

RealTime Transcriptions

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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1 [PROCEEDINGS ON 9 NOVEMBER 2012]
 2 [09:05] CHAIRPERSON: Good morning, the
 3 Commission resumes. This afternoon, we are going to have
 4 to adjourn at 3 o'clock, so in order to make up for some of
 5 the time we will lose, I propose taking a shorter lunch
 6 adjournment than usual, only half-an-hour, and resuming at
 7 half past one, so we sit from half past one to three, and
 8 then we will adjourn. I understand that the proposal is
 9 that in order to give the – some of the representatives an
 10 opportunity to consult fully with their clients, who will
 11 be giving evidence, it's proposed that we should resume on
 12 Wednesday. Mr Madlanga, would you like to say something
 13 about that?
 14 MR MADLANGA SC: Thank you, Chairman,
 15 Commissioners, that is so indeed, Commissioners and that
 16 arises from the discussion that I had with Ms Mpofu and Ms
 17 Barnes which was quite fruitful and I must thank my
 18 colleagues for us having been able to reach agreement but
 19 quite understandably and based on what they have said in
 20 argument, on was it Tuesday? I understand their request
 21 and I have accepted it and I hope the Commission accepts
 22 that as well, that is that we only resume on Wednesday.
 23 CHAIRPERSON: Thank you. We have to be
 24 fair, apart from all the other things we have to do, we
 25 have to ensure that we are fair, so that the committee,

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1 sorry the Commission will retain credibility as an
 2 appropriate body to investigate the matters which have to
 3 be investigated, and I think you are quite correct, it's
 4 not fair to force a witness into the witness-box if he
 5 hasn't had an opportunity, for example, to see the videos,
 6 to refresh his memory on the various matters that are
 7 covered in the documents, and if we push them in the box
 8 too early I think there might be a justifiable suggestion
 9 that we were acting unfairly, which is a submission raised
 10 I think by Ms Barnes which I initially didn't appreciate
 11 the full force of, until I thought about it. But I think
 12 that is an important aspect.
 13 The other aspect of course is that lest there be
 14 any misunderstanding on the part of the public, the time
 15 which we will not be spending here in the auditorium
 16 listening to evidence, will certainly be used in studying
 17 the mass of documents that are being made available to us
 18 and we will be doing a substantial amount of work, which
 19 will in fact shorten proceedings going forward, but on
 20 Monday and Tuesday, we will be able to study a lot of the
 21 documentation which has just come to hand. So thank you
 22 very much for that. So just to make it clear, we at lunch
 23 time, we are resuming at half past one, and going through
 24 to three. We will then be adjourning until 10 o'clock on
 25 Wednesday morning, and thereafter, one hopes we should be

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1 able to, until a date sometime in December, we should be
 2 able to sit five days a week. Lieutenant-Colonel, I
 3 suggest you proceed with the presentation.
 4 LT-COL SCOTT: Thank you, Chairperson,
 5 with your permission, may I just recap to put us back in
 6 the sequence of events? If we just recap, to put us back
 7 to where we were on the Thursday, looking back to the
 8 Wednesday, the previous day negotiations broke down between
 9 the protesters and the police. When the police arrived at
 10 the protest area, and they did not have the mine management
 11 with them, the protesters were not happy for that fact.
 12 The protesters were visibly disappointed at this and this
 13 is the first time that they threatened the police saying
 14 that there are hippos, meaning the Nyalas, would not leave
 15 there that day or would not leave there and that the police
 16 members would die. That is from slide 118. Then we look
 17 at - the protesters' representatives returned and spoke
 18 with their group, and the protesters' actions were visibly
 19 elevated to displaying of weapons and restlessness. Later
 20 that afternoon the police helicopter observed a group
 21 performing rituals again, as was witnessed on previous
 22 days. The police represented by General Mpembe had
 23 arranged for the unions NUM and AMCU, to address the crowd
 24 to bring about a peaceful dispersal and the laying down of
 25 arms. NUM was rejected, and AMCU was seen to be received.

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1 After the AMCU president addressed the protesters, he had
 2 returned and told the senior police officers that the group
 3 had committed to lay down their arms the next day,
 4 Thursday, by 9 o'clock, but requested that the group be
 5 left alone for that night, so that they could consult
 6 amongst each other. That brings us to the Thursday
 7 morning, where the Crime Intelligence briefing, the
 8 informers that informed the Crime Intelligence members, the
 9 information was that the protesters would return to the
 10 koppie that morning, they would not hand down or lay down
 11 their weapons or hand in their weapons to the police and
 12 that they would not leave the koppie until their wage
 13 demands were met, and the situation was reported as tense.
 14 In light of the intelligence briefing and considering the
 15 possible escalation of aggression of the protesters due to
 16 their struggling negotiations the police elevated the
 17 operational strategy to the stage 2 deployment, which is to
 18 provide a show of force and to dissuade any possible
 19 belligerent actions by the protesters. The Provincial
 20 Commissioner, Lt-General Mbombo, addressed the media at
 21 that morning, after waiting to see if the commitment
 22 to lay down the arms would be honoured. Once the police
 23 stage 2 deployment was in position, a representative from
 24 the protesters approached the negotiations Nyala, and asked
 25 why the police were there, emphasising they did not want

<p style="text-align: right;">Page 1250</p> <p>1 the police present. The police explained that it was 2 safety and security purposes. The representative went back 3 to the protesters and after addressing them there was a 4 visual difference in their actions and the audible 5 difference as well, with the dynamics of the group. They 6 started singing songs and tapping their weapons together, 7 and a more organised group in front started marching 8 together in front of the other protesters. And that brings 9 us to the slide on screen now, which we will view.</p> <p>10 CHAIRPERSON: Mr Scott, sorry Colonel 11 Scott, we did see it yesterday, slide 157 –</p> <p>12 LT-COL SCOTT: That's right, Mr Chairman.</p> <p>13 CHAIRPERSON: - and we adjourned just 14 after –</p> <p>15 LT-COL SCOTT: Yes.</p> <p>16 CHAIRPERSON: - the slide was seen.</p> <p>17 LT-COL SCOTT: We would like to just show 18 the beginning again, the groups that's marching, because it 19 bears reference to two slides later, Chairperson.</p> <p>20 [VIDEO SHOWN]</p> <p>21 The reference we want to show the Commission is 22 the group that is tightly organised and gathered together 23 that are marching. This group proceeded to march, we see 24 in two slides' time to position themselves in front of the 25 last barbed wire Nyala, the defence line Nyala 6. Right,</p>	<p style="text-align: right;">Page 1252</p> <p>1 holding area 2, only public order policing members that had 2 armoured vehicles were brought forward, and that was 41 3 extra additional POP members. The request was made by the 4 operational commander considering the photograph that we 5 will see in slide 160, and from what he could observe with 6 the attitude of the crowd. The armoured vehicle ringed in 7 yellow, and the protesters ringed in red, speak to what we 8 are saying. The organised group ringed in red original 9 position was on that brown sandy patch in front of the rest 10 of the protesters. As one can see the photograph is taken 11 at 10:56 and with the highlighted events, the decision was 12 taken at the JOC to move the armoured vehicle back in a 13 more defensive position. It also was in conclusion to 14 bring the reserve forces forward to the neutral area.</p> <p>15 Slide 161. At 12 o'clock the representatives of 16 AMCU arrived in their silver Fortuna and addressed the 17 media. During the brief discussion with the leadership of 18 AMCU, before they addressed their protesters the police 19 requested them to inform their supporters to disarm. At 20 the leaders of AMCU addressed the protesters in the 21 media's presence, using a megaphone. The protesters were 22 perceived to be unhappy as a result of then formation that 23 they apparently had been conveyed. At 13:25 the leadership 24 of AMCU stated that they were going to speak to the mines 25 management and the SAPS management and would return at a</p>
<p style="text-align: right;">Page 1251</p> <p>1 thank you. Moving on to slide 158, the time is 11 o'clock, 2 the president of AMCU, Mr Mathunjwa, did not show up at 9 3 o'clock for his promised meeting with the group at koppie 4 1. The provincial commissioner, Lt-General Mbombo phoned 5 Mr Mathunjwa concerning his failure to address the 6 protesters. He reported at the JOC in person, where the 7 General entered into dialogue with him. She enquired as to 8 why he had gone back on his word, she reminded him of his 9 importance of his commitment, and how critical it was that 10 he convinced the protesters to lay down their arms. Mr 11 Mathunjwa responded to the General that he had been at the 12 Lonmin Mine Offices from early that morning and that the 13 mine management did not want to commit to continued 14 negotiations and that was the reason for him not going to 15 address the protesters. General Mbombo continued with him, 16 saying that she was concerned about his commitment to find 17 a peaceful resolution and that he had to honour his 18 commitment to convince the group to disarm. He proceeded 19 to koppie 1 after this, with his own vehicle.</p> <p>20 Slide 159. At 11:30 that morning, on request 21 from the operational commander in the neutral area, which 22 was Brigadier Calitz, vehicles were deployed by the JOC 23 from the reserve reaction groups at forward holding area 24 1 and 2. The vehicles from forward holding area 1 was 21 25 TRT members arrived at the neutral area and from forward</p>	<p style="text-align: right;">Page 1253</p> <p>1 later stage and the leadership left the scene. 2 Chairperson, we are going to run through eight slides now 3 which are video footage taken at that time when the AMCU 4 president was at the front line but we start with the 5 footage where he addressed the police officers first.</p> <p>6 [09:25] When the AMCU President went forward, members of 7 the protestor group were first allowed to address the group 8 themselves, and what you'll see is blue stripes on your 9 presentation but those will actually come across as sub- 10 titles as we had it interpreted and placed onto the video 11 clip. The sub-titles do move across the screen rather 12 rapidly, so Chairperson, if you would need, we could pause 13 it at times so that the interpreter could still convey.</p> <p>14 However, what's being said is being said in either Fanagalo 15 or, I believe, Xhosa. Starting with the police, Mr 16 Mathunjwa speaking to the police negotiators. At this 17 stage he's, we'll see in the video, he's looking for a 18 megaphone to address the crowd appropriately. At the end 19 of the video clip it's not clear but we do hear the 20 Operational Commander, Brigadier Calitz asking him to 21 convey the message to the protestors, the message at that 22 time being that he needed them to disperse, disarm.</p> <p>23 Proceed with the video.</p> <p>24 [VIDEO IS SHOWN]</p> <p>25 Alright, we can proceed to the next video. The</p>

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1 next video is of who we call protestor 1 and, but you need
2 to go back, thank you.

