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 108 18 JUNE 2013 PAGES 11536 TO 11633



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	Page 11536		Page 11538
1	[PROCEEDINGS ON 18 JUNE 2013]	1	ZONDASI WILLIAM MPEMBE: (s.u.o.)
2	[10:28] CHAIRPERSON: The Commission resumes.	2	EXAMINATION BY MR NGALWANA (CONTD): Good
3	I'm sorry that we're starting later, in fact an hour later	3	morning, General.
4	than the scheduled time. The reason is that there was a	4	MAJOR-GENERAL MPEMBE: Good morning,
5	problem with the airline booking of one of the	5	Advocate.
6	Commissioners so she was only able to catch the later	6	MR NGALWANA: Chairperson and members of
7	plane, which explains the delay. Major-General, you're	7	the Commission, you will recall that there are at least
8	still under oath. Mr Ngalwana, you have some – Mr	8	three documents that we promised to hand or to submit as
9	Ngalwana, I take it, I understand you have further	9	exhibits later on and we consider that today is an
10	questions but before you ask any of them I'd just like to	10	appropriate an occasion as any. The first are the notes
11	ask the interpreter, I understand you were going to give an	11	that the General said he had made during the Potchefstroom
		12	series of meetings and from which he gave a report-back to
12	explanation to the people present. I think you should give	12	
13	the explanation as well in Xhosa as part of the formal		Colonel Visser. Before introducing those, I just wish to
14	proceedings because, as you know, they are broadcast on	14	pose a few questions to the General in regard to those
15	YouTube on the internet and I understand there are people	15	notes. They will be distributed shortly thereafter.
16	who are watching it on television and who would not have	16	CHAIRPERSON: Yes, alright. Unless you
17	had the advantage of the explanation that you gave to the	17	want to – if you've got three documents you could hand in,
18	people present in the auditorium this morning. I think	18	we could possibly mark them as exhibits now.
19	it's an important point that you should –	19	MR NGALWANA: Yes.
20	MR MAHLANGU: Thank you, Chairperson.	20	CHAIRPERSON: And then you don't
21	CHAIRPERSON: Perhaps you should explain	21	necessarily have to hand them in immediately but let's mark
22	it briefly in English as well for the rest of us who don't	22	them as exhibits so that when you lead the evidence it goes
23	know what's going on otherwise.	23	more smoothly because you can just refer to the exhibits as
24	MR MAHLANGU: Thank you, Commissioner. I	24	described. So unfortunately Ms Pillay is not here but what
25	want to make an apology to the people listening,	25	is the next, what I can call Mpembe exhibit? It's HHH, I
	Page 11537		Page 11530
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1	Page 11540 did you make these notes contemporaneously on the 13th of	1	Page 11542 the Saturday the 11th but I take it it's not important.
2	August during the event of Monday the 13th of August 2012?	2	MR NGALWANA: Then with reference to the
3	MAJOR-GENERAL MPEMBE: No, Chairperson.	3	statement of Mr Y, the Commission and members of the
4	MR NGALWANA: When did you make these	4	Commission will recall the evidence of Major-General Mpembe
5	notes in your diary?	5	when he gave reasons for implementing stage 3, that people
6	MAJOR-GENERAL MPEMBE: The notes were	6	were continuing to be killed when they were going to work.
7	made when I was in Potchefstroom on the 28th. I was also	7	This was one of the examples that he used of a person who
8	looking back on the 13th, what happened on the 13th, then	8	had been assaulted in the early hours of Monday morning as
9	that's when I made the notes.	9	he was going to work. I'm not going to read this into the
10	MR NGALWANA: Now you've made entries in	10	record, save to simply just paraphrase that it deals with a
11	your diary under the date on Tuesday the 28th of August 2012	11	person who was going to work and was stabbed on numerous
12	and Monday the 13th of August 2012 and Sunday the 12th,	12	occasions, was left for dead, woke up, washed his face
13	well, from the 11th of August 2012 until 12 – the 11th of	13	which was bloodied and called people to come to his
14	August, Saturday, 2012, Sunday the 12th of August 2012,	14	assistance, who then came and he has identified at least
14	Monday the 13th of August 2012 and Tuesday the 28th of	15	two persons among those who assaulted him. Chairperson and
16		16	
17	August 2012. Can you explain why you made those entries not under the date relating to the date on which you made	17	members of the Commission, the grammar is not as it should be in the statement. What has been adves it has this
18	the entries – sorry, let me rephrase that. Can you explain	18	be in the statement. What has happened was, it has – this
19	briefly to the Commission why you made those entries under	19	is a typed version from the handwritten version so it was
20		20	typed in precisely the same manner or as close as possible,
20	the dates that you have, on the 11th, the 12th and the 13th	20	as far as I know, in precisely the same manner as it appears in the original version.
