR GUMBI: Okay, are they trained in conflict resolutions and mechanisms or situations?
2 BRIG BREYTENBACH: There are such courses,
3 I cannot say if those particular officers have undergone the courses.
4 MR GUMBI: If it is proven before this commission that on that day in question senior members of the police officials tried to persuade the employer and the employee and also they tried to facilitate negotiations between the employer and the employee, including the unions, what will be your comment?
5 BRIG BREYTENBACH: I would say that was the responsible action from those police officers.
6 MR GUMBI: And that would be part of trying to find the peaceful solution to a dispute like that.
7 BRIG BREYTENBACH: So do they go beyond their mandate as police officers?
8 MR GUMBI: Okay, are they trained in conflict resolutions and mechanisms or situations?
9 BRIG BREYTENBACH: Yes, I would say so and although it is expected of them to do everything possible to find peaceful solutions to such incidents and as I said, that would be the responsible thing and maybe they have gone further than they should have gone.
10 MR GUMBI: Thanks, Chairperson, I don’t have any further questions.
11 CHAIRPERSON: Thank you, is there anybody else who represent any of the parties, who wishes to cross-examine? I’ll only give you my leave if you turn your microphone on. Granted.
12 CROSS-EXAMINATION BY MR BIZOS SC: Thank you. Brigadier, during the apartheid era there was shooting at a crowd in the Eastern Cape and a commission of inquiry was established headed by Mr Justice Kannemeyer and he dealt in great detail on the use of the type of weapon that ought and ought not to be used, do you remember that?
13 BRIG BREYTENBACH: I can recall the Kannemeyer Commission, that there was one, but the details not, unfortunately.
14 MR BIZOS SC: Well, what his Lordship said in that case, because shotguns were used with SSG pellets, for the benefit of all of us, SSG is the most dangerous piece of lead that is put into a cartridge. There is bird shot, there is buck shot and there is SSG, do you know that?
15 BRIG BREYTENBACH: I know that there is ammunition like SSG.
16 MR BIZOS SC: And his Lordship was against the use of SSG on the basis that there are only 16 to 18 pieces of lead in the cartridge which qualified it as deadly ammunition, would you accept that, that is the SSG?

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1 BRIG BREYTENBACH: That’s correct, yes.
2 MR BIZOS SC: He condemned the use of any ammunition which would cause death, do you remember that?
3 BRIG BREYTENBACH: I have to take it from you, yes.
4 MR BIZOS SC: Yes, and nor should they use buck shot, but if they had to a shotgun with a bird shot is a useful attack against a dangerous crowd, do you recall that?
5 BRIG BREYTENBACH: No, I do not recall but I can take it from you.
6 MR BIZOS SC: Because a bird shot will not kill, it may theoretically injure an eye which is a serious injury, but unless it is used within a very short distance it will not kill, would you agree with that?
7 BRIG BREYTENBACH: I am not a ballistic expert but I think it makes sense what you are saying, Sir, that if it is used on a close range it will definitely kill, but I do not want to comment because I am not a ballistic expert on ammunition.
8 MR BIZOS SC: But you would accept that and if need we will lead evidence, but the more important thing is that I was informed overnight by a source that I trust, one of your ex colleagues, that despite the fact that a shotgun with bird shot was an effective firearm to use for crowd control, your seniors in not too distant past have withdrawn the shotgun even with bird shot to the objection of people who had experience that it was an effective weapon and it should not have been withdrawn, what do you say to that?
9 BRIG BREYTENBACH: I would say that a buck shot or a bird shot, as you call it, falls under –
10 MR BIZOS SC: No, there is a difference between a buck shot and a bird shot.
11 BRIG BREYTENBACH: A bird shot falls, does not fall within less legal ammunition because it can kill and I believe that that is why it was removed from use and replaced with rubber ball ammunition.
12 MR BIZOS SC: But instead of R4 and R5 and R6 wouldn’t it have been a less dangerous arm to use for the control of crowds? Do you recall that there was a debate within the police force whether it was a wise decision to withdraw shotguns?
13 BRIG BREYTENBACH: I recall that there was a debate on withdrawing all lead ammunition, which is the bucks or the AAA and the bird shot, and that it was subsequently withdrawn, because it was considered lead ammunition and replaced with rubber ammunition. As to the specific ballistic effect of bird shot I cannot comment because I am not a ballistic expert.
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1 MR BIZOS SC: Do you know whether there are still people within the police force that actually condemn the decision to substitute a bird shot with other more lethal ammunition and guns?
2 BRIG BREYTENBACH: No, I have not come across such a person.
3 MR BIZOS SC: And you don’t want to express a personal opinion?
4 BRIG BREYTENBACH: No, I do not want to express a personal opinion, Sir.
5 MR BIZOS SC: - Mr Chairman.
6 CHAIRPERSON: Mr Madlanga, do you have any re-examination for the witness?
7 MR MADLANGA SC: Not re-examination, Chair, because we did not lead the witness, Mr Budlender has a few questions for this witness, thank you very much.
8 CHAIRPERSON: Okay, sorry, I am terribly sorry. We indeed have Mr Semenya who led the witness, you’re quite right.
9 MR MADLANGA SC: Thank you, Chair.
10 CHAIRPERSON: And Mr Semenya is not here, but I see he sent someone from the bench, from the substitute’s bench to run on the field and take over from him, but do I understand you to say that Mr Budlender would like to ask questions now?

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1 MR MADLANGA SC: Yes, yes.
2 CHAIRPERSON: Okay, it is actually by way of cross-examination?
3 MR MADLANGA SC: Yes, Chair, thank you.
4 CHAIRPERSON: Mr Budlender?
5 CROSS-EXAMINATION BY MR BUDLENDER SC:
6 Thank you, Chairman. Brigadier, a few questions about how the training system operates first, where are the POP’s personnel trained?
7 BRIG BREYTENBACH: The POP’s personnel is trained at Mankwe Operation on Tactical Academy, just outside Rustenburg. Such courses are also presented in Cape Town in Faure by the provincial training section. Those are the primary areas where it is presented.
8 MR BUDLENDER SC: Does the police college have any role in training of POPs personnel?
9 BRIG BREYTENBACH: Only during basic training, the areas that I alluded, where they do a theoretical discussion with the members on POPs training, but not the Police Academy in Tshwane, is that the one you’re referring to?
10 MR BUDLENDER SC: No, what we use to know as the South African Police College, does that still have a function in relation to this?
11 BRIG BREYTENBACH: Sir, we’ve got 24 at