3 [VIDEO IS SHOWN]

4 MR MAHLANGU: If I may, Mr Chairperson,
5 this discussion here is in the Sesotho language and
6 fortunately it has been transcribed and translated. If the
7 Chairperson would just allow me to explain it to the other
8 people in Xhosa.

9 CHAIRPERSON: Certainly, please do that.

10 MR SCOTT: Alright, we move onto
11 protestor 2 addressing the crowd. Allow the slide to run
12 on its own.

13 [VIDEO IS SHOWN]

14 CHAIRPERSON: You were indicating you
15 want to say something.

16 MR MPOFU: Yes, Chairperson, I wouldn't
17 want to waste the time of the Commission, I just want to
18 register now, since this is not evidence that when this
19 evidence is led, we're going to contest the interpretations
20 on the tickertape. In the one case it's not even 50% of
21 what is being said and some significant things that are
22 being said having been omitted. I just wanted to register
23 that so that when the time comes the –

24 CHAIRPERSON: Well may I make a
25 suggestion about something that should happen before the

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1 time comes, as you put it? I would suggest that you sit
2 down with the video, make your own transcription or get
3 your own transcription made, discuss it with the evidence
4 leaders and with the interpreter, who is a highly qualified
5 interpreter who speaks Sesotho and IsiXhosa and IsiZulu and
6 so on and it may well be that you will be able to come to
7 an agreement. Firstly, as to the point in respect of which
8 you say the interpretation is incorrect and secondly, in
9 respect of the points where it is said to be inaudible, but
10 you feel let's listen to carefully, possibly even slow it
11 down. What is presently regarded as inaudible can be
12 rendered audible and there can be an agreed translation of
13 that as well. I think that will save a lot of time, and do
14 that before the time comes, as you put it, so that when the
15 evidence is led, we can have an agreed statement possibly
16 on the matters that you had discussed, right?

17 MR MPOFU: Thank you, Chair, agreed.

18 MR MADLANGA SC: Chair, let me just
19 quickly, quickly. Chairman, Commissioners, perhaps it will
20 save my learned colleague a lot of trouble, not to say that
21 he will just have to accept what I'm going to refer to as
22 is. We were given translations by SAPS, we are going to
23 circulate those to everybody. So my learned friend perhaps
24 could just have a look at that, compare with what's being
25 said in whatever language and then correct, perhaps what he

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1 thinks is not correct. Oh, my learned Junior, Ms Pillay
2 tells me that it has been circulated already, so the idea
3 in circulating it was to see whether all concerned agree
4 and whether it can then just be handed up by agreement.
5 Thank you, Chair.

6 MR CHASKALSON: Mr Chair, it goes back to
7 an issue that I touched on yesterday, which is this
8 presentation is not evidence but the videos on this
9 presentation may at some stage be introduced as evidence.
10 We would submit that it is very important that the videos
11 that do get introduced as evidence are clips taken from
12 original source footage, not compilations. We've already
13 identified one or two of these presentations, which are
14 actually an assembly of clips that present what is frankly
15 a misleading sequence that looks as though it's continuous
16 but in fact is not. So we would propose that in relation
17 both to video evidence and in relation to translation, the
18 SAPS should produce a set of clips taken from original
19 footage, put it on a separate disc or stick and submit that
20 as the video evidence that it will subsequently want
21 introduced as evidence in this Commission together with the
22 translations of whatever dialogue the SAPS want translated
23 and accepted as translated and then our reference point
24 will not be what's in the presentation but the clips that
25 the SAPS is putting forward. Together with those clips we,

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1 as evidence leaders, would like to see the original source
2 footage from which those clips are taken so that we can
3 investigate their authenticity and – ja, thank you.

4 CHAIRPERSON: Thank you, Mr Chaskalson.
5 Mr Semenya, that sounds a reasonable suggestion. Do you
6 have any comments?

7 MR BIZOS SC: We are concerned, Mr Chair,
8 about what is –

9 CHAIRPERSON: Mr Semenya first, Mr Bizos.

10 MR BIZOS SC: I beg your pardon.

11 CHAIRPERSON: He was about to say
12 something. I'll give you an opportunity when he's
13 finished.

14 MR BIZOS SC: Yes, I'm sorry.

15 MR SEMENYA SC: Chair, the proposal is
16 reasonable. I just want to dispel an unintended
17 interpretation that we have ever been difficult with the
18 evidence leaders in not giving the information. I engaged
19 Mr Chaskalson this morning to say that we intend to give
20 that information as best as we know, you have it. You have
21 invited us to go and show it to you what it is, and we are
22 going to do exactly that.

23 [09:45] MR BIZOS SC: We are concerned about the
24 process that is being followed at the moment. If in fact
25 what we are shown on the film, and what the summary that is

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1 read out to us, isn't the correct reflection of the
 2 original material, then this is an unfortunate public
 3 relations exercise which concerned us, it should be made
 4 quite clear that we will not accept the veracity or the
 5 summaries or conclusions that are expressed in this
 6 document as a valid representation of what happened.
 7 CHAIRPERSON: Mr Bizos, I don't
 8 understand that this presentation is made on the basis that
 9 you are going to accept as correct. It's just for our
 10 information. It's in effect an extension of continuation
 11 of the opening statement made on behalf of SAPS. It has no
 12 evidential value, it's purely to inform us, in the hope
 13 that in the process going forward we will both concentrate
 14 on the issues which are in issue which are controversial,
 15 and the aspects which are not controversial can possibly be
 16 the subject of an agreement. But the mere fact that the
 17 presentation is made doesn't mean that even if you sit
 18 quietly there, that you are taken to have accepted it, it
 19 will have to the subject of proper evidence under oath at
 20 the appropriate time. Your objection is noted, and we will
 21 deal with it in due course.

22 MR BIZOS SC: Well, it may be thought to
 23 be a pity to have this summary situation which admittedly
 24 is not accurate and what purpose would it serve but I will
 25 leave the matter to the Commission. We are almost at the

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1 end of it.
 2 CHAIRPERSON: To be fair, I don't know
 3 that it admittedly is not accurate, Mr Semenya may not be
 4 prepared to make that admission, and he may be correct in
 5 not making it, that's something that lies in the future as
 6 to whether it is inaccurate or not. Mr Madlanga, you have
 7 raised your hand, do you want to say something? I think Mr
 8 Mpofo raised his hand before you did?

9 MR MADLANGA SC: I raised mine first,
 10 Chairperson.

11 CHAIRPERSON: Alright.

12 MR MADLANGA SC: You did not see me.

13 CHAIRPERSON: Okay, anyway, you are his
 14 senior, so I suggest you speak first.

15 MR MADLANGA SC: Thank you, Chair.
 16 Chair, Commissioners, I consider it only fair and proper to
 17 place it on record that from the word "go" up to this
 18 stage, Mr Semenya has been very co-operative with the
 19 evidence leaders, thank you.

20 CHAIRPERSON: Mr Mpofo, against that
 21 background what do you want to say.

22 MR MPOFU: No, Chair, well I don't want
 23 to spoil this conciliatory mood, Chair, and I accept your
 24 proposal regarding the translations and so on, I think it
 25 will shorten the proceedings and any other interjections

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1 that we might have. What I do want to register Chair, now
 2 that we are talking about it, is that whatever the value of
 3 this exercise what our learned colleague, Mr Bizos, calls a
 4 PR exercise, we want to make it clear that we understand
 5 it, as you say Chair, as the version of the SAPS, so
 6 obviously at a particular time, those aspects of it that he
 7 might want to contest will be contested and those aspects
 8 that might be contradictory within the broader SAPS version
 9 will be pointed out. What we do want to object to, is the
 10 editorial comment that seems to accompany this
 11 presentation. We understood this presentation to be a dry
 12 presentation of a sequence of events, but you know, all
 13 sorts of comments are sneaked in, certain murders are
 14 gruesome, others are just murders, and you know there's a
 15 whole plethora of those kinds of uncomfortable remarks
 16 which have being made, that those also Chair, at the
 17 appropriate time as it were must – the comments we hope
 18 will come from the Chair to make it very clear that what is
 19 being accepted is really just the dry presentation insofar,
 20 for whatever it is worth, thank you Chair.

21 CHAIRPERSON: I don't think it's even
 22 correct to say anything is being accepted. All that is
 23 happening, as I understand it, is the presentation which we
 24 are watching and listening to at the moment, is in effect
 25 an extension of the opening statements by the police. And

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1 just as you accept – you don't necessarily accept anything
 2 in the opening about the police as correct. The same thing
 3 applies to this. So I thought I'd made that clear before
 4 but for the benefit of those to whom I didn't make it
 5 clear, I now make it clear. Can we now carry on? The
 6 point is also made that judging by the documents we've been
 7 given, there isn't much more material of this kind likely
 8 to be the subject of debate and possible controversy, so it
 9 will be quicker just to go through it and carry on, subject
 10 to the points, the reservations that have been uttered.

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

14 [VIDEO BEING SHOWN]

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

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

22 CHAIRPERSON: Is there any chance of our
 23 getting the translation now, I mean, as far as I can see
 24 from your presentation, there isn't much more of this
 25 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 Madlanga 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

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1 exercise again?

2 CHAIRPERSON: I think that's a sensible

3 point. Those people in the auditorium who speak and

4 understand Sesotho, may I suggest that at this stage, if

5 you want to understand what is going to be said on the

6 video by the president of AMCU, that you go to the hall

7 where there will be a Sesotho interpretation provided

8 because it's obviously unnecessary for us to repeat the

9 interpretation into Sesotho, if a Sesotho interpretation is

10 in fact available in another hall, as is the case. So

11 those who are Sesotho speaking, if you wish to hear the

12 Sesotho interpretation I will give you a minute to leave,

13 and then we will carry on.

14 MR MAHLANGU: I have indicated Mr

15 Chairperson and Commissioners that the Sotho speaking will

16 in a minute's time be at the door there, so they will have

17 to go with him to the other hall.