22	of August 2012 and the 28th of August 2012? MAJOR-GENERAL MPEMBE: Chairperson, on	22	CHAIRPERSON: Is this the person who is
22	the 28th when I was in Potch, I was writing on the 13th	22	referred to in the occurrence book FFF25 in the entry
23	because some of the entries of me reporting on duty were	23	number 21 on page 3? This is an entry made on the morning
24	made on the 13th but because I was not on duty on that	24	of the 13th at 6:20 about an African male found at Eastern
25	made on the 15th but because I was not on duty on that	20	of the 15th at 0.20 about an Amean male found at Eastern
	Page 11541		Page 11543
1	Page 11541 weekend, I utilised the other spaces because I was on	1	Page 11543 Plats next to the railway with firearm wounds. It alleges
1 2	•	1 2	5
	weekend, I utilised the other spaces because I was on		Plats next to the railway with firearm wounds. It alleges
2	weekend, I utilised the other spaces because I was on leave, I was just using that space to write for me those	2	Plats next to the railway with firearm wounds. It alleges he might have passed away. Is it that person or is it
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Page 1154 1 MAJOR-GENERAL MPEMBE: Correct, 2 Chairperson. 3 COMMISSIONER HEMRA1: Sorry, what page 4 are you taking us to, Mr Ngalwana? 5 MR NGALWANA: Page 4 of exhibit KK which 5 is pagination 142 under flag 12 of bundle B. General, you 7 will see in the second sentence of that paragraph, 8 paragraph 4, Mr Kwadi says, "There was nothing of 9 particular significance which occurred on 11 August 2012 10 which I witnessed." Evidently he's talking about that 10 which I witnessed." Evidently he's talking about that 11 which he did witness. Do you know of anything significant 12 that happened on that day? 13 MAJOR-GENERAL MPEMBE: On the 17th 14 Brigadier Van ZyI – there were some investigations 15 happening. He also informed me that there is a statement 16 of a certain shop owner, whom I'm not going to mention his 17 name, that says that the protesters were buying more pagas, 20 [10:48] MR NGALWANA: May I take you, General, to 21 (Evidently he's taiking about that 22 (TAIRPERSON: We havent got Ms Pillay 23 with us today so it will be dangerous for us to – oh, she 23 let's find out. 24 CHAIRPERSON: We havent got Ms Pillay 25 with us today so it will be dangerous for us to – oh, she 21 is here. Oh, she's sitting – she's crossed the floor. Can 23 you help us Ms Pillay? I'rs the statement of Mohamed 34 cocuments. 55 MR NGALWANA: My learned friend to my
2 Chairperson. 2 of that statement he says, "Further to my statement main are you taking us to, Mr Ngalwana? 3 COMMISSIONER HEMRAJ: Sorry, what page 4 are you taking us to, Mr Ngalwana? 3 the 22nd of August 2012 I would like to add that from 1 5 MR NGALWANA: Page 4 of exhibit KK which 6 6 is pagination 142 under flag 12 of bundle B. General, you 7 7 will see in the second sentence of that paragraph, 8 8 paragraph 4, Mr Kwadi says, "There was nothing of 9 9 particular significance which occurred on 11 August 2012 9 10 which he did witness. Do you know of anything significant 11 Which A cald wase, and hatchets na exhibit number. It 13 MAJOR-GENERAL MPEMBE: On the 17th 14 Brigadler Van Zyl - there were also other significant issues 15 15 happenign. He also informed me that there is a statement 16 16 of a certain shop owner, whom I'm not going to mention his 17 17 form his shop and there were also other significant issues 17 18 from his shop and there were also other significant issue
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14Brigadier Van Zyl – there were some investigations14should be 7.3. It should be HHH7.3. If it is already,15happening. He also informed me that there is a statement16of a certain shop owner, whom I'm not going to mention his1716of a certain shop owner, whom I'm not going to mention his17name, that says that the protesters were buying more pangas1418from his shop and there were also other significant issues19which also happened on the 11th with regard to violence.1720[10:48] MR NGALWANA:May I take you, General, to20CHAIRPERSON:Well, I must tell you that21that same bundle under flag 8? This is not yet an exhibit,22remember it was then suggested that the way to deal w23let's find out.23is to make it HHH7.2 because it follows from 7.1. So th24CHAIRPERSON:We haven't got Ms Pillay25with us today so it will be dangerous for us to – oh, she25with us today so it will be dangerous for us to – oh, she1HHH7.3. And then again according to my notes, Mr Ngah25uot help us Ms Pillay? It's the statement of Mohamed2according to my notes the statement by Mr Masenya, the3cassim which is under flag 8 in the B bundle of police4Warrant Officer I think, his statement is HHH8. So
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5 MR NGALWANA: My learned friend to my 5 everything is neatly in sequence, is that correct?
6 left tells me that he has it as HHH7. 7.1. 6 MR NGALWANA: That sounds about right,
7 CHAIRPERSON: Yes, 7.1. So we were wise 7 Chair.
8 not to give it an extra exhibit number, weren't we? More 8 CHAIRPERSON: Okay. So anyway, we've no
9 happenstance than wisdom, but never mind, we didn't make a 9 looked at HHH7.3. Is there anything you want to do with
10 mistake. 10 apart from refer to it?
11 MR NGALWANA: Thank you, Chairperson. Is 11 MR NGALWANA: No, Chairperson. 12 that the statement to which you refer Concret? 12 MR MROELL: Chairperson.