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1 this stage.
2 MR BUDLENDER SC: They’re all police colleges?
3 BRIG BREYTENBACH: Yes. That’s why I say if you refer to Police College, generally we talk about Tshwane, but in the basic academies they do the theoretical part in learning area 6.
4 MR BUDLENDER SC: So when, if we talk about police college, that’s really a collection of a number of different sites, all undertaking various training activities?
5 BRIG BREYTENBACH: Yes, and they specialise in different field of training.
6 MR BUDLENDER SC: Do you know whether the police college trainers, if I can call them that, have basic texts which they use for this training in Public Order Policing?
7 BRIG BREYTENBACH: Like manuals, for instance?
8 MR BUDLENDER SC: Manuals, textbooks, etcetera.
9 BRIG BREYTENBACH: Yes, there is prescribed programme and though a detainee is very practical nature, there is learner guides and presenter guides.
10 MR BUDLENDER SC: So there are presenter guides and there are learner guides, are you aware of any other materials which are used for the training? Written materials, that is?
11 BRIG BREYTENBACH: No.
12 MR BUDLENDER SC: And who trains those trainers?
13 BRIG BREYTENBACH: Trainers, in the last period before the World Cup, the French were involved in training the crowd management trainers, and there’s also crowd management train the trainer, as we call it, where members from POP units are called up by fellow POP members, experienced ones that is certified trainers.
14 MR BUDLENDER SC: And what written materials would those who are training the trainers use for that purpose.
15 BRIG BREYTENBACH: They would also use trainer handouts, and basically the same as I said for the platoon members.
16 MR BUDLENDER SC: I understand that training in a matter like this is partly a matter of training from experience and teaching from experience, but is there any theoretical training which is provided by reference to standard textbooks for example?
17 BRIG BREYTENBACH: That is the learner guides that we’re referring to. Because this is huge
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1 groups that is trained at any given time, they depend on
2 slide shows, discussions with members and that forms part
3 of the presenter's guides that they then utilise to train
4 the members, and a lot of the training is also done in
5 practise outside.
6 MR BUDLENDER SC: No, I understand that,
7 what I'm interested in is on what materials, the people who
8 prepare the trainer's guides rely in preparing those
9 guides? It surely doesn't just come out of their heads,
10 they must derive it from somewhere?
11 BRIG BREYTENBACH: That is where the
12 curriculum developers come in and they would do the
13 necessary research. As I mentioned, the French was closely
14 involved prior 2010 when the crowd management was sort of
15 revamped, and I believe that would be best if that question
16 is posed to curriculum developers.
17 MR BUDLENDER SC: I understand. I assume
18 the curriculum developers would have access to materials,
19 what I could call primary materials, from which they would
20 derive the materials which they prepare and the guides
21 which are used?
22 BRIG BREYTENBACH: I suppose so, yes, Sir.
23 MR BUDLENDER SC: And where are the
24 curriculum developers based?
25 BRIG BREYTENBACH: They're in Pretoria,

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1 based at our head office.
2 MR BUDLENDER SC: So they would presumably
3 have access to materials at head office which they could
4 use for developing their guides?
5 BRIG BREYTENBACH: I suppose so, yes.
6 MR BUDLENDER SC: Alright, then to move to
7 another subject, do you know what training is given on the
8 pharmacological impact of teargas in -
9 BRIG BREYTENBACH: No, not that I can
10 recall.
11 MR BUDLENDER SC: Do you know whether any
12 training is given on the pharmacological impact of teargas?
13 BRIG BREYTENBACH: No.
14 MR BUDLENDER SC: Do you know whether any
15 training is given on the likely behavioural consequences of
16 being subjected to teargas?
17 BRIG BREYTENBACH: No, I do not know that,
18 what I know is that - no, I do not know.
19 MR BUDLENDER SC: Presumably the curriculum
20 developers would be the people to ask about that?
21 BRIG BREYTENBACH: Yes, and also the
22 trainers that's actually presenting the course.
23 MR BUDLENDER SC: Then I want to ask you
24 something about the Regulation of Gatherings Act. You
25 mentioned that this is one of the core legal instruments

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1 which, on which Public Order Police are trained.
2 BRIG BREYTENBACH: Yes.
3 MR BUDLENDER SC: Do you know that that Act
4 had its origins in the work of the Goldstone Commission on
5 the prevention of public violence and intimidation?
6 BRIG BREYTENBACH: No, I didn't know that.
7 MR BUDLENDER SC: Have you ever heard of
8 the report prepared by the Goldstone panel on the lawful
9 control of gatherings in South Africa?
10 BRIG BREYTENBACH: I've heard of it, I
11 haven't seen it.
12 MR BUDLENDER SC: So, you know, in general
13 terms, that there were recommendations by an international
14 panel which was constituted from this purpose?
15 BRIG BREYTENBACH: Yes.
16 MR BUDLENDER SC: Then finally, Brigadier,
17 I want to make sure that I understand your evidence
18 correctly. I am correct in understanding that the Special
19 Task Force are not trained in public order policing?
20 BRIG BREYTENBACH: That's correct, yes.
21 MR BUDLENDER SC: Thank you, Chairperson, I
22 have no further questions.
23 CHAIRPERSON: Any re-examination from the
24 side of the police? Mr Mathibedi, are you going to -
25 MR MOTHIBEDI SC: Mr Chairman, TF

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1 Mathibedi, no re-examination.
2 CHAIRPERSON: No re-examination. He puts
3 himself on record just to say you've got nothing to say?
4 Alright, an example that I hope nobody follows. Thank you,
5 Brigadier. I take it you would like to be excused, unless
6 you want to stay in attendance to hear what happens next?
7 BRIG BREYTENBACH: I'll attend in the
8 auditorium - in the seats on that side. Thank you very
9 much, Sir.
10 CHAIRPERSON: Thank you, you're excused.
11 BRIG BREYTENBACH: Thanks.
12 [NO FURTHER QUESTIONS - WITNESS EXCUSED]
13 CHAIRPERSON: Mr Mathibedi, do you wish to
14 lead any further evidence?
15 MR MOTHIBEDI SC: Not at this stage, no, Mr
16 Chairman.
17 CHAIRPERSON: No.
18 MR MOTHIBEDI SC: Mr Chairman, with regard
19 to the ballistic report, my instructions are that it is
20 available, IPID was advised to go and collect it from the
21 forensics laboratorium in Pretoria.
22 CHAIRPERSON: That's - thank you very much.
23 Mr Madlanga, I take it you heard what Mr Mathibedi said?
24 MR MADLANGA SC: Yes.
25 CHAIRPERSON: You heard that. I don't know
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25           MS PILLAY:        Mr Chairperson, we'll first
24 answer it.
23 you've asked the question, now let's see whether she can
22 person to whom these questions have to be directed, but
21           CHAIRPERSON:        I think Ms Pillay is the
20 Would there be any hard copies available please?
19 facilities here, so that will be delays in getting them.
18 hard copies, because for some of us, we have no printing
17           MR BIZOS SC:        Mr Chairman, could we get
16 red tape.
15 will be found which will be sharp enough to cut through the
14           CHAIRPERSON:        I'm sure a pair of scissors
13 Chair.
12 a follow up with them and make sure that we get it soon,
11 to IPID, and so we will get it from IPID, but we will make
10 these are IPID investigations on SAPS, it has to be given
9           CHAIRPERSON:        An exhibit number, I beg
8 August –
7 video for each day an annexure number, so if the 9th of
6 specific videos, our suggestion would be that we give each
5 fact that at a later stage the parties may want to refer to
4 that correct?
25 Chaskalson, I believe you will be presenting the videos, is
24 
23           
22 to show us.
21 and will resume after we have been told that the evidence
20 will – well, the Commission will adjourn for a short while,
19 will indicate when we will be ready with the video footage.
18          Very well, the Commission
17 will - well, the Commission will adjourn for a short while,
16 and will resume after we have been told that the evidence
15 leaders are ready to proceed with the videos that they wish
to show us.
14 So because of what my learned friend told us only
13 exhibit that we haven't yet got yet, so I hope we'll get
12 an exhibit that we haven't yet got yet, so I hope we'll get
11 fairly lengthy and our belief is that this is footage that
10 some video footage.  They have put a collection which is
9 colleagues, Matthew Chaskalson and Charles Wesley to play
8 colleagues, what we also intended doing is for my
7 that witness tomorrow.  Chairperson, Commissioners and
6 today, and he says that they will only be ready to call
5 that precognise the witness prior to calling him
4 would deal with, and that that addition has necessitated
3 the witness that initially we had agreed that the witness
2 The reason is that they have decided to add something to
1 Mr Mathibedi says that he's not ready to lead that witness.