18 CHAIRPERSON: Thank you.

19 [10:25] MR MAHLANGU: May I be excused for one,

20 just one minute? Mr Chairperson, thank you. My leader

21 here, Mr Masai has come to take all the Sotho and the

22 Tswana-speaking people to another hall.

23 CHAIRPERSON: I did see some people

24 leaving the hall while you were still outside, and I

25 understand the widows, for example, from Lesotho, obviously

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1 we'd appreciate, I take it we appreciate the Sesotho

2 translation. And among the people who left while you were

3 outside were two ladies, who I suspect may be the widows

4 from Lesotho. Anyway, thank you, Mr Mahlangu for the

5 efforts you've made. I think we can now carry on.

6 [VIDEO IS SHOWN]

7 [10:45] MR SCOTT: Chairperson, I'm not sure if

8 you want to adjourn for tea.

9 CHAIRPERSON: Very well, we'll take the

10 tea adjournment at this stage.

11 [INQUIRY ADJOURNS INQUIRY RESUMES]

12 [11:21] CHAIRPERSON: The Commission resumes.

13 MR MAHLAKU: Mr Chair and commissioners,

14 whilst the last video was showing I was looking, listening

15 and at the same time reading the translated version. I

16 want to draw the attention of the Commission to page – the

17 President starts and at page –

18 CHAIRPERSON: We haven't got a copy of

19 the document that you have but if there was a passage in

20 the translation of the President's speech which is

21 incorrect and it's important that you bring it to our

22 attention now, I suggest you do so.

23 MR MAHLAKU: Yes.

24 CHAIRPERSON: Otherwise you can speak to

25 Mr Mpofo and Mr Madlaga and when evidence is led n this

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1 topic and they hopefully will produce an agreed version of

2 what the correct translation is, it can be put before us

3 then but if you think it's important for us to hear it now,

4 then please tell us.

5 MR MAHLAKU: It's very – I think it's

6 important that I listen to the, and reading the

7 translation, it is totally correct save two places on the

8 fifth page where the person says, firstly "The employer the

9 employer talked to you about this matter and requested you

10 to appoint a team to negotiate about the increment of the

11 RDOs" and then he says, "The employer has placed the

12 President legally." That person speaks of a Presidency in

13 this slide, he says [African language] he has placed a

14 President, not the President. And the page just before

15 that, there is somewhere where he says [African language].

16 The English version is, let it be in heaven but the

17 translation is, if the God willing let it be so in heaven.

18 Those are the only two mistakes.

19 CHAIRPERSON: Thank you, Mr Mahlangu.

20 MR MAHLANGU: Thank you.

21 CHAIRPERSON: Thank you for that. I

22 think we now carry on with the presentation. Colonel, I

23 think we're on slide 170, is that correct??

24 LT-COL SCOTT: That's correct,

25 Chairperson. Presentation, continuing with the detailed

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1 sequence of events, 25 minutes past one in the afternoon

2 the South African Police Service media liaison officer,

3 Captain Dennis Adrio was informed by members of the media

4 that both of the video operators of SAPS were identified as

5 possible police spies by the protesters and that they may

6 be killed if they remain in the general area of the media

7 group. The public order policing information or video

8 officers then withdrew, they returned to the JOC, thus the

9 footage that we've seen previously was the last footage

10 that they had taken.

11 We move to slide 171. After the President of

12 AMCU had addressed the crowd and left, the media reported

13 moving away from the same meeting and this is a reflection

14 on the media report given at that time. We need volume.

15 [VIDEO IS SHOWN]

16 Moving on, it's just two slides depicting the

17 photographs with some of the traditional weapons or

18 dangerous weapons. Slide 174, continuing with the detailed

19 sequence of events. Half past one that afternoon Major-

20 General Annandale called a special JOC COM meeting to

21 evaluate the current strategy and the possible

22 implementation of the stage 3 deployment. The Provincial

23 Commissioner, General Mbombo, informed the JOC COM that she

24 had been involved in a meeting the whole morning with the

25 President of AMCU, Mr Joseph Mathunjwa, to resolve the

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1 current situation. Mr Mathunjwa was supposed to indicate
 2 at nine o'clock that morning whether or not the protesters
 3 on the koppie were prepared to lay down their weapons but
 4 he failed to provide feedback, as he'd agreed to do.

5 After evaluating the situation and from the
 6 reports on the ground, the Provincial Commissioner
 7 instructed Major-General Annandale to proceed with the
 8 implementation of stage 3 of the operational plan, which
 9 was to disperse the gathering into smaller groups,
 10 encircling in order to disarm them.

11 Moving on to slide 175, still with the special
 12 JOC COM meeting at half past one that afternoon, Major-
 13 General Annandale informed the meeting that the approach
 14 would be as follows, that the police would communicate with
 15 the group on the koppie to try to resume negotiations for
 16 the protesters to disarm and leave the koppie. Protesters
 17 had to be asked to leave their dangerous weapons behind at
 18 the koppie as they voluntarily dispersed. After those that
 19 have voluntarily dispersed, those who refused to leave
 20 would be searched and the whole area would be swept for
 21 dangerous weapons. If the protesters refused to put their
 22 weapons down and leave the koppies, phase 3 of the
 23 operation would be implemented as a last resort.
 24 Lieutenant-Colonel Scott then gave a visual presentation of
 25 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
 5 tell us whether this visual presentation done by him is
 6 available and whether it has been handed over and, if not,
 7 when can we have it please?

8 CHAIRPERSON: I don't know if it's
 9 actually necessary to interrupt the presentation and ask
 10 him the question now, you could have asked it after we
 11 adjourned but seeing you've asked the question, let's get
 12 the answer. You heard the question, Colonel?

13 LT-COL SCOTT: I'm not sure if my counsel
 14 would – was reflecting to answer that, Chair.

15 MR SEMENYA SC: It's in the earlier
 16 presentation by the witness. We would recall that the
 17 witness said certain aspects were not there during
 18 presentation but the visual presentations were done by,
 19 during the briefing. Am I correct, Colonel?

20 MR BIZOS SC: I'm not clear what their
 21 answer is. Has this been shown to the Commission?

22 CHAIRPERSON: The answer is, what he then
 23 – the presentation he then gave is included in the material
 24 we've already seen as part of the presentation. Can you
 25 just give us the slide numbers, Mr Semenya?

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1 LT-COL SCOTT: Sir, the actual slide
 2 which we will get to, would be slide 181, still coming.

3 [11:41] CHAIRPERSON: That seems to be the answer
 4 then, so let's carry on for the moment but if there are any
 5 outstanding questions to you, Mr Bizos and Mr Semenya, they
 6 can deal with them after we adjourn.

7 LT-COL SCOTT: Slide 176 shows the
 8 graphic outlay of the stage 3 of the operational
 9 deployment. We've seen this in earlier versions as
 10 planning was put together on the Tuesday, but to show you
 11 again. The cursor on the screen, we just move around
 12 koppie 1 marked on your slide as K1, most of the protesters
 13 were gathered either on koppie 1 or on koppie 2 which is
 14 slightly to the north of koppie 1. The yellow line you can
 15 see depicts the defence line of the barbed wire in full
 16 deployment and then we have the lines according to the
 17 operational strategy, which would have been a public order
 18 policing line first, utilised for dispersion –

19 CHAIRPERSON: That's the blue, is it?

20 LT-COL SCOTT: That's the blue. The
 21 orange line being TRT members and the TRT were in support
 22 of the public order policing line to assist in defending
 23 lives, should it be necessary, as the public order policing
 24 line predominantly used non-lethal methods. To the rear of
 25 that you can see the special task force and the national

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1 intervention unit and they are shown in the red and green
 2 and their role was to clear over the koppies 1 and 2 after
 3 the dispersion action had happened for any protesters that
 4 remained and were belligerent. To the bottom left of the
 5 picture we can see a blue line with an orange line behind
 6 it and that was the members from forward holding area 2 who
 7 were tasked to protect the informal settlement. And this
 8 is in reflection of the history from the Monday, after the
 9 crowd was dispersed there, in finding a deceased protester
 10 who had been stabbed to death - whether he was a resident
 11 of the informal settlement or a protester, we're not sure.

12 To the bottom right of the picture is forward holding area
 13 1 and they would keep with them the crime scene management,
 14 being detectives, LCRC, the medical services, fire brigade
 15 and other supporting elements.

16 Moving on to slide 177, the summary of the plan.
 17 The outcome was to disperse the protesters into smaller
 18 groups, more manageable groups, to encircle and to isolate
 19 the armed protesters, then disarm and arrest them. When we
 20 look to stage 3 - there were six stages, this is stage 3 –
 21 it's broken down into three phases and this speaks to the
 22 sequence of events during the stage 3 deployment. The
 23 first thing that needed to happen as a phase 1 was to
 24 enclose the neutral area with barbed wire to prevent armed
 25 protesters from advancing onto the SAPS and others, as well

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1 as to assist with the direction of the dispersion towards
2 the westward areas.

3 Phase 2 was to form two lines, the first line
4 being public order policing with the Nyalas with water
5 cannons, had to be strategically placed in the front line.
6 The second line and the lines behind the POP line would be
7 the tactical response teams, the national intervention unit
8 and the special task force and their job was to sweep and
9 clear the koppies and provide protection to the POPS
10 members who were geared for crowd control. Phase 2
11 continued –

12 CHAIRPERSON: Sorry, before we carry on
13 with that, on this slide 176 I see there are two blue
14 vehicles which are marked with "W". I presume that's W1
15 and W2, certainly W2 is visible immediately above P11.
16 Were those the water cannons?

17 LT-COL SCOTT: One water cannon –
18 initially, sir, when we started the planning we planned it
19 but we revised, obviously, looking at the ground situation
20 on the day. So the plan was set up prior and what we went
21 through initially now was the prior plan and that was to
22 have one of the water cars remain inside the neutral area
23 to help protect the neutral area should there be an
24 advancement still. There are weak areas between the Nyalas
25 and the wire deployment, there are small gaps which

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1 determined protesters could still force their way through.