12 that the statement to which you refer, General? 12 MR MPOFU: Chairperson, may I just 13 MA IOR GENERAL MPEMPE: Correct 13 onguiro whother this Mr Cassim is intended to be a witney
13 MAJOR-GENERAL MPEMBE: Correct, 13 enquire whether this Mr Cassim is intended to be a witner 14 Chairperson 14 or on which basis the statement is being presented?
14Chairperson.14or on which basis the statement is being presented?15MR NGALWANA:Just briefly, you will see15MR NGALWANA:If the Commission or anyou
 in paragraph 3 Mr Cassim says, "On 2012-08-11" – that's the 16 wishes to subpoend him, we don't intend calling him as a 17 11th of August 2012 at about – "at 9AM I was on duty in my 17 witness but if you want –
18Since the time at 9 o'clock when I opened, I had a18CHAIRPERSON:One of the things I'm going19rush of African males buying pangas from me."Then in19to be doing tomorrow is I'm going to be going through th
20 paragraph 4 he says, "I usually keep about 30 pangas in the 20 witnesses whom it is scheduled will be called, to try to
21 stock and it was sold out in no time ". Then in paragraph 5
21 stock and it was sold out in no time." Then in paragraph 5 22 be expresses his suspicion about it "because usually they 22 which witnesses don't have to give evidence but whose
22 he expresses his suspicion about it, "because usually they 22 which witnesses don't have to give evidence but whose
22he expresses his suspicion about it, "because usually they22which witnesses don't have to give evidence but whose23want to wrap it in numerous, or in newspapers, but on that23evidence can be put before the Commission by way of
22 he expresses his suspicion about it, "because usually they 22 which witnesses don't have to give evidence but whose

1	Page 11548	1	Page 11550
1	will consider, whether Mr Cassim should be called and	1	offices that took place on the 11th?
2	obviously if anyone wants him called and I consider it	2 3	MR NGALWANA: Let's ask him, Chair.
3	appropriate that he should be called, I'll allow him to be called but if it's not controversial that there were a lot	3 4	CHAIRPERSON: You obviously weren't aware
4 5	of pangas bought on the 11th of August, well then that fact	4 5	at the time because you were on leave but did you subsequently receive a report to the effect, the details of
6	may be adequately proved simply by his statement, but	6	the report you don't have to give us but did you receive a
7	anyway that's a matter we can go into in due course.	7	report that there had been an incident, that a number of
8	MR MPOFU: Ja. No, Chair –	8	people had marched to the NUM offices, that NUM people were
9	CHAIRPERSON: I think you can accept for	9	there defending the office, as it were, shots were fired
10	the moment that there is, at least evidential material	10	and people were injured. Did you receive a report to that
11	before us setting out what he says. So you can decide to	11	effect subsequently?
12	act in accordance with that knowledge if you consider it	12	MAJOR-GENERAL MPEMBE: Chairperson, it
13	appropriate.	13	was just a verbal report from Captain Govender.
14	MR MPOFU: Yes, Chair. I appreciate	14	CHAIRPERSON: When did you – you mean an
15	that. I think my appeal would be that maybe we should	15	oral report because even written reports are verbal – when
16	assist you in that task as counsel and indicate, if we are	16	did you receive that report?
17	presenting a statement of someone that we don't intend to	17	MAJOR-GENERAL MPEMBE: On the 13th.
18	call, indicate so that we know and then we can set the ball	18	CHAIRPERSON: Thank you.
19	_	19	MR NGALWANA: Thank you. Is there a
20	CHAIRPERSON: No, well, I think – okay,	20	briefing that you gave to the members on the 13th of August
21	it's possibly a housekeeping matter we can discuss in	21	prior to engaging with the protesters next to the railway
22	chambers but just to deal with it quickly, I would've	22	line?
23	thought that the questions – the real point is, the	23	MAJOR-GENERAL MPEMBE: Chairperson, no.
24	statements can be produced and it can be suggested that	24	MR NGALWANA: Why not?
25	it's unnecessary for the witness to give oral evidence.	25	MAJOR-GENERAL MPEMBE: There was no time
<u> </u>	Page 11549		Page 11551
1	MR MPOFU: Correct.	1	for me for the briefing but what I know is that I did ask
2	CHAIRPERSON: That's the point and of	2	the unit commander, Colonel Merafi, then he said to me,
3	course if somebody says no, no, ${\rm I}$ want that witness to come	3	General, the members that arrived outside the province,
4	because there are some questions I want to ask him or her,	4	they were briefed and orientated but the orientation will
5	then obviously that's a matter that'll have to be	5	still continue.
6	considered and I'll then have to be told what the questions	6	MR NGALWANA: You say you didn't have
7		0	
7	are or, you know, what the line of questioning is and if	7	time to brief them. At roughly what time was the
7 8	it's something that in my view is simply a matter of		time to brief them. At roughly what time was the instruction given to you to attend to the marchers next to
8 9	it's something that in my view is simply a matter of irrelevancy, I won't allow it but if it's clearly something	7 8 9	time to brief them. At roughly what time was the instruction given to you to attend to the marchers next to the railway line on the 13th of August 2012?