1 Mr Chairperson, I believe we
0 have, we'll have a look at the size of the document and
0 what the nature of the document, whether it's capable of
0 being printed in hard copy and if it is, we'll definitely
0 make copies for whichever parties don't have access to
0 photocopiers.
0 I don't know how long it's
0 going to be, but presumably it's going to deal, I take it,
0 with practically every bullet or bullet fragment that was
0 found, and I don't know how many were found, and then, I
0 take it, it will relate back to the firearms which were
0 used during the operation, and which firearm was used to
0 fire which bullet, so it may be quite a longish document
0 actually, but anyway – but never mind how long it is, it
0 may be that Mr Bizos and his colleagues will need it and,
0 as he correctly says, a hard copy may well be very
0 necessary for him.  Anyway that's a matter you can deal
0 with outside the auditorium.
0 Mr Madianga?
0 Mr Chairman,
0 Commissioners, the arrangement between the evidence leaders
0 and SAPS was that after the Brigadier, SAPS would lead yet
0 another witness, and that was to have been a witness that
0 was to deal with firearms, the use of firearms, what effect
0 each firearm has on a human being, how each type of firearm
0 ejects cartridge cases and so on and so on.  This morning
0
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MR CHASKALSON: Mr Chairperson, we don't have videos from the 15th or we won't be showing videos from the 15th, we do have some but we are not proposing to show them.

CHAIRPERSON: That for the moment, BB will then be the 16th, but if there is a possibility we'll use some of the 15th, then maybe we must, you know make it easier if they're in sequence. Is there a possibility that the 15th will be used?

MR CHASKALSON: There certainly is, the other parties, there are videos that other parties may wish to show, so there is for instance of Mr Mathunjwa addressing the crowd from within an Nyala.

CHAIRPERSON: Okay, it sounds sensible for us to keep BB then for the 15th and CC will be the 16th, is that in order?

MR CHASKALSON: It is, Mr Chairperson, and before we start with the videos, if I might explain, when I introduce a video I will give an indication of who the camera person is who took the video and also the approximate time of day at which the video was taken. In due course, if any of these details are, or we will try to get these details admitted by the parties but if needs be affidavits can be put up confirming them from all of the individual –

CHAIRPERSON: I think you should also try to find out and give us where the cameraman was, in other words at what spot the camera was located when the pictures were taken, that may have a relevance as well.

MR CHASKALSON: We will attempt to do so. If we can then start with the first video on the 9th of August –

CHAIRPERSON: Mr Chaskalson, I think Mr Ntsebeza raised his hand and turned on his microphone, so let's find out what he wants.

MR NTSEBEZA SC: Thank you, Mr Chairman, actually through you, Mr Chairman, I just wanted to establish whether the video material that is being presented to us is all the video material that the evidence leaders have from wherever they get them from, or whether there are edited versions or whether they know whether they are the full material or not, so that we should even before we see them, anticipate that it may be edited versions or it may be the full material or ja, I just want to know that.

CHAIRPERSON: Mr Chaskalson, you've heard the interrogatory, are you able to answer it?

MR CHASKALSON: I am, Mr Chairperson. It is certainly not all the video evidence that we've received, that video evidence probably runs to several days of playing time. We have selected materials which we regard as sufficiently important to be played in the commission. We made available all of the evidence, the video evidence that we've received to other parties and we certainly don't suggest that this is the only relevant video evidence, but in respect of the other video evidence if parties want to refer to it in cross-examination of the witness, or even as evidence in its own right, we certainly wouldn't stand in their way if they sought to do so. What I will do in relation to contextualising the clips that we are showing today is, when we show a clip we will give you the directory address where that clip is to be found, in either the SAPS hard drive or the Lonmin drive that was made available for distribution yesterday, and we will also give an indication of, to give an example. The first clip that we're playing on the 9th is a file that's called Quadruple 9.MTS. It is the ninth file in a series of short clips that were taken on the 9th of August.

We will certainly indicate when the clip that we show is one of many clips of the same event. We chosen just to show one or two because it becomes very repetitive to show them all and very time consuming, but we don't for a minute suggest that other parties should be precluded from showing other clips, referring to other clips.

MR NTSEBEZA SC: Chair, I am comforted by the assurance that the full versions are available to the parties.

CHAIRPERSON: I understood they had already been made available, I don't know whether your side, the parties for whom you appear have been given them but if they haven't been, I am sure that's an omission which shall be rectified as soon as possible.

MR NTSEBEZA SC: No, we'll sort it out, I am sure, ja, we'll sort it out. Mr Chairman, I also proceed on the basis that - assurance that there isn't material that may be of such a nature that the families need to be accommodated elsewhere?

CHAIRPERSON: Mr Chaskalson is very well aware –

MR NTSEBEZA SC: No, we spoke to –

CHAIRPERSON: - of that aspect and when any material of that kind is to be shown a warning will be given, because we've seen in the past what's happened and people have unexpectedly seen material relating to their loved ones that's causing great deal of emotional distress and we wouldn't want a repetition of that.