2 CHAIRPERSON: I see. So W2 is the water
3 cannon in the neutral area?

4 LT-COL SCOTT: Yes.

5 CHAIRPERSON: And the other W, which is
6 to the –

7 LT-COL SCOTT: In the blue line.

8 CHAIRPERSON: To the west of the yellow
9 line –

10 LT-COL SCOTT: Ja.

11 CHAIRPERSON: That's in the blue line.

12 LT-COL SCOTT: That's right.

13 CHAIRPERSON: That's -

14 LT-COL SCOTT: Also a water cannon.

15 CHAIRPERSON: Yes, thank you.

16 LT-COL SCOTT: Continuing with slide 178
17 –

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

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

24 Continuing then with slide 178, phase 2, the
25 force continuum. The use of force in continuum was to

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1 utilise an advance line to show up as a show of force and
2 then issue verbal instructions for the crowd to disperse,
3 considering the language. On failure to disperse within
4 the given time frame, the next use of force would've been
5 the water cannons. If water cannons failed, it was to move
6 to stun grenades and teargas, then to rubber bullets and
7 the reason the water cannon was first in line was because
8 of its ability to reach further than stun grenades could be
9 thrown.

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

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

23 If we can move on to slide 179, the special JOC
24 COM meeting continued, General Annandale instruction to
25 Colonel Scott to ensure that all the commanders were

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1 briefed accordingly. Discussions were held and it was
2 decided not to brief the commanders on the air, but to go
3 to the forward holding area. This is where Lieutenant-
4 Colonel Scott would do the briefing in person. The reason
5 for briefing the members in person at the forward holding
6 area was twofold. One was to ensure the understanding of
7 the plan and secondly was that the police were of the
8 understanding that the protesters had one of their own
9 radios in their possession.

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

21 Right, we move to slide 180, the prelude to slide
22 181 which was the briefing given to the commanders at
23 forward holding area 1 that day. All operational
24 commanders – I'm on slide 181 – were called to the forward
25 holding area, except for Lieutenant-Colonel Mere who was

<p style="text-align: right;">Page 1278</p> <p>1 left temporarily in charge of the neutral area. As we can 2 see on the slide, phase 1 to the right with the arrows 3 facing to the barbed wire vehicles now depicted in red. 4 Phase 1 was to deploy barbed wire to protect the SAPS and 5 the media in the neutral area. Phase 2 - you can see the 6 arrows below pointing to the two lines formed – was to 7 regroup and push forward to employ POPS dispersion 8 strategy. The other forces were deployed to protect the 9 SAPS in case of life-threatening attacks as seen on Monday. 10 We can see the first line, again shown in blue, with the 11 water car in the centre, shown in orange. I must state 12 that the picture you see in front of you is not according 13 to scale. It's a map which is made on Google maps and due 14 to the size of the zooming in and out, one can't use too 15 many icons to represent the figures. So every figures does 16 not necessarily represent a vehicle, it just depicts the 17 line. And to the bottom we can see the briefing to the 18 forward holding area 2 members, to deploy to protect the 19 informal settlement to the south-west. 20 Slide 182. At 15:00, three o'clock that 21 afternoon, the commanders of the teams of the TRT who were 22 responsible for supporting the dispersion of the action of 23 public order policing, personally briefed their own forces 24 with regard to the following roles and responsibilities. 25 This included the placement of the TRT members behind the</p>	<p style="text-align: right;">Page 1280</p> <p>1 were redeployed from immediate response areas 1 and 2 to 2 the front line deployment in support of Brigadier Calitz in 3 accordance with stage 3's deployment strategy. In essence, 4 it was the special task force armoured vehicles and then 5 the teams from the national intervention arrived to the 6 neutral area. 7 The reserve forces, the TRT, POP and canine units 8 from forward holding area 2 moved to the informal 9 settlement to the west of the koppies to protect - the 10 protection thereof. The reserve forces and the teams from 11 the emergency medical services and the fire brigade moved 12 with General Naidoo from forward holding area 1 and they 13 positioned at immediate reaction area 1. 14 Slide 185. 15 CHAIRPERSON: Before you go on to that, 16 you did mention earlier that General Annandale had said 17 that he wanted the operation to commence at 15:30 and he 18 gave a reason. It's dealt with on your slide 179. 19 LT-COL SCOTT: That's correct, sir. 20 CHAIRPERSON: Now, it's obvious from what 21 you've now said that that didn't happen. 22 LT-COL SCOTT: Yes. 23 CHAIRPERSON: Because what you're now 24 going to tell us about – what you've just told us about – 25 LT-COL SCOTT: Yes.</p>
<p style="text-align: right;">Page 1279</p> <p>1 POP line, the allocation of koppie 2 for sweeping and 2 searching and the rules of engagement were emphasised - the 3 rules of engagement for them advancing on command, to 4 perform a planned role during the dispersion and clarifying 5 private defence, when to engage without instruction. The 6 briefing that the commander of the teams at forward holding 7 area 2 were, amongst others, the TRT, POP and canine unit, 8 was to move to the informal settlement and protect against 9 violent actions of dispersing protesters from the western 10 side. Their commanding team leader reinforced the rules of 11 engagement with the members as well. 12 Slide 183. At 20 minutes past these the national 13 intervention unit commander briefed his members with regard 14 to their roles and responsibilities. 15 [12:01] He briefed them according to their position of 16 the members of the NIU behind the POPS line, the allocation 17 of koppie 1 for sweeping and searching, flanking the STF 18 members and the rules of engagement were emphasised. 19 The STF commander briefed his members with regard 20 to their roles and responsibilities and this was the 21 placement of the STF in armoured vehicles behind the POPS 22 line, allocation of koppie 1 for sweeping and searching, 23 flanked by the national intervention unit members and he 24 emphasised the rules of engagement as well. 25 Slide 184. At 15:35 additional armoured vehicles</p>	<p style="text-align: right;">Page 1281</p> <p>1 CHAIRPERSON: On slide 184, took place at 2 15:35. 3 LT-COL SCOTT: Yes. 4 CHAIRPERSON: Now obviously you'll give 5 evidence on this in due course, or he will, but I take it a 6 decision was taken to postpone or delay the beginning of 7 the operation, the commencement of the operation, because 8 13:30 had come and gone. 9 LT-COL SCOTT: Yes. 10 CHAIRPERSON: And the operation hadn't 11 yet commenced. 12 LT-COL SCOTT: Yes. Again sir, there's – 13 as I say, when the planning or the guidelines are given, 14 these can become, to some degree, flexible. If forces are 15 not in place yet, we can't commence the operation. 16 CHAIRPERSON: Yes. So is the reason that 17 it didn't commence at 13:30, was because the forces weren't 18 yet in operation. 19 LT-COL SCOTT: Yes. We wanted to ensure 20 that all members down to ground level were thoroughly 21 briefed on what was expected and – 22 CHAIRPERSON: Right, thank you. 23 LT-COL SCOTT: - that took a bit longer 24 than expected. The operational commander, Brigadier 25 Calitz, was also aware of the time of 15:30. However, he</p>

<p style="text-align: right;">Page 1282</p> <p>1 also held back on the operation stage 3 due to the AMCU 2 President and members of the media still being at 15:30 at 3 the protesters at the front. 4 On slide 185, at about 14:40 the AMCU President 5 returned to the koppie and the SAPS again asked the 6 representatives of AMCU to request the protesters to put 7 down their weapons. This request was made in the presence 8 of the media at the koppie. Representatives of AMCU moved 9 forward to address the protestors and informed them that no 10 persons from the mines management or the leadership of the 11 police were willing to meet with them. 12 Slide 186. SMSs sent between the AMCU President 13 and Major-General Annandale. Mr Mathunjwa had arrived at 14 the police's joint operational centre at about 10 to two 15 that afternoon. This was while the police leadership were 16 in a briefing session regarding stage 3. Mr Mathunjwa left 17 shortly thereafter, after not being attended to, sending 18 the following message to Major-General Annandale at 15 19 minutes past two. The message reads as such from Mr 20 Mathunjwa, "Since no person is available to give feedback 21 to, we are going back to the employees to inform them that 22 no-one is available, we have tried our best without co- 23 operation from anyone, let peace prevail." 24 At 14:28 General Annandale replied as follows, 25 that "The SAPS is available at exactly the same spot as we</p>	<p style="text-align: right;">Page 1284</p> <p>1 back for a minute after what I'm saying has been 2 interpreted, so those who wish to leave will have an 3 opportunity to do so. 4 LT-COL SCOTT: Right, we can proceed. 5 The sequence of events that you'll see now, it pretty much 6 speaks to itself. It starts where Mr Mathunjwa is still at 7 the front and speaking to protesters. 8 [VIDEO IS SHOWN] 9 What we're seeing on screen now is an aerial 10 photograph. The yellow depicts the first Nyala deploying 11 its barbed wire. The more organised protester group we can 12 see is ringed in red, directly in front of the police line. 13 [VIDEO IS SHOWN] 14 On screen now is what we've related to as 15 incident 1 where the protesters first approached the police 16 line. The significance is the pole in the background 17 behind the Nyala, that is Nyala 4 in picture and it's the 18 direct approach from the protesters on the first attempt. 19 At this time three of the Nyalas have deployed their barbed 20 wire. Mr Noki had come forward and spoken to the 21 negotiation Nyala, gone back to the group and formed a 22 group and then started walking towards the police line. 23 The Nyala in picture again, as I say, is Nyala 4 with the 24 barbed wire and Nyala 4 started driving and cut off the 25 approach. There was no other method of force continuum</p>
<p style="text-align: right;">Page 1283</p> <p>1 had our earlier discussion. We are always available and 2 willing to have discussions towards finding an amicable and 3 peaceful solution." 4 We move to slide 187 where we see a media report 5 on the President of AMCU's plea. 6 [VIDEO IS SHOWN] 7 Chairperson, if we can just again issue a 8 warning. The next slide we'll go through is a video and 9 photograph summary of the incidents before we get into the 10 detail of those incidents, of the occurrences. We have, as 11 best possible, tried to sequence the photographs according 12 to time lines. We have a numerous amount of photographers 13 that have provided photos and we needed to zero those in 14 onto the standard time line of South Africa. The videos 15 that we've got as well, were difficult at times with time 16 lines but we tried to slot them in into the correct places 17 as we could see where they were filmed from and in the 18 correct time slots when they were filmed. I believe a 19 warning is due, it's going to be graphic. 20 CHAIRPERSON: As you've heard, what we're 21 now going to see are pictures are very graphic, as has been 22 described, which will cause a lot of grief and unhappiness 23 and psychological trauma to family members whose loved ones 24 will be depicted on the screen. So I will ask, I'll give 25 you – I'll ask the people who are showing the video to hold</p>	<p style="text-align: right;">Page 1285</p> <p>1 used at that stage, as the police at this stage had not 2 anticipated that the protesters would try to enter into the 3 neutral area. Can we just go back to the – slightly back. 4 [12:21] After the first attempt, the operational 5 commanders on ground saw what was transpiring and formed 6 the public order policing up to assist Nyala 4 deploying 7 the barbed wire to prevent the protesters from entering 8 into the police neutral area. At this time there were no 9 tactical response teams present, only public order 10 policing. 11 [VIDEO IS SHOWN] 12 The picture on screen now shows the second 13 attempt of the protesters. They have now at this stage all 14 moved off the koppies and we can see a spearhead type 15 movement moving towards the police line. This is 16 approximately two minutes after the initial approach. 17 Nyala 4, if the cursor can depict Nyala 4 with the barbed 18 wire – it's just to the top of the crowd, still driving, 19 deploying the barbed wire. 20 This is the second photograph taken by a 21 journalist to the northern side, this is the approach, the 22 second approach, Nyala 4. And to the left of that picture 23 we can see the barbed wire of Nyala 5. Nyala took the 24 decision, the driver took the decision to continue driving 25 and drove his Nyala against the kraal, as he saw that if he</p>

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1 had stopped at Nyala 5 he would not have been able to cut
2 off the advancing crowd.