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1	present at the time before, when you were addressing the –	1	testified that I took upon myself as an overall commander
2	well, let me phrase it this way, you testified earlier	2	to intercept because I could speak the language of the
3	General, maybe Friday or sometime last week, that you may	3	protesters. Chairperson, I did persuade the protesters to
4	have given some briefing to the members. Can you take the	4	lay down their weapons.
5	Commission through that, what the nature of that was?	5	CHAIRPERSON: You didn't persuade them,
6	MAJOR-GENERAL MPEMBE: Correct,	6	you tried to persuade them. If you had persuaded them we
7	Chairperson. I said that while I was addressing the	7	probably wouldn't be here. Isn't that right?
8	protesters at the interception there was a time where I	8	MAJOR-GENERAL MPEMBE: Chairperson, in my
9	called the commanders that were there with me and then I	9	understanding is that as a senior officer and I expected
10	spoke to them. It was the time when I was suggesting that	10	that they could have listened to me.
11	when I count to the protesters and we can allow the	11	CHAIRPERSON: I'm not criticising you.
12	protesters to go.	12	You tried to persuade them, you didn't succeed. It wasn't
13	MR NGALWANA: Were there any video	13	your fault but you tried to persuade them. You can't say
14	operators present at that time?	14	you persuaded them because if you'd persuaded them they
15	MAJOR-GENERAL MPEMBE: Chairperson,	15	would've laid down their arms and they didn't.
16	correct.	16	MAJOR-GENERAL MPEMBE: Correct,
17	MR NGALWANA: Do you know if they took	17	Chairperson.
18	any video footage of your talking to the commanders?	18	MR NGALWANA: So what you're saying,
19	MAJOR-GENERAL MPEMBE: No, Chairperson,	10	General, is at least two things. I would like you to add
20	but what I expected because it was while I was still	20	if there's anything else to add. You say you tried to
20	addressing and they were there, I expected that it could	20	avoid the loss of life and damage to property and injuries
22	have been taken.	22	by negotiation and by trying to persuade them to put down
23	MR NGALWANA: Do you know whether or not	23	their weapons. Is there anything else?
24	they took video footage?	23	MAJOR-GENERAL MPEMBE: The other one is
25	MAJOR-GENERAL MPEMBE: No, Chairperson.	25	that the members that they were with me, they were also
20		20	
	Page 11553		Page 11555
1	Page 11553 MR NGALWANA: You said you then escorted	1	Page 11555 having the equipment that they were to protect themselves,
1 2		1 2	
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2	MR NGALWANA: You said you then escorted the protesters.	2	having the equipment that they were to protect themselves, equipment such as the helmets, teargas, SS.
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Marikana Commission of Inquiry

	Page 11556		Page 11558
1	CHAIRPERSON: Have you got your	1	members of the police service who was killed on the 13th of
2	microphone on?	2	August, is with us today. This is the first time, she's
3	MR MPOFU: I do. Maybe I'm too far –	3	been in and out of hospital, she has been suffering from
4	CHAIRPERSON: If you have, it's obscured	4	ill health. This is the first time that it's been possible
5	by the water bottle, sorry.	5	for her to attend the sitting of the Commission. We want
6	MR MPOFU: I'm sorry to interrupt. I	6	to welcome her here, to say that we're very pleased that
7	know that, I just wanted to check with Ms Pillay. I have	7	she's been able to come and we hope that she is able to get
8	used this document, if you remember Chairperson, in	8	some information about her late son which she did not
9	relation to the definition of offensive measures and so on.	9	previously have. We want also to extend to her, we've
10	I don't know if it was given an exhibit number –	10	extended it previously, we've extended our sympathies and
11	CHAIRPERSON: Your impression is it has	11	condolences in the past to the relatives of other persons
12	been given an exhibit number?	12	who died during the period that we're concerned with but
13	MR MPOFU: Yes.	13	she hasn't been here before and we want to extend to her
14	CHAIRPERSON: Well, if Ms Pillay can't	14	our sympathies and condolences at the loss of her son.
15	give it to us now, after the tea adjournment which we'll be	15	Thank you, Mr Interpreter. Major-General you're still
16	taking in a couple of minutes, she'll be able to give it to	16	under oath. Mr Ngalwana, you are continuing with the
17	us, I hope.	17	examination in chief.