MR CHASKALSON: Mr Chairperson, then to introduce the first two videos from the 9th of August, these...
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are videos of a crowd of striking mine workers. The videos
were taken by a Lonmin security officer, Mr Botha. The
date stamp on the two videos that we will be playing which
are called 0009 and, well Quadruple 09 and 00010, are
10:35am and 11:40am respectively. Before we show those
videos, if I can give the directory address, it is on the
Lonmin hard drive, the directory is \video
recordings\pwbotha\quadruple 9.MTS and 00010.MTS. That
directory is a directory in which videos taken by Mr Botha
over the full period relevant to the commission, are
included sequentially or chronologically. Each file has
properties which record the approximate date and time on
which the video was taken.

The files relating to the 9th of August start at
Quadruple 07 and run to 00010. We will be showing 9 and 10
and we show them merely because they describe, well, they
show, they depict a gathering of striking miners
before any of the particular incidence of conflict had
broken out and, well, - this crowd looks slightly
different to the manner in which the crowd appears on 14th,
15th and the 16th.

CHAIRPERSON: I take it the lights will be
turned out when the video is shown because sitting where we
are, we find it difficult to see the screen clearly if the
lights above us are on because of the glare.

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MR CHASKALSON: I think someone is
attending to that now, Mr Chairperson. Mr Chairperson, it
is apparently taking longer than we anticipated. The 10th,
we are going to show material of the march of miners
workers to the Lonmin offices. We'll be showing some material that
was taken by Lonmin security officers. We will also be
showing the full unedited footage taken by the SAPS, part
of which was shown in slide 15 of the SAPS presentation and
we'll show a footage of the marchers leaving the Lonmin
offices as well. If I might, assistance is on its way in
relation to the lights, I am told, but possibly if I might
give directory addresses for the videos that will be shown
on the 10th while we wait for them.

The first video is again from the Lonmin drive.
It is \video recordings\2012-08-10-
march\pwbotha\AMCU2012077.MTS, 2012077, and maybe if I can
restate the file number, it is actually AMCU2012077, it is
the same sequence in numbers, but it is 2012077 and that
directory runs from 2012067 to 2012079. We'll just be
showing the 077 file from that directory. The full range
in that directory runs from approximately 07:25am to
09:07am, 07:25 to 09:07, and the video clip which we will
be showing is 43 seconds at approximately 08:41am.

The next video of the 10th is on the Lonmin drive,
\video recordings\2012-08-10-

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video taken by a Lonmin security officer, Mr Callie Miles,
M-I-L-E-S, at approximately 09:58am. The directory of Mr
Miles' videos of the day runs from Quadruple 0, or it runs
from 1 to 12, there are 12, - I apologise, 1 to 15, and the
video at 15 is taken at approximately 12:53pm, and Mr Miles
has 15 clips of the march of the workers from before they
arrive at the Lonmin offices, at the Lonmin offices and
then departing from the Lonmin offices.

We will show two of the clips of the workers on
route to the Lonmin offices, those are files 1 and 2. We
will then show the SAPS footage which was taken by Warrant
Officer Masenya, if I can get Warrant Officer Masenya's
description in advance of showing his clip. So if we can
then start with the two clips of the 9th of August of the
crowd of mine workers on the 9th August.
[11:18] [VIDEO SHOWN]

If we can move straight on to the second clip
from the 9th of August?
[VIDEO SHOWN]

Mr Chairperson, we showed those two clips simply
to show the crowd on the 9th of September and the
observations which we would make are firstly, that there
are no traditional weapons at all, not even sticks, and
secondly, even Mr Botha, the Lonmin's security officer, saw
nothing sufficient to attract his attention in relation to

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illegal activity or anything that demanded his response.
It is voice-over that we hear on that tape.
If we move then to 10th of August. As mentioned
earlier, the first clip that we will show is a clip taken
by Mr Botha at approximately 8:41 am of the march of mine
workers towards the Lonmin offices.
[VIDEO SHOWN]

MR CHASKALSON: Our next clip is at
approximately 9:58 and is taken by Mr Miles.
[VIDEO SHOWN]

MR CHASKALSON: Mr Chairperson, that clip
is quadruple 01 in the sequence of Mr Miles at \Video
Recordings\2012-08-10-March\Callie. When I said it was
taken at approximately 9:58, that is what the file records.
From the sequence we infer that that is a picture of the
march stopped at certain point between forming up and
arriving at the Lonmin offices.
If we move to the next clip which is in the same
directory, and is the next file in that directory, file
quadraple 02, it is Mr Mile's clip, taken, according to his
camera, at 11:07:40, and by this stage the march has got up
again and moved on again in the direction of the Lonmin
offices. They are shortly to arrive at the Lonmin offices.
[VIDEO SHOWN]

Mr Chairperson, the next video which we will be
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Mr Chair, those are all of our videos for the 11th of August. If we can move then to the 12th of August and the first footage that we will be showing is footage from the same fixed Lonmin CCTV camera, 218. This is footage shortly after the confrontation between striking mine workers and Lonmin security in which the two Lonmin security guards, Mr Fundi and Mabelane were killed. We do not see direct footage of that incident but there may nevertheless be some footage which is of a distressing nature to relatives of Mr Fundi and Mabelane.

MR CHASKALSON: In the meantime, if I might describe the source directory of this file. The original footage is on the SAPS hard drive \Lonminstrike\CCTVfootages\21-08-2012\camera218. For technical reasons we’ve had to break up that whole file into four consecutive sub-files to be able to play it on the system here, but the source file is continuous and what we have attempted to do is to ensure that all of the footage on the source file is covered in the clips that we will be playing shortly. There are points in this video where smoke will blow across which we infer to be smoke from the burning of the cars in which Mr Mabelane and Fundi were killed. There is also footage which we may have to point out at a certain point of one of the striking or one of the protestors attempting to – well showing a shotgun which appears to be the shotgun that was taken from the security officers. If we can then start the video.

[VIDEO SHOWN]

We can replay it if that would be convenient. The man just to the left of the telegraph pole has a shotgun in his hand pointed down to the ground. It’s been pointed out with the mouse at the moment.

MR NTSEBEZA SC: Is that a shotgun?

MR CHASKALSON: We’re fairly confident that it is. There’s an attempt to load it later on.

[VIDEO SHOWN]

[12:18] Mr Chairperson, that is the only footage we have relating to the first incident on the 12th which is the confrontation between the striking mine workers and Lonmin security. There was a second incident late on the night of the 12th when Mr Mabebe was killed at the parking lot at the Karee Shaft. We have some footage after that event, it doesn’t include any images of Mr Mabebe but it may nevertheless be distressing to Mr Mabebe’s family and friends.

CHAIRPERSON: Well we’ll wait a minute to give them an opportunity to leave if they wish to do so.
MR CHASKALSON: This footage is to be found on the SAPS hard drive in the \videos\2012-08-12\K4 directory. There are two files in that directory M2U00358 and 359. We will be showing 358 which is date stamped 21:05 pm.