3 During incident 2, which was the approach we've
4 just seen, the public order policing members were deploying
5 teargas and they were shooting rubber rounds and throwing
6 stun grenades to disperse the crowd. We saw the rest of
7 the police members a moment ago there, running forward to
8 form the line.

9 We now move to the third attempt where the public
10 order policing members moved out to try and block the
11 advance of the protesters between the kraals and the
12 picture in view now is the third attempted approach into
13 the police area.

14 The videos to follow will be shown now from media
15 representatives that took from different angles and the
16 first videos we will see are to the left-hand side of the
17 kraal where the protesters are coming through. So you'll
18 notice that the videos were taken from behind the Nyalas,
19 focusing through the Nyalas, and this was known as the
20 right flank. These were the armoured vehicles that were
21 moving out to try and block the advance of the protesters.

22 The public order policing use of force continuum
23 was being used, but to no effect. The protestors advanced
24 regardless. We can see the tear smoke at this stage. The
25 protesters who were armed moved past the public order

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1 policing line in the direction of the neutral area.
2 Depicted in the photograph on screen, the member can be
3 seen or the protester can be seen holding a pistol.

4 The following video footage will be shown from
5 media clips from the right flank.

6 [VIDEO IS SHOWN]

7 These are the police members utilising rubber
8 rounds before the protesters went past them and were
9 engaged by the members of the TRT.

10 [VIDEO IS SHOWN]

11 Chair, just for the reference, if we see police
12 members wearing the shiny blue helmets with the black piece
13 of protection for their necks, that's public order
14 policing. Should we see police members wearing berets,
15 blue berets, those are the tactical response team members,
16 that's the public order policing, they were on the right
17 flank. They were shooting and they were only utilising
18 less than lethal force, rubber, teargas, et cetera. And if
19 we see police members with black ballistic helmets, it's a
20 mixture between tactical response team or national
21 intervention unit or some public order policing members,
22 but when the POPS members are dressed – as they are seen in
23 picture now – they are using non-lethal force.

24 [VIDEO IS SHOWN]

25 The next clip, the TRT members can be seen

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1 retreating while firing. Many of the shots are aimed
2 towards the ground initially, to ward off the protesters'
3 approach.

4 [VIDEO IS SHOWN]

5 We now look at the footage from behind the police
6 line where initially, to the left side of the picture, you
7 will see the public order policing members that were
8 engaging from the left side. They'd initially defended the
9 line from the second incident, approach, and they were
10 still trying to disperse and get them not to enter through.
11 The TRT line is formed from behind as they are confronted
12 by the approaching armed protesters. The shooting incident
13 only lasts eight seconds.

14 [VIDEO IS SHOWN]

15 What you're going to see on screen now is - in
16 the background to the top of your picture is scene 1 at the
17 kraal. The tactical intervention unit members remained
18 behind at that scene, thus their role had to be duplicated
19 or taken up by the special task force members. At this
20 stage we can see the white line of police vehicles that
21 have lined up – to disperse the protesters that have now
22 stacked up behind koppie 2.

23 [VIDEO IS SHOWN]

24 This is video footage from the air. We can see
25 the national intervention unit just for a moment there that

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1 were grouping and they climbed through the barbed wire gap,
2 between the Nyala and the barbed wire, what we considered
3 the weak points, and they started lining along the fence to
4 sweep over koppie 1 and 2, assuming the role now of the
5 special task force as well as the TRT members that remained
6 behind.

7 [VIDEO IS SHOWN]

8 Ringed in green we can see the special task force
9 Casspir which had moved around from the police line to cut
10 off any attempt of the protesters to move up into koppie 1
11 just to the right of the screen and that would've been
12 higher ground and difficult to remove the protesters from
13 that area or to disperse them from that area.

14 [VIDEO IS SHOWN]

15 I'm going to take your cursor off the – we can't
16 read the writing. There were a number of protesters also
17 gathered around koppie 3. There was not just the
18 protesters behind koppie 2, about a similar amount were
19 gathered around and in koppie 3 at that time.

20 [VIDEO IS SHOWN]

21 This now the dispersion action which was
22 initiated once all forces were in place and the water
23 cannons are going ahead, leading the dispersion and as the
24 dispersion action happened, the national intervention unit
25 cleared koppie 1 and 2 without incident.

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1 [VIDEO IS SHOWN]
 2 That is the special task force Scorpion vehicle
 3 and in the background from then we can see many of the
 4 protesters who have dispersed and are moving to the
 5 northern side, north-north-west.
 6 [VIDEO IS SHOWN]
 7 That's the national intervention unit line that
 8 was sweeping over koppie 1.
 9 [VIDEO IS SHOWN]
 10 This is when the dispersion action phase 2 was
 11 completed, there was a reorganised line established where
 12 the forces would assess the situation again and move
 13 forward with the arresting and disarming of groups of
 14 protesters.
 15 [VIDEO IS SHOWN]
 16 [12:41] What can be seen on screen now, depicted in
 17 yellow, are three Nyalas which have lined up. They've
 18 noticed that there's a number of protesters to the north of
 19 the koppie and they eventually moved in a dispersion or an
 20 action there to arrest, which they did, encircle and arrest
 21 and disarm a number of protesters. In green we see the
 22 reorganising of the water cannons after noticing that many
 23 of the protesters have fled to koppie 3 and they went
 24 forward, with the protection of public order policing, an
 25 armoured vehicle as well as special task force armoured

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1 vehicle to each side, with the mission to try and flush out
 2 the protesters into the open area for a safer environment
 3 for the disarming and arresting to take place.
 4 In red, behind the green, the armoured vehicles,
 5 there's the national intervention unit approaching on foot
 6 after clearing koppies 1 and 2 and to the south, just to
 7 the top of your picture is the blue and that is the dog
 8 unit members coming forward to assist with the disarming
 9 and arresting action. And the pink or pink-type arrows is
 10 the members from forward holding area 2 who had formed a
 11 sweep line and were walking forwards towards the situation.
 12 [VIDEO IS SHOWN]
 13 This is a picture of koppie 3 and we can see the
 14 members are ringed in blue from forward holding area 2, who
 15 have started moving towards the situation, the koppie as
 16 well – many of these photographs are further in the
 17 presentation for you. It is broken obviously into four
 18 quadrants for the northern, southern, eastern and western
 19 just for better reference.
 20 [VIDEO IS SHOWN]
 21 We can see the water cannons are spraying the
 22 water and they're trying to move the protesters along and
 23 out of the bushes and from the rocks.
 24 [VIDEO IS SHOWN]
 25 Koppie 3 is ringed in yellow and the canine or

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1 dog unit vehicles are approaching from the south. These
 2 were the arrests made by the Nyalas ringed in yellow, they
 3 moved to the northern side of koppie 3 and apprehended a
 4 group of protesters who were armed and made, carried out
 5 the arrests.
 6 [VIDEO IS SHOWN]
 7 What we're seeing on screen at the moment is from
 8 the western side, just the approach of the members from
 9 forward holding area 2. The public order policing assets
 10 are inside the koppie trying to flush the protesters from
 11 the bushes. Before they entered that koppie, two
 12 protesters had allegedly charged out at the members
 13 wielding weapons and were fired upon. They are shown with
 14 the red circles.
 15 [VIDEO IS SHOWN]
 16 The video footage we're watching now is taken by
 17 one of the police members with his cell phone. At this
 18 stage they were – they were of the opinion that rounds were
 19 fired in their direction. That's the cover and everyone is
 20 lying down on the ground. They're on the western side of
 21 the koppie 3.
 22 [VIDEO IS SHOWN]
 23 That was just the perspective from the forward
 24 holding area members that were lying on the western side of
 25 koppie 3. This is the aerial shot from koppie 3 where

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1 we've actually positioned the different units and where
 2 they approached from. In purple again you can see the
 3 different units that came in from forward holding area 2.
 4 From the southern side - we are looking towards the north –
 5 is the canine units with the special task force armoured
 6 vehicle standing right next to the bushes. We've got the
 7 national intervention unit who came in from the western
 8 side - from the eastern side, I apologise, - and they were
 9 also positioned inside the air force helicopter that day.
 10 To the north, as well as in the middle of koppie 3, we've
 11 got the public order policing members.
 12 [VIDEO IS SHOWN]
 13 This is footage taken from the western side of
 14 the koppie where the protester known to us as body C runs
 15 past – very fleetingly you can see in the bushes off to the
 16 north of the koppie – and he's engaged by TRT members when
 17 he tries to attack them. The cameraman will run with his
 18 cell phone to the scene immediately thereafter.
 19 [VIDEO IS SHOWN]
 20 You could see fleetingly in the picture there was
 21 the stick or what seems to be the pole of the spear. In
 22 picture, treating the injured member now is Colonel
 23 Macintosh who's a qualified paramedic.
 24 [VIDEO IS SHOWN]
 25 [INQUIRY ADJOURNS INQUIRY RESUMES]