18	MR MPOFU: Thank you.	18	MR NGALWANA: Thank you, Chairperson.
19	MR NGALWANA: You said you are aware of	19	General on the 13th as you were escorting the strikers there
20	this document, General?	20	are certain areas to which you didn't want them to go and
21	MAJOR-GENERAL MPEMBE: Correct,	21	certain areas to which you did want them to go. Can you
22	Chairperson.	22	explain, briefly, what factors you took into account in
23	MR NGALWANA: What is the status of this	23	determining which areas you do not want them to go?
24	document?	24	MAJOR-GENERAL MPEMBE: Chairperson, based
25	MAJOR-GENERAL MPEMBE: It is a draft.	25	on the briefing that I received of what was happening with
	Page 11557		Page 11559
1	MR NGALWANA: Does it have binding force	1	regard to the people that were reporting on duty of the
2	on the police? Is it binding on the police, General? Does	2	protestors that were injured and also the mine managers or
3	it apply, do the police use it?	3	the employees that I did not know where they stay. I did
4	MAJOR-GENERAL MPEMBE: No, Chairperson.	4	not want that the protestors they should go through the
5	The one that I still know that is binding is the standing	5	informal settlement or any other place knowing that we
6	order 262.	6	don't that those who might be injured where they're
7	CHAIRPERSON: Ms Pillay, can you tell us	7	staying. Chairperson, because of the public road, the
8	whether this draft document has been put in as an exhibit?	8	railway and also the business place that was there I had
9	MS PILLAY: GGG –	9	the belief that we could not disperse them at that place.
10	CHAIRPERSON: GGG?	10	CHAIRPERSON: - last week.
11	MS PILLAY: 22.	11	MAJOR-GENERAL MPEMBE: Chairperson,
12	CHAIRPERSON: 22, thank you.	12	through the communication that I had with them I could hear
13	MR NGALWANA: General –	13	that they are willing to go to the koppie and hence I
14	CHAIRPERSON: Mr Ngalwana, when you reach	14	wanted them - I decided to escort them to go to the koppie.
15	a suitable stage for us to take the adjournment, please let	15	MR NGALWANA: After the event of the 16th
16	me know but it's for you to say, I don't want to interrupt	16	where at least two policemen were killed and one injured
17	you if you're in the middle of a point.	17	and - on the 13th -
18	MR NGALWANA: We can take it now, Chair,	18	CHAIRPERSON: 16th, you meant the 13th I
19	if you please.	19	think.
20	CHAIRPERSON: We'll take the tea	20	MR NGALWANA: I'm running ahead of
21	adjournment now.	21	myself, thank you. After the event of the 13th, General,
22	[COMMISSION ADJOURNS COMMISSION RESUMES]	22	was there any debriefing done?
23	[11:42] CHAIRPERSON: The Commission resumes.	23	CHAIRPERSON: I think you should use -
24	I've been informed, we've been informed that Mrs Monene who	24	you should explain what you mean by debriefing. Remember
6.			
	is the mother of Warrant Officer Monene, who was one of the	25	the evidence so far has been to the effect that debriefing

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	Page 11560		Page 11562
1	can either mean as it were psychological debriefing	1	CHAIRPERSON: Mr Ngalwana, hasn't this
2	designed to deal with trauma, of a psychological nature and	2	point been covered already last week? What's the point of
3	debriefing can also have the wider meaning of just	3	leading the evidence again, does it gain extra cogency by
4	obtaining information from those involved as to what	4	being repeated?
5	happened. I think you mean the former but perhaps you	5	MR NGALWANA: I thought that evidence was
			5
6	should make it clear in the way you phrase the question.	6	covered in relation to the 13th, Chairperson, but I'm happy
7	MR NGALWANA: Well I move from the	7	to move on.
8	premise that the General knows precisely what I'm talking	8	CHAIRPERSON: I thought he spoke about
9	about, Chairperson, but -	9	the 16th as well if - a number of people here are nodding
10	CHAIRPERSON: Those who read the record	10	their heads. Not today of course, but we did have evidence
11	and hear the evidence don't necessarily share that	11	last week you will remember. I know it was another week
12	knowledge.	12	but that's no reason why it should be repeated today.
13	MR NGALWANA: Now Standing Order 262,	13	MR NGALWANA: General, in your statement
14	General, and I'll explain this in a moment requires that	14	and in your evidence thus far you haven't given any
15	there be a video recording of what is termed in Standing	15	detailed account of the shooting on the 16th of August 2012.
16	Order 262 a debriefing, what I'm asking is after the event	16	Are you able to explain why not?
17	of the 13th did you do anything of the sort that is	17	MAJOR-GENERAL MPEMBE: No, Chairperson,
18	envisaged in Standing Order 262? In other words was there	18	because I was not on those scenes.
19	an instance where the members reported to their commanders	19	CHAIRPERSON: I understand your evidence
20	about what their individual actions were during the day?	20	to be that firstly you were in the JOC and because you
21	Sorry I said during the day, I meant during that event.	21	couldn't ascertain from the JOC what exactly was happening
22	MAJOR-GENERAL MPEMBE: Correct,	22	you decided to get into the helicopter and the helicopter
23	Chairperson. There was a debriefing between the members	23	you were in was the Coin helicopter which was regarded -
24	and the commanders and the commanders with the Operational	24 25	which was described incorrectly as a Lonmin helicopter but
25	Commander.	25	that had a height restriction. It couldn't fly below a
		-	
	Decc 115/1		Dogo 115/2
1	Page 11561 MR NGAI WANA: Do you know if there was	1	Page 11563 certain altitude . Is that right? So therefore you could
1	MR NGALWANA: Do you know if there was	1	certain altitude. Is that right? So therefore you could
2	MR NGALWANA: Do you know if there was any psychological assessment of the members who were	2	certain altitude. Is that right? So therefore you could only - what you saw was what all that you could see from
2 3	MR NGALWANA: Do you know if there was any psychological assessment of the members who were involved in the event of the 13th of August 2012?	2 3	certain altitude. Is that right? So therefore you could only - what you saw was what all that you could see from quite a high altitude, is that correct?