[VIDEO SHOWN]

[CUT: 12:38] Mr Chairperson, that concludes our footage of the 12th. If we move now to the 13th, the first footage that we will be showing is footage taken by Warrant Officer Masenya. Part of this footage was included in the SAPS presentation – I've lost my note but I think it's slide 50. I'll come back with the confirmed reference. It's footage which was taken from the same file of Warrant Officer Masenya's footage which we saw on the 10th \videos\2012-08-13\CH223-0814-1124 and this is footage of the group of striking mine workers on the railway line being addressed by General Mpembe in a request to have them put down their weapons and disperse and then moving into the field at Donkerhoek where there were subsequently two policeman and three mine workers killed.

The footage which we propose to show at this stage will include footage of the body of Mr Jokanisi and footage – ja, no. Just at this stage it was just the body of Mr Jokanisi. So if Mr Jokanisi's family would want not to see this footage, they should leave the auditorium now.

[VIDEO SHOWN]

MR MAHLANGU: If they could just replay it again, it wasn't very clear.

[VIDEO SHOWN]

It's actually not clear.

[VIDEO SHOWN]

Again, if this could be repeated just for me to get all completely.

[VIDEO SHOWN]

What we are requesting to do is that you accompany us, that you go with us.

[VIDEO SHOWN]

That is all we are asking from you.

[VIDEO SHOWN]

Again, I'm going to request that this be repeated. It's not very clear because of the flight of the –

[VIDEO SHOWN]

That is all we are asking. From the place that we come from we have been told –

[VIDEO SHOWN]

I'm sorry, Chair.

[VIDEO SHOWN]

That is the only thing that we are requesting from you. As you can see from where we come from, we have not damaged anything. We are still insisting that we want to go to where we are going to. [VIDEO SHOWN]

I'm sorry. If I could ask a repetition again from the last one, just before the general spoke. I didn't have these earphones correctly.

[VIDEO SHOWN]

Could you bring it nearer? Could I just come here? I'm going to request that it be turned a bit back to where this man is speaking.

[VIDEO SHOWN]

We are asking for one thing. We are asking your permission to proceed to where we are staying.

[VIDEO SHOWN]

Even where we come from, we have not caused any damage. We are only asking for permission to be allowed to proceed to where we stay.

[VIDEO SHOWN]

That is all we are asking from you.

[VIDEO SHOWN]

We, the police, have come here to come to try to solve your problem.

[VIDEO SHOWN]

I have to explain one thing that we have not come here to arrest you.

[VIDEO SHOWN]

But we have a problem. Our problem is those things that you are in possession of – [VIDEO SHOWN]

- they are illegal.

[VIDEO SHOWN]

And if you want to proceed, my request is going to be to you that individually – [VIDEO SHOWN]

- that you individually hand those things over.

[VIDEO SHOWN]

Listen, please.

[VIDEO SHOWN]

The last thing was in Sotho, it's not very clear what has been said.

[VIDEO SHOWN]

I'm indicating that – if this could be repeated again.

[VIDEO SHOWN]

These things that you have are not allowed by law.

[VIDEO SHOWN]

From here I'm going to proceed to those on the mountain.
And you are not supposed to be seated in this manner and not supposed to gather together as you are seated now.

[VIDEO SHOWN]

Before gathering like this, you have got to get permission to have such a gathering and be addressed by your leaders.

[VIDEO SHOWN]

You are not supposed to be gathering in this manner.

[VIDEO SHOWN]

Because the gathering as you are gathered now is against the law.

[VIDEO SHOWN]

We are here to come and explain to you that this should not happen again.

[VIDEO SHOWN]

To gather in this fashion.

[VIDEO SHOWN]

The sentence is not complete. If you just repeat.

[VIDEO SHOWN]

We again request then - the last sentence, it wasn't complete and when you -

[VIDEO SHOWN]

He get to a point where he says - we have come here to explain to you that in future you should not be gathering in this manner.

[VIDEO SHOWN]

If you again meet in this manner, the police will then tell you to disperse.

[VIDEO SHOWN]

From here we're proceeding to those on the mountain.

[VIDEO SHOWN]

To go and to explain to them that they are not supposed to gather on the mountain there.

[VIDEO SHOWN]

And not gather in this manner.

[VIDEO SHOWN]

And you are not supposed to be carrying and then says - carrying somebody in the background says dangerous weapon and then the general says, the assegais you are carrying.

[VIDEO SHOWN]

Because the spears that you have are illegal.

[VIDEO SHOWN]

That is what we want to tell you. Those are the ends of the general's word. If it could just be repeated for this one who is saying something in Fanagalo, from the beginning.

[VIDEO SHOWN]

We are here where we are gathered now.

[VIDEO SHOWN]

We are gathered here peacefully. We are not here to commit any violence. If you believe we are violent, you can accompany us up to the place where we're staying.

[VIDEO SHOWN]

We do have these things that we are carrying, referring to the things that he has in his hands, but we are not fighting. We want to prove to you that we are not fighting by accompanying us to our place where we stay.

[VIDEO SHOWN]

The first thing, yes, sir, my father, you are police. You are state policeman - if you just slide back a bit.

[VIDEO SHOWN]

We want to show you we are not fighting.

[VIDEO SHOWN]

Yes, Sir. My father.

[VIDEO SHOWN]

[We are in Lonmin.]

We are trying to fix our salaries at Lonmin. We worked in the ground, under the ground, we are not fighting.

[VIDEO SHOWN]

We went out and we came across mine securities who told us, this thing that we are talking about is there. May I again request just slightly backwards?

[VIDEO SHOWN]

There is nothing, this thing that we are talking about is just not there, the best is for us to go back.

[VIDEO SHOWN]

He tried to shoot at us.

[VIDEO SHOWN]

I am sorry, I didn't get this one, if you could just return back to where he said -

[VIDEO SHOWN]

He said that he would give us the reply, that was after he said he had tried to shoot at us and then he said he will try to bring us a reply.

[VIDEO SHOWN]

We are not fighting anybody whatsoever, we are only asking for -

[VIDEO SHOWN]

You are government people, the only thing we want is our money, money that belongs to us.

[VIDEO SHOWN]

We have mentioned that we are not fighting, we
are asking for your permission, we're asking you to accompany us instead.

- that you accompany us, we are not fighting at all.

Where are you going to hand over those things to us, is it at the mountain?

We had been asked by the workers at the mountain to go, we are now taking the response, the reply back to them, that's why we want you to accompany us to go and tell them what the reply is.

We will be prepared to hand over the things that you have, if you people would go there and get the manager to come and give us the reply that we want.

That is all we want, we are not fighting anybody.

We did not fight anybody, that person is the one who fought with us.

We have not caused any trouble and we're only saying one thing, we are not going to talk again.