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1 [13:33] CHAIRPERSON: The Commission resumes.
 2 You did apologise to me, Colonel, that there was a problem
 3 with your computer which is why you were late coming back.
 4 So we will proceed.
 5 LT-COL SCOTT: Chairperson, with the
 6 video that we were watching there is possibly about two to
 7 three minutes left. I think we can maybe move past the
 8 scene we were looking at.
 9 [VIDEO SHOWN]
 10 We are at a place now where the arrests were
 11 taking place inside the koppie 3. There were approximately
 12 250 plus arrests made. We can see possibly a number of 50
 13 to 70 which have already been arrested. The rest of the
 14 protesters are still between the rocks and the bushes. I
 15 must speak to stage 4, it was the processing of the scene,
 16 any crime scenes as well as the processing of arrested
 17 persons to be dealt with. The video footage now being seen
 18 is of the medical practitioners who were held in reserve
 19 that have been brought up to the scenes. Initial media
 20 reports were that the police withheld the medical treatment
 21 for up to two hours. The photograph and video footage as
 22 shown, can prove that the police had medics on scene within
 23 ten minutes of the shootings.
 24 Now if we can proceed now to breaking down the
 25 video photo sequencing on slide 189, we look at the detailed

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1 sequence of events. At 15:35, the AMCU president and the
 2 representative of AMCU prepared to leave the scene. Mr
 3 Mathunjwa remarks to the protesters that they would die
 4 that day if they continued with their course of action to
 5 which they responded that they were prepared to die there
 6 that day. Some of the media reported to Captain Adrio that
 7 they sensed a change in the protesters' mood and were
 8 withdrawing out of fear for their own safety. They also
 9 reported to him that they saw a protester in the group
 10 concealing a firearm in a blanket which was revealed to
 11 them. The media retreated to a neutral area behind the
 12 police lines. At this stage, all negotiations and
 13 discussions had ceased between the police and the
 14 protesters, and the information about the firearm, etcetera
 15 was given to Brigadier Calitz. Slide 190, the photograph
 16 depicts in the yellow circle the silver Fortuna of the AMCU
 17 president, addressing the crowd. As far as we could
 18 possibly achieve it, the timing that you see in the bottom
 19 right of the photographs from sequentially right, the time
 20 is 15:35. If we see barbed wire Nyalas to the left of the
 21 yellow ringed vehicle, we notice that they have been turned
 22 towards the police line, instead of initially to throw a
 23 wider barrier and that was in defence of the Nyalas as well
 24 as the police neutral area.
 25 Slide 191, what is noticeable in his slide is how

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1 the protest group has started thinning out, just before the
 2 mobilisation towards the police line. To the bottom left
 3 of the screen, we see a number of protesters have left
 4 koppies and are walking away. As we proceed now, you will
 5 see the distances just to orientate you to the – in white,
 6 we've got the distance of the defensive group, where they
 7 were to deploy. In yellow we have the distance between the
 8 crowd, and from the northern flank to where kraal 1 was,
 9 and in black, we have the distances of the TRT members.
 10 Moving on, slide 192, the detail sequence of events at
 11 15:40, 20 minutes to 4, Brigadier Calitz gave the command
 12 to Colonel Makubela to start with the deployment of the
 13 barbed wire. When the first Nyala started to deploy, the
 14 barbed wire one of the representatives came to the front
 15 window of the negotiation Nyala and stated that "these
 16 hippos," referring to those Nyalas, "would not leave this
 17 place, and you will all die today." The interpreter
 18 interpreted it, and that he would not be returning again.
 19 This followed the representative's earlier comments made at
 20 13:40, 20 minutes to 2, where he approached the Nyalas and
 21 said that he can see that the SAPS are making ready for war
 22 now. He informed Lt-Colonel McIntosh who was the
 23 negotiator, "we must sign a paper, so that we could see,
 24 the world can see how we kill one another today." In slide
 25 193, shown with the white arrow and the circle is Mr

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1 Mathunjwa leaving the protest area. Shown with the red,
 2 orange and white arrows are the protesters, the white
 3 depicting those that are leaving voluntarily, the orange
 4 depicting those that have stayed on the koppies, and the
 5 red showing the more organised group of concern. The time
 6 is 15:43. The police have deployed the barbed wire with a
 7 trailer, to protect the media and themselves around the
 8 vehicles, and deflected dispersal movements towards the
 9 west, to open ground where the armed protesters can be
 10 approached without endangering other members of the public
 11 in the informal settlements when the situation becomes
 12 confrontational. It is noticeable that the police did not
 13 want to attempt it disarm the protesters amongst the
 14 informal settlement housing.
 15 Slide 194, in the following slides, three
 16 separate organised attempts will be portrayed where
 17 protesters approached the police line. We see the yellow
 18 dotted line depicting the defensive line, the barbed wire
 19 being deployed. The yellow arrow showing incident 1,
 20 approach 1, the orange arrow showing approach 2 or incident
 21 2, and the red arrow showing incident 3, approach 3. We
 22 move to slide 195, and the incidents during phases 1 to 3
 23 for reference are as follows. During the phase 1 incident
 24 1, is where the protesters first attempt, the protesters
 25 first approach to the police line. The first time is Nyala

1 4 starts deploying the barbed wire, no public order police
 2 engagements, the protesters cut off by the Nyalas barbed
 3 wire prevented from entering. Incident 2 is where the
 4 protesters have a second attempt before the kraal, public
 5 order policing engages with less than lethal force. Nyala
 6 4 cuts off the advance for the second time. Incident 3,
 7 the protesters' further attempt is around the kraal, the
 8 public order policing engages from the right and the left
 9 flanks with less than lethal force. The public order
 10 policing armoured vehicles attempt to move past the kraal
 11 to form a dispersal blocking line. Then we have
 12 incident 4, where the tactical response team line shoots at
 13 the advancing armed protesters which is known as scene 1.
 14 Slide 196, dealing with incident 1, this is a detailed
 15 sequence of events. Nyalas 1, 2, 3, deployed their wire
 16 without any influence or interference from the protesters.
 17 Before Nyala 4 started deploying its wire, a group of armed
 18 protesters in formation moved forward and tried to enter
 19 the police enclosure in front of Nyala 4. It was almost a
 20 direct movement from where they were positioned, straight
 21 towards the police line. At this stage, Brigadier Calitz
 22 gave the command for the water canons to come in behind the
 23 line of the negotiation teams. The protesters were
 24 aggressive, tapping their weapons against each other, and
 25 went into a perceived attack formation. Nyala 4 cut the

1 protesters off, driving towards the kraal quickly, passing
 2 Nyala 5 while deploying its wire. Slide 197, the time is
 3 15:40, 7 minutes later, the armed group will approach the
 4 police vehicle Nyala 4, and attempt to enter the police
 5 enclosure. Incident 1, 15:47, slide 198, if we take note
 6 in the booklets that you have on slide 197, at the front of
 7 the last yellow pointer is a pole. That pole is again
 8 evident in slide 198 which gives us reference to where the
 9 Nyala was at the time of the approach. The protesters, in
 10 slide 198 the protesters approach in formation towards
 11 Nyala 4, who had started deploying the barbed wire. It was
 12 noticed that the formation is similar to the formation
 13 walked on Monday by the protesters. Slide 199, continuing
 14 with the detailed sequence of events, incident 2, Nyala 4
 15 drove towards the kraal, to cut off the approaching group
 16 with the barbed wire. The approaching group of protesters
 17 attempted to enter in front of Nyala 4, before it reached
 18 the kraal the second time. The POP members from Nyala 3
 19 and 4, which are both defensive Nyalas, engaged the
 20 protesters with rubber and teargas. The POP vehicles from
 21 the northern flank who had Lt-Colonel Pitsi in charge and
 22 the POP vehicles from the negotiation monitoring group,
 23 which was Lt-Colonel Mere in charge, joined the engagement
 24 to assist Colonel Makubela's barbed wire group. The
 25 clustering of those vehicles can be seen in the top of your

1 photograph, sorry, it's in the next photo to come. The
 2 water canons started spraying the attackers, the attacking
 3 protesters, to prevent them from entering the police
 4 enclosure. This action of the public order policing with
 5 less lethal force had no effect on the protesters, and they
 6 kept coming forward.
 7 [13:53] This gave the use of the non, less than lethal
 8 force, enabled Nyala 4 time to close the gap with the
 9 remaining barbed wire. Allegedly in this incident, various
 10 shots were fired from the protesters at the police Nyala of
 11 Colonel Pitsi. We move to the photograph of slide 200, and
 12 this shows the protesters' second attempt to Nyala 4.
 13 Again, it is not visible, there are no longer protesters or
 14 very few that we can see left on the koppies, and to the
 15 right of the picture, where the beacon is showing north, we
 16 can see the small white dots where the beginning of the
 17 fires are that had been started. Slide 201 is showing us
 18 the alleged damage from sharp point ammunition. If we move
 19 to slide 202, this is the same Nyala. It was video footage
 20 taken after scene 2.
 21 [VIDEO SHOWN]
 22 I think it's a bit difficult to see the alleged
 23 damage on the smaller screens. It's more visual on larger
 24 screens. Slide 203, looking at incident 3, the detailed
 25 sequence of events. After incident 2 when the protesters

1 were [inaudible] by the public order policing line when
 2 Nyala 4 closed the gap with the barbed wire, the protesters
 3 regrouped and approached around the kraal towards the
 4 police in an attacking posture, brandishing various
 5 dangerous weapons and firearms to attempt to gain access
 6 into the police enclosure. The public order policing
 7 vehicles under the command of Colonel Pitsi and the other
 8 team was under the command of Colonel Mere, moved around
 9 the kraal to form a dispersion formation regrouping to face
 10 the approaching protesters. Nyala 6 from the defensive
 11 group, with the barbed wire, went around the kraal without
 12 releasing his barbed wire to block the protesters that were
 13 approaching from the northern side of the kraal in the
 14 direction of the police lines. Members from that Nyala
 15 could not exit the Nyala in order to deploy that wire
 16 however with the close presence of the protesters. While
 17 passing the kraal, the protesters passed between those
 18 armoured vehicles and the kraal, the armoured vehicles
 19 which had gone out form a dispersing line. They were
 20 firing shots at the public order policing members who were
 21 outside of their static Nyalas whilst they continued moving
 22 in the formation towards entering the neutral where the TRT
 23 had lined up at this time. The Nyala with the call sign
 24 Papa 11, threw a stun grenade at the protesters to attempt
 25 to disperse them when they tried to damage the wheels of an