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	Page 11568		Page 11570
1	Karee hostel.	1	should have sought the opinion of IPID whether or not it
2	MR NGALWANA: Why would you want them to	2	was appropriate to hold those meetings. Do the police
3	go to the Karee hostel, General?	3	usually seek the advice of IPID about how they should
4	MAJOR-GENERAL MPEMBE: There was also a	4	conduct their business as the police?
5	report that the majority of them were also coming from the	5	CHAIRPERSON: Mr Ngalwana, who said that?
6	Karee hostel. And then on this, this was a forward holding	6	I can't remember – I'm not saying you're incorrectly
7	area, forward holding area 2. We also said that some of	7	putting it but I just can't remember who suggested that.
8	the members should just be here for in case when they move	8	MR NGALWANA: It's Mr White, Chair –
9	to Karee they should also not come here.	9	CHAIRPERSON: Okay, I'll find the
10	MR NGALWANA: General, where was the NUM	10	reference. If that's what Mr White said you can carry on.
11 12	office situated on that slide? MAJOR-GENERAL MPEMBE: It is somewhere at	11 12	MR NGALWANA: 427, Chair. The answer,
12	this direction which I also indicated with Wonderkop	12	paragraph 4.2.7 of White's statement, Chair. General, is the police in the habit of seeking the advice of IPID about
14	hostel. It was also not very far from that satellite	14	how the police should do their work?
15	police station. We did also consider that if some of the	14	
16	members should come to Nkaneng, just 50 metres there, they	15	MAJOR-GENERAL MPEMBE: Chairperson, no. CHAIRPERSON: Mr Ngalwana, I'm not sure
17	could come there but not in a group of 10 or 20.	17	that you're summarising Mr White's point accurately. What
18	Individually they could move to Nkaneng.	18	Mr White says, it's page 74 of your bundle and page 20 of
19	COMMISSIONER HEMRAJ: Sorry General, I	19	the statement, the statement being exhibit WW2 – what he
20	don't understand that. What do you mean that they could	20	says is, "In addition," this is in addition to the point he
21	come there individually and not in groups of 10?	21	made in 4.2.6 which is also critical about what the, the
22	MAJOR-GENERAL MPEMBE: Chairperson, I did	22	Potchefstroom process but in another respect – he says, "In
23	testify that if they move in the group of 10, we could	23	addition, given that there was an IPID investigation into
24	still have approached them to disperse to, as a smaller	24	the incidents, I would have expected that the SAPS notified
25	group because normally when they enter in that group we	25	the senior investigating officer at IPID of their intention
	Page 11569		Page 11571
1	also thought that they might also take their frustrations	1	to hold the meeting at Potchefstroom and to have set out to
2	to whatever businesses are there. Or psychologically	2	that officer the scope and purpose of the meeting in order
3	speaking, while they are still in groups they normally	2	the secole the size and size and such a the second second state of the
4		3	to seek their opinion on whether it was appropriate." In
Б	also, they can continue with other violent actions but when	4	other words, they're not asking permission, they're simply
5	they are acting individually they will also take individual	4 5	other words, they're not asking permission, they're simply seeking the – rather what Mr White suggests should be done
6	they are acting individually they will also take individual decisions and they will disperse and go home.	4 5 6	other words, they're not asking permission, they're simply seeking the – rather what Mr White suggests should be done is that the opinion of IPID could be obtained as to whether
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	Page 11572		Page 11574
1	MR MPOFU: Chair –	1	Potchefstroom process?
2	CHAIRPERSON: Let's get his answer first.	2	MAJOR-GENERAL MPEMBE: Chairperson, as I
3	I think I know where you're coming from. I want to raise a	3	explained earlier on, the Potchefstroom was to collate the
4	point as well but if I may be permitted on this occasion to	4	information for the Commission.
5	put my point before you but let's get his answer first.	5	MR NGALWANA: General, was the person who
6	MAJOR-GENERAL MPEMBE: Chairperson no, I	6	was appointed as the operational commander for Operation
7	do not know of any policy that might, that I should or I	7	Platinum a person who was trained or not trained in crowd
8	may ask an opinion from the IPID.	8	management?
9	CHAIRPERSON: The events at Marikana were	9	MAJOR-GENERAL MPEMBE: Correct,
10	the subject of investigations being conducted by IPID. The	10	Chairperson. Brigadier Calitz, the provincial head,
11	normal practice under the standing orders is, instances of	11	operational responses.
12	that kind are followed by a review and a briefing as set	12	MR NGALWANA: Is he trained in crowd
13	out in the standing order. Is it usual practice by the	13	management?