Our request is that we want all these men to proceed with us to the place where we are.

If the last would be repeated once more, thank you.

We are saying we want this man to accompany us to the place where we have been.

And thereafter -

- then you can go and get the employer to come back to us, we do not want the money, we want a reply to what our request has been. Just very slightly to the back, yes.

If you then can go to our management and if you want our leaders, we have our leaders amongst ourselves here.

I am sorry, if that could be repeated?

If you say you want to talk to our leaders right now, we do not have the leaders here amongst ourselves as

What we are requesting is that all these men should accompany us to the place where we have been and thereafter you people should then go to the employer, come back with the employer. We don't want money, we want the reply that we expect from him. We will then thereafter give you all these items that we have, that you are demanding from us.

All this time from when this thing started, we never fought anybody. The only thing that we are asking is that you go to our management. Since you want our leaders, I must tell you we don't have our leaders amongst us here. These are the people that are working inside the mine. We will then give you all these things with our open hearts, so that you come back with the person that employs us, our employer and we talk to him. He brings us the reply. After the employer has come here and told us when he is going to give us what we are demanding, we will not keep on sitting on the mountains. We will go back to our residences. Since you people came to us here, you have seen that we are fighting nobody. You have seen that we are not fighting but the problem is our employer does not want to come to us to give us the response that we are demanding from him. He does not come himself instead he sends somebody else. If he brings us that response, we are not going to fight, we will then go back to our residences. On Saturday, we were going back to our residences when the security police came.
and shot at us. They killed two of our people and that is the reason we are angry.

MR MMUSI: Mr Chairman, I'm sorry to interrupt but that is not what the person was saying. What I understood him to be saying is that they killed our two people, that is why we are carrying the things we are carrying. So perhaps they can play the tape so that Mr Interpreter can -

MR MAHLANGU: On Saturday we went back to the places where we stay and the people, the security police together with the people from NUM attacked and killed two of our people and that is the reason we are carrying these things, (he indicates the things that we are carrying), we are not fighting anybody. We are only making this request. Our request is that you will accompany us to where we stay. We will give these instruments at the place where we stay. I will give you these things at the place where you are asking you to take us to, at the place where we stay. We will go there together with you. One thing that hurts me in my heart is that I see faces that look similar to mine. If I see you I see a face that looks like mine, that is what hurts me, that's what makes my heart very sore and then there are voices which says please listen, please listen.

We understand what you request is, Sir but we are still pleading, we are pleading that you accompany us. We go along with you. We are not refusing to hand over these things. Go along with us, we will then give you these things there. Nobody should go ahead and nobody should come behind, we will all go together. Once you have taken us to where we stay then you come together with our employers you will then get these things that you want. At the place where we are, and the question is asked where we are at the mountain. We are at the mountain but if you want to talk to us we will come to the place where you request us to come to. We will come there to listen to what our employer says about what our demands are and why he did not come to us on Friday. We did not fight, even the mine police, even from the mine police we did not fight. We told them we are proceeding towards, we said to the mine police that we are not fighting we are going to the place where we have been.

Something about NUM, NUM people shot and killed two of our people and that is why we are carrying things such as this, he indicates we are not fighting those people. We are going to sing our song, we plead with you. There is a voice that says they are not cooperative and any action that is going to be taken is because they are not cooperative. We want to take these weapons. I am counting, I am counting. I am please asking you to listen to me, let me just talk and finish. My father's please listen to me, we asked the mine police and they allowed us to go with our things to over there, the place where we have been. They also know that we are not fighting anybody, what we are actually asking is that you bring our management. Even the people from Marikana West knows that there are people who are fighting us.

[14:37] We had been told that there are police who have already arrived that side, they are waiting for us.

[VIDEO SHOWN]

What we are requesting from you is to guard us, accompany us, we are not causing any damage, we are not eating anything that does not belong to us.

[VIDEO SHOWN]

What we are asking is, as soon as we arrived on that hill you will then come and these things that we have...

[VIDEO SHOWN]

As soon as we arrive over there, the things that we have here, we will come to you, Tata, and then there is an -

[VIDEO SHOWN]

And te voice says, Tata, and then quiet.

[VIDEO SHOWN]

Tata, I said I've got no problem with you.

[VIDEO SHOWN]

If I may just interpret, the request from the speaker who is appearing, he is saying, please, I beg you to listen to me, and then there is a voice that says, Tata, listen.

[VIDEO SHOWN]

I've said to you I have no problems with you, I only want the spears.

[VIDEO SHOWN]

That was all, I only want the spears.

[VIDEO SHOWN]

I want the spears.

[VIDEO SHOWN]

If I don't get the spears I am not going to allow you to go past.

[VIDEO SHOWN]

MR CHASKALSON: Mr Chairperson, just to explain at this point, the video is not continuous, Warrant Officer Masenya is now taking a later shot, we're not sure what the gap between the two shots are, but he had to, well, the crowd has subsequently marched off the railway line towards the field and he's had to come around to be at their front as their, or to be in front of them as they come on to the field to take the shot. On the file it looks continuous because the file is where this analogue looks continuous because the file is where this analogue
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25 people hasn't been warned about. It is better to give a
24 something, the video went on and something was seen that
23 think when Mr Budlender was presenting videos, by mistake
22 the one occasion where, I
21 that we stop before those shots come up.
20 CHAIRPERSON: I am glad you mention that,
19 the police presentation, so we're not, or I am hoping
18 MR CHASKALSON: Our intention, Mr
17 Chairperson, was to stop at the end of the footage of Mr
16 Jokanisi and not to run forward where there are some fairly
15 gruesome shots of policemen which have already been shown
14 in the police presentation, so we're not, or I am hoping
13 that we stop before those shots come up.
12 CHAIRPERSON: The one occasion where, I
11 think when Mr Budlender was presenting videos, by mistake
10 something, the video went on and something was seen that
9 people hasn't been warned about. It is better to give a
8 warning which is not necessary than not give a warning and
7 have the video to go on in circumstances where distress is
6 caused.
5 MR CHASKALSON: I appreciate that, Mr
4 Chairperson, and then any family members of the two police
3 officers who were killed on the day, it is, I think it is
2 Warrant Officer Monene and Warrant Officer Lepaaku.
1 [VIDEO SHOWN]

MR CHASKALSON: Mr Chairperson, that is the first teargas
12 canister or stone grenade that is fired by the police. We
11 have it at approximately two minutes 3 seconds into this
10 clip.
9 [VIDEO SHOWN]
8 And if I could stop the clip at this stage, if I
7 could ask you, Mr Commissioner and the Commissioners, just
6 to mark a line on the, what looks like lights of sort
5 facing in either direction, that pole with lights at the
4 top, that the cloud of teargas is essentially on the line.
3 Why it is of significance is at the end of this clip we see
2 where one of the policemen was killed and it is in fact on
1 that line.