<p style="text-align: right;">Page 1302</p> <p>1 Nyala with their spears and pangas. Moving to slide 204, 2 some of the protesters went past the police line of Nyalas 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</p>	<p style="text-align: right;">Page 1304</p> <p>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</p>
<p style="text-align: right;">Page 1303</p> <p>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 Nyalas 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 20 to 4 are amongst the front crowd. If we move onto slide 21 209, this is to give a brief reflection of the shooting 22 arcs of the tactical response team line and we notice that 23 there are protesters, deceased protesters that are just in 24 front of the line, as well as protesters that were shot on 25 the opposite side of the kraal by bullets which were moving</p>	<p style="text-align: right;">Page 1305</p> <p>1 used, it was 284 in total. If we move on to the next 2 slide, it's slide 212, again I must just state with the 3 previous slide 211, this is what the members in their 4 statements have claimed to have expended, it's more than 5 what the LCRC possibly has picked up. Part of the reason 6 for that would be that some of the members were shooting 7 from inside the Nyalas, the rubber rounds, thus their 8 cartridges would have remained behind in the vehicles. If 9 we move to slide 212, this is a video, it's a telephonic 10 call that explains the procedure as it was unfolding, or 11 the incidents as they were unfolding. 12 [TELEPHONE CALL PLAYED] 13 [14:13] Okay, we can move on. Slide 213. We move now to 14 the stage 3 operation deployments with the dispersion which 15 is phase 2 of the protester crowd into smaller groups and 16 then look at the phase 3 which was to encircle, isolate, 17 disarm and arrest. Slide 214, the detailed sequence of 18 events continues. While scene 1 was being secured and 19 immediate follow up action to disperse, disarm and arrest 20 the remainder of the protesters – or armed protesters was 21 underway. While some of the protesters dispersed 22 voluntarily after what happened at scene 1, a large number, 23 about 300, regrouped behind koppie 2 and moved in a line 24 towards koppie 3 which is now scene 2, where the water 25 canon started to spray them in order to disperse them. The</p>

1 veld was set alight about the retreating protesters as they
 2 moved towards koppie 3. This was possibly done to deter
 3 the police's advance which appeared to be pre-planned as it
 4 was executed in an organised manner. The POP's Nyalas with
 5 two water canons as well as the SDF armoured vehicles
 6 formed a line in front of the protesters that were standing
 7 behind koppie 2, and they moved in the direction of koppie
 8 3. They were followed on foot by the NIU to disarm and
 9 arrest. In slide 215, this is at 16:02, just after 4
 10 o'clock, the protesters form up following scene 1 behind
 11 koppie 2. The fire scene in the picture were lit by the
 12 protesters as early as 15:49, starting at the south-eastern
 13 end of koppie 3, as previously pointed out. In the
 14 picture, if I explain it, we can see the scene, scene 1 at
 15 the kraal, where the tactical response team members have
 16 remained behind, the pointer is showing it out now, at the
 17 top left-hand corner of your photo. If we move along the
 18 barbed wire line, you'll see the national intervention unit
 19 members who have formed a sweeping line. We see the police
 20 armoured vehicle line, with public order policing who have
 21 not as yet de-bust their vehicles and we see the protesters
 22 standing in a line behind koppie 2. We move to the next
 23 slide. There were two specific groupings, there was a more
 24 organised grouping of protesters behind koppie 2, and there
 25 were many others standing around and inside koppie 3. We

1 go to your close up of the same photograph, 217, shows the
 2 protesters behind koppie 2 with the police line, marked in
 3 blue. And in the next photograph, in 218 we can see the
 4 enhanced, or where we zoomed in onto koppie 3, we can
 5 notice the protesters on the northern side of koppie 3,
 6 with the tail of the protesters from koppie 2, reaching
 7 back to koppie 3 on the left of the picture. Marked in
 8 blue in the photograph on 218, we can see the approaching
 9 forward holding area 2 line after hearing the shooting from
 10 scene 1.

11 If we move to slide 219, the police advancing
 12 dispersion lines encircled in blue, the initial line of
 13 TRTs encircled in yellow, and are remaining at the scene 1
 14 and an NIU, now encircled in red are moving towards koppies
 15 1 and 2. Recalling the original plan, the TRT was to
 16 backup the public order policing, the special task force
 17 members have now taken over that role, and the national
 18 intervention unit has taken over the role of clearing
 19 koppies 1 and 2, as was originally planned for the TRT, the
 20 SDF and the NIU. Slide 220, the time is 15:57 and we can
 21 see the fires that the protesters have lit. The bushes to
 22 the bottom left of the photograph are the beginning of
 23 koppie 3. Photograph 221, the protesters are facing the
 24 direction of koppie 2 and the police dispersion line, the
 25 special task force Casspir which is encircled in green is

1 to the right of the photograph guarding against the
 2 protesters moving to koppie 1 and to the higher ground,
 3 where the dispersion would be difficult. The NIU can be
 4 seen in the background forming the sweep line.

5 Slide number 222, shows the protesters at the
 6 same time that were already koppie 3, on top of the rocks,
 7 and around the bushes. Slide 223, at one minute to four,
 8 this is nine minutes after the shooting at scene 1, the
 9 protesters line up, or stand behind koppie 2. The police
 10 formation is reorganised in front of the protesters. The
 11 media and other support police assets are behind the barbed
 12 wire, at the clustering of vehicles in the top right of the
 13 photo. Slide 224 shows a clustering of photographs. The
 14 middle one is showing, unfortunately on my slide there's a
 15 slight purple line, there's a pathway there, we can see in
 16 the slide bushes and the protesters on that pathway were
 17 protesters which have decided to disperse voluntarily and
 18 are moving away. Slide 225, the time is now 16:05, five
 19 minutes past four, and the police dispersion line with the
 20 water canon is now being utilised in the force continuum of
 21 dispersion. On your photograph, it's not depicted very
 22 clearly, but you will notice the cursor is now showing you
 23 the water canon spraying a blue spray, and the line, the
 24 sort of dark line in front of the spray is the protester
 25 line. The plan according to the original briefing is being

1 is being carried out pretty closely to how it was
 2 explained. We notice some of the vehicles going to the
 3 right of koppie 2, some of the vehicles, the armoured
 4 vehicles moving between the two koppies, and that was in
 5 order to disperse the protesters towards the west to open
 6 ground, where disarming and arresting could be done in a
 7 safer environment. Slide 226 is the next slide within the
 8 same minute, and we can notice that the protesters are
 9 further being dispersed by the water canon with blue. The
 10 protesters can be seen getting back to koppie 3 while
 11 others have moved off into the open fields to the west and
 12 to the north, to avoid interaction with the police. Slide
 13 227, the time is still 16:05 in the sequence of
 14 photographs. The police armoured vehicles are manoeuvring
 15 to disperse the protesters. The water canon succeed in the
 16 dispersion action, thus the need for the POPs members to
 17 de-bust their vehicles but not necessary during the phase 2
 18 action. Slide 228, the time is still 16:05, the sequence
 19 of photos shows the police dispersion line moving between
 20 koppie 1 and 2, pushing the protesters towards the west.
 21 Slide 229, the time is now 16:06, the photos show the
 22 police line approaching the reorganisation point, which is
 23 shown as a yellow dotted line over the indentation of the
 24 physical terrain property, some form of a dry river bed.
 25 This was the reorganisation line was a temporary stop line

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1 to reorganise the police forces, to reassess the situation
 2 and to move forward into phase 3, which was to disarm and
 3 arrest. We move to slide 230. The time is now 16:07 and
 4 the reorganisation of the police force is as follows. We
 5 see again in yellow, as was depicted in the video, the
 6 Nyalas preparing to approach the protesters to the north of
 7 the koppie, to start disarming and arresting the identified
 8 armed groups. The green depicts the police group preparing
 9 to move towards koppie 3 to flush out the protesters with
 10 water canons into the open on the western side, so that the
 11 armed protesters could be approached, disarmed and
 12 arrested. Blue depicts the forward holding area members,
 13 the K9 dog handlers, moving forward to assist at koppie 3.
 14 Their role was to use their dogs to search for firearms,
 15 hidden amongst the rocks and the bush, and to assist the
 16 NIU sweep line, if required, with their dogs. The red
 17 depicts the national intervention unit members' sweep line,
 18 that's completed the clearing of koppie 2, and is preparing
 19 to move forward to koppie 3. This was to sweep from east
 20 to west to apprehend armed protesters, still between the
 21 rocks and bushes as their role was for koppies 1 and 2, and
 22 the purple line shows the approaching forward holding area
 23 2 members. Slide 231, incidents during phase 3, stage 3 of
 24 the operation. If we look at the synopsis of the shooting
 25 incidents at koppie 3, incident 1, the members from forward

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1 holding area 2 while approaching the bushes on the south-
 2 western of the koppie fire rubber rounds at charging armed
 3 protesters. Incident 2, members from forwarding holding
 4 area 2 fire at two charging armed protesters on the western
 5 side of the koppie, killing one and wounding the other.
 6 Incident 3, the TRT members firing warning shots at
 7 protesters in the bushes on the south-western side of the
 8 koppie, when the protesters charged at them from the
 9 bushes. The TRT retreat to behind the K9 police vehicles
 10 which had arrived.
 11 [14:33] Incident 4, the TRT member on the western side of
 12 the koppie, shot and wounded an armed protester who charged
 13 out of the bushes at him. Slide 232, incident 5, members
 14 from forwarding holding area 1, fired at a protester who
 15 was firing a pistol at them from the southern side of
 16 koppie 3. The protester was moving between the bushes on
 17 the southern side of the koppie. Incident 3, the national
 18 intervention unit is approaching from the eastern side,
 19 fire at charging protesters at the side of koppie 3,
 20 killing two protesters. Incident 7, the dog unit members
 21 shot at an armed protester who was making his way through
 22 the bushes on the south-eastern side towards Major-General
 23 Naidoo, who was moving towards the NIU members. Incident 8
 24 is where the NIU line with Major-General Naidoo, sweeps
 25 through the bushes on the southern side of the koppie and