14	police to depart from what is said in the standing order	14	MAJOR-GENERAL MPEMBE: Correct,
15	and even though IPID are investigating the matter, to have	15	Chairperson. He has got extensive experience in crowd
16	a conference of the kind that was held at Potchefstroom?	16	management.
17 18	MAJOR-GENERAL MPEMBE: Chairperson – MR NGALWANA: Chair, I'm sorry, I'm not	17 18	MR NGALWANA: On the 16th – well, in relation to the 16th of August, the preparation of the plan,
	aware of this usual practice in 262 that says IPID should	18	did the police anticipate that the crowd or the protesters
19 20	be involved –	20	or the strikers would attack the police upon placing of
20	CHAIRPERSON: No – no, I didn't say IPID	20	barbed wire?
22	must be involved. I said is it the usual practice, if it	22	MAJOR-GENERAL MPEMBE: No, Chairperson.
23	was a case where IPID were investigating a whole series of	23	MR NGALWANA: In your experience have you
24	dockets, charges that were being investigated, it's not the	24	used barbed wire before and just explain to the
25	usual practice to depart from the standing order and not	25	Chairperson, I mean to the Commission what the result of
	Page 11573		Page 11575
1	have a debriefing in the full sense and a review. It's	1	the use of barbed wire was?
2	conceded that the Potchefstroom process was different.	2	MAJOR-GENERAL MPEMBE: Correct,
3	Whether it's appropriate or inappropriate is a matter that	3	Chairperson.
4	we're not busy with at the moment. It was different from	4	MR NGALWANA: Can you give an example of
5	what's envisaged in the standing order and there were	5	an incident where you used barbed wire and explain what the
6	reasons given as to why there was a departure. We're not	6	result was in that instance?
7	busy with that either. The only point is, you talk about	7	MAJOR-GENERAL MPEMBE: Chairperson, in
8 9	the practice of the police in situations of this kind and I'm asking him whether a situation of this kind had ever	8 9	2010 I had a very unusual, a very crowd management situation in Ventersdorp where Mr Eugene Terreblanche was
9 10	arisen before. Has there ever been a process such as the	9 10	killed. When the court, when different members of the
11	Potchefstroom process which differed from the process set	11	community attended the court proceedings I had, on the
12	out in the standing order? That's the question. If there	12	other hand the AWB members and on the other hand I had also
13	hadn't been, then it's not possible to say what the	13	the ANC Youth League and the community. Chairperson, I did
14	police's practice is normally in a situation like that if	14	use the barbed wire to separate the police, the different
15	there never had been a situation like that before. Anyway,	15	groups that I've mentioned with the barbed wire and there
16	that's the question, what's the answer?	16	was no attack.
17	[12:22] MAJOR-GENERAL MPEMBE: No, Chairperson,	17	MR NGALWANA: General, having apprised of
18	because this was the first one.	18	all the evidence that's been given thus far, having seen
19	CHAIRPERSON: It's a subject, it could	19	the exhibits and the various statements, having reflected,
20	well be a subject for debate whether it was appropriate but	20	what would you say explains - if one can use that term
21	that's not what we're busy with at the moment. The fact	21	advisedly - the tragedy of the 16th and the 13th of August
22	is, it was a unique process and the police would say as a	22	2012?
23	result of the fact that this was a unique occurrence but we	23	CHAIRPERSON: The question relates to
24	don't have to debate that at the moment. It was a unique	24	both the 13th and the 16th, perhaps it might be sensible to
•	accurrance waspit it having a propose like the	25	break it up into two because there may be a different
25	occurrence, wasn't it, having a process like the	23	break it up into two because there may be a unrerent

Page 11576Page 115761explanation for the 13th as opposed to the 16th. Are you1would obviously be circumstantial and not direct evidence2able to proffer an explanation for the tragedy of the 13th,1would obviously be circumstantial and not direct evidence3if one can so describe - I take it one can so describe the3MR NGALWANA: Sorry Chair, sorry to4events of the 13th as a tragedy, it certainly resulted in3MR NGALWANA: Sorry Chair, sorry to5the tragic deaths of a number of people. Are you able to6interrupt. I don't want to be dilatory but I just wanted6give us an explanation based on your understanding of what6position is. My understanding, and the Chairperson will7correct me if I'm wrong, was that if the Commission is in8as good a position as coursel to make an assessment, the9tragedy, if I have to put it in my own words because I was1CHAIRPERSON: Relating to witnesses, the10there, it is when the police were charged at and they10Parameters are –11CHAIRPERSON: no the 16th I was not on the scene but the13witness – rulings were given on the basis you can't ask a13first scene – because the second scene I might not be in a13witness on his or her opinion on a matter which the15video I saw that there was a group charging at the police.16the Commission is well able to form an opinion on. It doesn't14position to say on – the first scene, when I looked at the18reasons upon which the suggested value judgment is bas <t< th=""></t<>
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24 General, let me start first by suggesting a theory to you 24 order.