[VIDEO SHOWN]

13 The clip.
12 [VIDEO SHOWN]
11 MR CHASKALSON: Mr Chairperson, that is the first teargas
10 clip.
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8 And if I could stop the clip at this stage, if I
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3 Why it is of significance is at the end of this clip we see
2 where one of the policemen was killed and it is in fact on
1 that line.

[VIDEO SHOWN]

10 Mr Chairperson, our next video from the 13th is a
9 Lonmin fixed camera video from the central workshops at the
8 Karee Mine. The full footage is to be found on the SAPS
7 hard drive in the directory \videos\2012-08-13\13082012camera426. We are showing a clip of
6 approximately five minutes which on the timeline of that
5 CCTV camera runs from 2:25:24 to 2:30:11 and the clip
4 starts, to contextualise it in relation to the footage that
3 we've just seen from Warrant Officer Masenya, it starts at
2 the point that the crowd of mine workers is moving from the
1 railway line on to the field. So what one first sees on
20 the clip is the police vehicles that were behind that crowd
19 reversing and in due course we will see that crowd coming
18 on to the field.
17 This clip and the next clip provide a very good,
16 well, a very good footage of how the incident on the 13th
15 broke out. There are two separate Lonmin CCTV cameras from
14 different angles that capture the outbreak of conflict on
13 the 13th. Mr Chairperson, there is no close-up footage of a
12 distressing nature and it is not possible to identify any
11 individuals from the footage, but this is the scene in
10 which five people lost their lives and if the family
9 members of the five would prefer not to see this footage,
8 we would like to draw that to their attention. It is the
7 two police officers, Monene and Lepaaku, Mr Jokanisi to
6 whom we've already referred, Mr Mati and Mr Sokanyile.
5 [VIDEO SHOWN]
4 Mr Chairperson, that is the first teargas
3 canister or stone grenade that is fired by the police. We
2 have it at approximately two minutes 3 seconds into this
1 clip.

[VIDEO SHOWN]

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15 broke out. There are two separate Lonmin CCTV cameras from
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25 shot to which I alluded earlier. If one looks again on the

24           MR CHASKALSON:        Mr Chairman, this is the

22           it's not necessary to stop the video show at the moment for

21 on, decide whether such arguments are correct or not. But

20 observations are correct and we will have to obviously rule

19 of argument as to what one can see, whether one's

18 waste time about it now. It will be ultimately a question

17 be shown so they can explain it. I don't think we need to

16 can call them, if you don't call them the evidence leaders

15 can subpoena them. They can give evidence. The video can

14 people who are pictured on the video can be called. You

13 have got a problem with that kind of approach. Because

12 here we are being told that you know -

11           MR MOTHIBEDI SC:        I think, Mr Chairman, we

10           CHAIRPERSON:        If necessary some of the

9           people who are pictured on the video can be called. You

8 can call them, if you don't call them the evidence leaders

7 can subpoena them. They can give evidence. The video can

6 be shown so they can explain it. I don't think we need to

5 waste time about it now. It will be ultimately a question

4 of argument as to what one can see, whether one's

3 observations are correct and we will have to obviously rule

2 on, decide whether such arguments are correct or not. But

1 it's not necessary to stop the video show at the moment for

0 that purpose.

25           MR CHASKALSON:        Mr Chairman, this is the

24           shot to which I alluded earlier. If one looks again on the

23

22 The times are not necessarily accurate but they

21 give a broad indication of when this was taking place.

20 Thank you, Mr Chairman, those are our videos of the 13th of

19 August. On the 14th of August, or in respect of the 14th of

18 August we have only one video which we would like to show,

17 which is a video which comes from a series of the discovery

16 of the body of Mr Twala. So if Mr Twala's family would not

15 want to see this footage, we would notify them now that it

14 is going to be fairly graphic footage. Before we get to

13 this video, we should also say that on the SAPS

12 presentation slide 90 had video clips which were taken from

11 a composite file which is called rituals1.mp4. That

10 composite file is to be found on the SAPS hard driver that

9

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Tel: 011 021 6457  Fax: 011 440 9119  RealTime Transcriptions  Email: realtime@mweb.co.za
MR MAHLANGU: The very first person counted amandla meaning power and then he said comrades I'm going to ask you to listen to me.

[VIDEO SHOWN]

He gives his name as Tsebe Borman, I'm working at Karee.

[VIDEO SHOWN]

I am a chairman of AMCU.

[VIDEO SHOWN]

The situation is such that we are not allowed to come of this vehicle.

[VIDEO SHOWN]

We are told to speak from within this vehicle. We can't come out.

[VIDEO SHOWN]

As I said, Comrades, I'm going to ask you to give me a hearing.

[VIDEO SHOWN]

As you know, Comrades, Comrade Steve is not here today. You know what the position is.

[VIDEO SHOWN]

As you know, Comrades, Comrade Steve is a wanted person by the man in whose vehicle we are.

[VIDEO SHOWN]

I'm going to ask Comrade to explain fully what it is that we have come to say at this place.

[VIDEO SHOWN]

I ask you to listen, Comrades.

[VIDEO SHOWN]

He starts by saying viva workers, viva.

[VIDEO SHOWN]

As we have already explained to you, Comrades, it wasn't the way we wanted to, it wasn't our choice to come to you in the police vehicle.

[VIDEO SHOWN]

We wanted to come personally to talk to you but you have now been made by the law – there's I term I didn't understand.

[VIDEO SHOWN]

We have been turned into what he refers to as whetu, whetu by the law.

MR GUMBI: It's whetu, whetu, Mr Chairman.

MR MAHLANGU: Possibly I didn't get it very clear.

[VIDEO SHOWN]

It's true, we are being made whetu, whetu, it's spineless people.

[VIDEO SHOWN]

The one addressing you is Dumisane.

[VIDEO SHOWN]

Comrades, we are with you at all times.

[VIDEO SHOWN]

As I said, we wanted to talk to you, Comrades.

[VIDEO SHOWN]

We wanted to talk to you about the situation which is facing us.

[VIDEO SHOWN]

We took it upon ourselves to come to you here so as to hear from you, Comrades. Amandla.

[VIDEO SHOWN]

He ends up by saying be strong, worker, be strong.

[VIDEO SHOWN]

Again a repetition of be strong, worker, be strong.

[VIDEO SHOWN]

As I have already said, Comrades, I'm accompanied by the honourable, the president of AMCU who would also like to talk to you.

[VIDEO SHOWN]

As I have already indicated it is not - it was not our wish to speak to you from inside this vehicle, but it's because of the law. Power.

[VIDEO SHOWN]

Uttered the word amandla in Xhosa and there was the reaction from the crown, power and then he says the same word again in Shangaan, Matimba which also means power.