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1 fires shots at charging armed protesters in the bushes.
 2 Incident 9, the national intervention unit members of the
 3 sweep line on the southern side positioned on top of the
 4 large rocks, fired shots at protesters between the rocks
 5 and bushes on the south-western side of the koppie when
 6 they see the firearm. Those members were fired at as well,
 7 and retreated off the top of the rocks. Incident 10, slide
 8 233, the K9 members approach and enter the bushes on the
 9 south-western side of koppie 3 and shoot at armed
 10 protesters who attempt to attack them when they are moving
 11 between the large rocks. Incident 11 occurred after some
 12 of the protesters had already been arrested and the NIU
 13 members were sweeping the bushes. One of the protesters
 14 moved out of the bushes to the northern side of the koppie
 15 and charged at the NIU line to the north. The NIU members
 16 fired warning shots at the armed protester who changes
 17 direction towards the forward holding area two members to
 18 the west, where he's fatally wounded where he attempts to
 19 stab one of the members with his spear. As we move through
 20 the photographs, the sequence of photos, we will actually
 21 see some of the incidents. At seven minutes past four,
 22 forward holding area 1 members approached from the south,
 23 the K9 was sent forward to assist at koppie 3 while the
 24 medical and fire brigade remains behind at the power
 25 station. Slide 235, this shows the approaching in blue

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1 circles, the approaching forward holding area 2 members and
 2 the water canons flushing the members from the rocks and
 3 the bushes. Slide 236, this is the incident involving
 4 deceased N, who was on the western side of the koppie. The
 5 armed protesters at koppie 3 in the western quadrant,
 6 confronted the TRT and were making hissing sounds when
 7 approaching the police members. The leading protesters
 8 were crouched down and pointing their weapons at the police
 9 in an aggressive manner. Two protesters shouting
 10 something, charged towards the police members with their
 11 weapons raised. They were instructed to stop and lay down
 12 their weapons, but they kept on charging towards the
 13 police. The SAPS fired shots at one - one of the charging
 14 attackers fell to the ground, who is deceased, while the
 15 other attacker ran back to the group that were in the
 16 bushes at koppie 3. The same attacker, dressed in a red
 17 jacket again charged forward towards the police members,
 18 shouting and raising his weapons. The members again fired
 19 at the attacker, who fell to the ground this time. The
 20 member was treated for bullet wounds and taken to hospital
 21 later. Slide 237, we can see the angle from the western
 22 side. What is shown in the red circles are the bodies, one
 23 of the deceased, one of the wounded, the TRT, K9 and public
 24 order policing members are shown in the blue rings and this
 25 shooting occurred between eight minutes past four and nine

<p style="text-align: right;">Page 1314</p> <p>1 past four. We move to the photograph, this is the first 2 photograph which depicts the two protesters lying down, 3 it's not to say that they were shot at that time of that 4 photograph taken. They were shot before the armoured 5 vehicles moved to the centre of the koppie 3. Slide 238, 6 sequence of events on the southern side. The reserve team 7 from forward holding area 1, under the command of Major- 8 General Naidoo, deployed towards the scene 1 at the kraal, 9 to assist with medics. On their way the activity at koppie 10 3 was witnessed. General Naidoo redeployed his team to 11 koppie 3 to assist with the police members. As his reserve 12 group did not have any armoured vehicles, Major-General 13 Naidoo kept the medics and the fire brigade a short 14 distance away until the shooting had stopped. At koppie 3 15 the water canons were already trying to flush the 16 protesters into the open ground to be disarmed and 17 arrested. As the K9 members were approaching from the 18 south, shots were fired at them from the protesters in 19 koppie 3. A person with a blanket, brandishing a firearm 20 was seen shooting at the police members. The members 21 returned fire, discharging several shots until the attack 22 ceased. Slide 239, continuing with the sequence of events 23 on the southern side, the special task force group, their 24 armoured vehicles on the southern side of koppie 3. The 25 SDF members initially deployed on to foot, to sweep and</p>	<p style="text-align: right;">Page 1316</p> <p>1 and his group approached from the north-east. Groups of 2 protesters brandishing weapons, dangerous weapons emerged 3 from behind the rocks and charged at the NIU members 4 approaching from the south-east. The NIU members 5 instructed them to stop and surrender their weapons. This 6 instruction, as well as warning shots that were fired, were 7 ignored, and had no effect on the charging attackers. In 8 order to defend themselves, some of the NIU members fired 9 shots at the protesters. Slide 242, this shows the NIU 10 approaching from the right-hand side, which is the east, 11 and initially the first engagement with the charging 12 protesters, and this is where deceased A and B were found. 13 If we go to the sequence of events eastern side, 243. The 14 NIU members from the south-eastern flank then entered the 15 koppie and split into two teams to circumnavigate the large 16 rock in front of them. General Naidoo joined the NIU team, 17 moving around the southern side of the koppie towards the 18 west. They encountered an armed protester hiding in the 19 bushes, who emerged, charging at them and shot were fired 20 at the protester. The NIU line clearing through the 21 southern bushes when moving forward, were again charged at 22 by the armed protesters as they approached the area where 23 most of the protesters had gathered. Shots were fired to 24 ward off the attack. Some of the NIU members who had opted 25 for higher ground on top of the rock on the southern side,</p>
<p style="text-align: right;">Page 1315</p> <p>1 clear the koppie from the southern side. Colonel Gaffley 2 started instructing the armed protesters who were moving 3 around amongst the bushes at the koppie to lay down their 4 weapons. They did not adhere to the instructions. Shots 5 were fired from an undetermined direction and Colonel 6 Gaffley determined that to sweep and clear at that time 7 would be dangerous for the SDF members as gunfire was heard 8 all around the perimeters of the koppie. When the firing 9 ceased, the SADF members proceeded to sweep and clear the 10 koppie, with the rest of the police members present 11 assisting with arresting several protesters. Slide 240, 12 the slide shows from the southern side, the approach of the 13 K9 and we can see the directions of fire that was 14 delivered. The dotted line to the far right was in defence 15 of General Naidoo as he was approaching around those bushes 16 to go to the NIU, one of the K9 members engaged a perceived 17 threat who was moving towards General Naidoo who was armed. 18 The other three circles with red lines were firing in 19 defence with the protester allegedly with the pistol firing 20 at them from those bushes. If we move on to the sequence 21 of events on the eastern side. The NIU members from the 22 follow up line, leading to koppie 3, split up into three 23 groups. Captain Tsiloane and a team had meanwhile deployed 24 to koppie 1 to secure it. Colonel Modiba and his group 25 approached koppie 3 from the south-east and Colonel Mkebe</p>	<p style="text-align: right;">Page 1317</p> <p>1 were allegedly shot at by protesters amongst the lower 2 rocks, who were positioned amongst the lower rocks and 3 bushes on the south-western side. The NIU member returned 4 fire, and retreated to safety. Slide 244, depicts the NIU. 5 The second shooting incident on the south-eastern side 6 occurred at approximately 16:13. Members fire at an armed 7 protester charging at them in the bushes. We can see the 8 initial NIU line, just to the northern side of the word 9 "eastern," they remained in that position, and the group 10 that approached from the south-east moved towards the large 11 rock and split into two teams. The initial incident 12 concerning the protester, which was hiding amongst the 13 bushes occurred with the team to the southern side ringed 14 in red. Slide 245, this shows the NIU second shooting 15 incident on the south-eastern side occurred at 16 approximately 16:15 to 16:17. Members fired shots in the 17 bushes to ward off an attack from the approaching 18 protesters. 19 [14:53] And the member on top of the rock at the top 20 fired shorts, or a shot towards the person perceived to 21 have a firearm and firing it at him from the bushes below. 22 We look at slide 246, the incident involving deceased C. 23 Two police members were standing on the northern side of 24 koppie 3 behind some bushes. Captain Kidd noticed one of 25 the attackers running from behind some bushes and rocks on</p>

1 a hill towards the members. Captain Kidd noticed that this
 2 man had two spears, one in each hand, these spears were
 3 raised in the air as to attack the members. The attacker
 4 stabbed at Constable Sibiyane with his spear narrowly
 5 missing him. In the process, the attacker was shot and
 6 fell with Constable Sibiyane to the ground. Constable
 7 Sibiyane was not physically injured in the incident,
 8 though. The incident was also witnessed by the crew of the
 9 Oryx helicopter flying above and Colonel McIntosh, the
 10 negotiator, was positioned slightly to the north. Colonel
 11 McIntosh responded immediately to the injured protester, to
 12 see if he could administer medical treatment.

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

1 just take the next three slides up to 253, and then we will
 2 adjourn until Wednesday.

3 LT-COL SCOTT: Okay, 251 just shows the
 4 arrested protesters at koppie 3, and 252, scene 2, this was
 5 the deceased protesters and the weapons at koppie 3. What
 6 slide would you like to go to, Chairperson?

7 CHAIRPERSON: 253 as well.

8 LT-COL SCOTT: 253? 253 also on screen,
 9 just shows the firearm with some of the weapons that were
 10 found between the rocks.

11 CHAIRPERSON: We will adjourn until
 12 Wednesday at 10 o'clock. We've already explained this
 13 morning why it's necessary to adjourn until Tuesday – until
 14 Wednesday rather, why it's not possible for us to proceed
 15 on Monday and Tuesday, but a lot of work will be done on
 16 those two days studying the documents that have been made
 17 available.

18 [INQUIRY ADJOURNED]

19 .
 20 .
 21 .
 22 .
 23 .
 24 .
 25 .

1 Slide 249, shows the positioning of the police
 2 units as they converged on koppie 3, to continue with the
 3 disarm and arrests of the protesters. To the north was
 4 public order policing. On board the helicopter was the
 5 national intervention unit. The national intervention unit
 6 approached on foot from the east, special task force were
 7 placed with their armoured vehicles to the south, K9
 8 vehicles were placed further back from the special task
 9 force members on the south, and the TRT, public order
 10 policing and K9 members positioned at forward holding area
 11 2 were approached from the west. Sequence of events, slide
 12 250, the instruction was given by Major-General Naidoo for
 13 members to sweep the hill on foot in order to disarm the
 14 rest of the remaining protesters. The attackers gradually
 15 started to surrender, coming out of the bushes, to the
 16 centre of the koppie. The K9 unit with their dogs were
 17 then employed to sweep koppie 3 for any remaining weapons.
 18 Scene 2 was then secured and cordoned off and General
 19 Naidoo then gave the instruction that it was safe for the
 20 medical personnel to attend to the wounded at both scenes.
 21 The police transportation trucks, called Canters were
 22 deployed to the second scene where 259 attackers were
 23 disarmed and arrested, various dangerous weapons and three
 24 firearms were confiscated from the attackers.

25 CHAIRPERSON: Colonel, I think we will

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