[VIDEO SHOWN]

He says he [African language] which means down with the – I'll use the exact word – the mouse but [African language] in this respect would mean a person who some sell out.

[VIDEO SHOWN]

I am now going to ask the president to talk to you. As you know that we were here on Monday and we were to talk to the employer.

[VIDEO SHOWN]

I now have before you the president of AMCU who will first greet you and then give a report to you.

[VIDEO SHOWN]

So that we discuss and see what way forward we can take. Power.
He started by saying viva and then say amandla which is power in Xhosa and Zulu and then he says Matla in Sotho which is the same word for power.

Viva to the worker, viva.

Africa should come back, let it come back.

Forward with the union of the workers, forward.

I am so sorry, Comrades, that I'm coming to you for the very first time to come and talk to you and I'm talking to you from behind the locks.

That when you put in your monies into the unions, we don't get locked up. If that last piece could be repeated.

That we - when you give us your money as unions that we should not – that should not be locked up, power.

But because we are so committed to South Africa and that is we have found ourselves in the position in which we now are.

I believe, I hope, Comrades, that you are going to forgive me for the condition in which I now find myself in.

The matter that is now above my control, I had wished to come and talk to you personally because we are not animals, we are human beings.

That you are not animals, you are human being, children of God, people who are born from the same mother.

Power.

As you all know, Comrade, what happened here at Impala and there's somebody interjecting.

The person says no, I mean at Lonmin and then says I apologise, I mean at Lonmin, Comrades.

What happened is we did talk to your employer now in the evening.

Spoke to your employer now in the evening where we all met together with the leaders of other unions and

the leaders of the other different unions.

[15:37] We all ended up thinking. Looking at how the situation we are facing should be resolved.

We said to the employer the workers that are presently on strike for demanding their rights.

We said then the strike that has led up to what the position is presently, we wanted the employer to give us a guarantee that -

- that the union should give us the guarantee that worries our members, he would address together with their union.

MR GUMBI: Excuse me, Chairman. I think the interpretation, I think it was - it was the employer not the union should give guarantee.

MR MAHLANGU: I'm sorry, Chair. Where union it was actually the employer.

MR NTSEBEZA SC: Yes, no I understand.

MR MAHLANGU: Thank you.

MR NTSEBEZA SC: The record will show otherwise.

MR MAHLANGU: That the employer should give the guarantee that he will talk to us as your union and he said the people that you chose.

So that you get those things that you are demanding.

The employer said he binds himself to agreeing that if things would go back to normal that the employees would go back to work. The union that they select, he would be prepared to talk to.

One other thing that we spoke about was that nobody should be – who's services should be terminated, nobody should be fired from work.

We also spoke about that, Comrades.

One other thing that was also raised there was that we were told that the place where you are now present, has been declared a security zone by the police.

Which means that this place is no more under the control of Lonmin.
That this place is now under the government, is being controlled by the police. [VIDEO SHOWN]

What we succeeded then in doing was that the police should just persevere, allow us to come and talk to you, what the interpretation of [African language] you as African people that we should come and talk to you. [VIDEO SHOWN]

I’m sorry, if you could just turn back a bit, there’s something I lost. [VIDEO SHOWN]

We asked the police to persevere to allow us to come and talk to you so that we go back and talk to the employer and that if there is a deadlock and then we use the way to the CCMA. [VIDEO SHOWN]

So that everything we do thereafter should be protected. [VIDEO SHOWN]

Because the situation that we are now approaching is going to be something that would be beyond our control. [VIDEO SHOWN]

Because we know, Comrades, that as workers we still do not have the freedom pertaining to the economy. [VIDEO SHOWN]

In that 18 years into our democracy, there are workers who are still getting – is it R400? R4 000. [VIDEO SHOWN]

R4 000 yes. [VIDEO SHOWN]

Money that would need you to budget for the whole year in order to be able to buy a loaf of bread. [VIDEO SHOWN]

But I want to say to you the children of – he refers to the Zulu and the Xhosa kingdom – I want to plead with you. [VIDEO SHOWN]

I want to plead with you, Comrades, to please support me. [VIDEO SHOWN]

To have allowed me to come and speak to you so that we come to an agreement as to how we can go back to work without the employer having to fire anyone. [VIDEO SHOWN]

So that the employer should take – should recognise the complaints that which worries you into consideration. [VIDEO SHOWN]

So that he takes what your complaints are into consideration and that is the reason I have come to you today, Comrades. [VIDEO SHOWN]

I would also appreciate it, Comrades, to hear from leaders that were chosen from amongst you, Comrades, who have any opinions that we could listen to. [VIDEO SHOWN]

We know, Comrades, that the power is yours as workers. We know that the decisions are yours, but the situation we are presently facing – [VIDEO SHOWN]

That is what actually forced me when I realised that workers were seated at such and such a place, how would it be possible for me to sleep. [VIDEO SHOWN]

What would I say to the God in heavens. I want to plead with you. [VIDEO SHOWN]

I am pleading with you to trust me, Comrades, I’ve never spoken to you, I’ve never negotiated on your behalf. [VIDEO SHOWN]

At this time I’m pleading, I’m going on my knees to say my brothers, please listen to me. [VIDEO SHOWN]

Have no doubt about what I am saying with those words. [VIDEO SHOWN]

I will at this stage with these words I want to say I am putting it back to you, Comrades, that after 18 years of our freedom – [VIDEO SHOWN]

- that put your trust in me so that we look into whether the problem that is facing you cannot be resolved. [VIDEO SHOWN]

So that your complaints are listened to and addressed and he ends up by shouting power. [VIDEO SHOWN]

The same word in the Tsonga language and Shangaan. [VIDEO SHOWN]

The same word in the Sotho language. [VIDEO SHOWN]

Come back Africa, come back. [VIDEO SHOWN]

I thank you. I thank you, my brother. [VIDEO SHOWN]

I will now hand over to the chairman of AMCU to add onto the words that I spoke to you. [VIDEO SHOWN]

Comrades, we are here fighting for the rights of
the workers as AMCU. Not any other organisation. If that could be just repeated.

We want to say not only as AMCU, any other union, but because we know it is workers that are seated here.

But that it was necessary to explain to you who is it that is talking to you. Power.

We are now going to ask those that are going to be your representatives to move forward so that we can talk personally to them.

ADV CHASKALSON: Mr Chairperson, that concludes our video footage from the 15th. There doesn't appear to be any further video footage of consequence in relation to that interaction between Mr Mathunjwa and the AMCU representatives and the crowd of mine workers. That takes us to –

CHAIRPERSON: Mr Chaskalson, is the next video footage you wish to show us relates to the 16th, it's nearly 4 o'clock. It seems an appropriate stage for us to take the adjournment until tomorrow morning, 09:30.

[COMMISSION ADJOURNED]