25 and that theory is that of all the SAPS members, you were 25 MR MADLANGA SC: But the testimony that
Page 11577 Page 11
1one that actually foresaw loss of life and that foresight1you have given in the end, and this we will argue and I2manifested itself both on 13 and 15 August 2012, 13th of2trust or at least hope that the basis for the argument will
 2 manifested itself both on 13 and 15 August 2012, 13th of 3 August and 5. 2 trust or at least hope that the basis for the argument will 3 come out of the cross-examination that will follow, the
4 CHAIRPERSON: The question is, the 13th 4 testimony that you have given in the end paints you in a
5 the Monday and the 15th, the Wednesday? 5 rather bad light as opposed to the initial impressions that
6 MR MADLANGA SC: Yes. I want you to 6 one had and we will suggest that the reason for you givin
7 comment right at the end because from the testimony that 7 the evidence that you have given is not wanting to break
8 you've given I would imagine that you will not agree with 8 rank with the stance that SAPS has taken in presenting it
T A THE WITH LEAGIN TO THE TOTAL AND HAD VOUS STOLY. YOU THAT CASE DELOTE THIS COMMISSION. DO YOU ADDEE WITH WHAT IN
 9 me with regard to the 15th. And had your story, your 9 case before this Commission. Do you agree with what I'v 10 testimony been along those lines, you would have come out 10 just suggested to you?
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1	Page 11580	1	Page 11582
1	the OO4. It was what has happened since the 11th and then	1	run counter the very thesis that I am advancing which will
2	currently and what might also happen in the future but not	2	lead to my last proposition to him, which is that he's now
3	necessarily what could have happened on the 16th.	3	changing in order to make his story to be in line with the
4	CHAIRPERSON: Let's take it step by step.	4	case that SAPS is putting forth before this Commission. So
5	As far as the 13th was concerned, you did not accept the	5	that is why, in the proposition – so if he wants to put
6	advice of the senior officers who were with you because you	6	that context, he should do that himself, Mr Chairman.
7	took the view that if that advice that they were giving you	7	CHAIRPERSON: You say it should be done
8	were implemented, you would have another Tatane kind of	8	in re-examination. Major-General, I take it when Mr
9	incident, is that correct?	9	Madlanga questions you about what you said on the evening
10	MAJOR-GENERAL MPEMBE: Correct,	10	of Wednesday the 15th, you're aware of the context in which
11	Chairperson.	11	you spoke.
12	CHAIRPERSON: You were referring to the	12	MAJOR-GENERAL MPEMBE: Correct,
13	incident at Ficksburg where there was loss of life when, in	13	Chairperson.
14	the course of police action, is that right?	14	MR MADLANGA SC: Just to be clear on that
15	MAJOR-GENERAL MPEMBE: Correct,	15	last answer, General, are you saying that – of course
16	Chairperson.	16	during the evening of the 16th you probably, 15th rather,
17	CHAIRPERSON: On the 15th you said in I	17	you probably would not have been aware that the events of
18	think it's OO4, that if you were to implement the advice	18	the 16th would take place but what I want to establish from
19	given or accede to the request made to you by Mr Zokwana,	19	you is whether you are suggesting that, whatever the date
20	the president of NUM, to disarm the strikers, that there	20	of a dispersal or a stage 3, if it were ever to take place,
21	would be bloodshed. Now that I think is the basis of the	21	are you suggesting that you never foresaw that it might
22	question, am I correct, Mr Madlanga?	22	lead to loss of life?
23	MR MADLANGA SC: Yes it is, Chair.	23	MAJOR-GENERAL MPEMBE: Chairperson, I
24	CHAIRPERSON: Perhaps you could take it	24	just want the question to be repeated in terms of is it now
25	further from there.	25	in line with what I said to Mr Zokwana or is it another
	Page 11581		Page 11583
1	Page 11581 MR MADLANGA SC: Yes it is, Mr Chairman.	1	proposition?
1 2	MR MADLANGA SC: Yes it is, Mr Chairman. MR NGALWANA: Chair, perhaps my learned	1 2	proposition? MR MADLANGA SC: I am asking you about
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2	MR MADLANGA SC: Yes it is, Mr Chairman. MR NGALWANA: Chair, perhaps my learned	2	proposition? MR MADLANGA SC: I am asking you about the implementation of a dispersal process. Are you saying that when you applied your mind to that happening, that is
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RCHIVE FOR JUSTICE

1 2	Page 11584 is the story that SAPS is putting forward, I think those are his –	1 2	Page 11586 police attempted to disarm those armed, those heavily armed people. That, I suggest to you, is the view that you held
3	MR NGALWANA: To rephrase it, Chair –	3	throughout consistently and I now suggest to you and I say
4	CHAIRPERSON: Am I not understanding your	4	indicate if you disagree with me, I suggest to you that you
5	point correctly? Forgive me.	5	are changing from that because you do not want to break
6	MR NGALWANA: Thank you, Chair. Firstly,	6	rank with the case that SAPS is advancing, which case is
7	what is the story with which the General is or from which	7	not suggesting that they foresaw loss of life in
8	the General is departing and secondly, who in the police	8	implementing stage 3 on the 16th. Do you agree with me or
9	gave such a story in evidence under oath?	9	don't you?
10	MR MADLANGA SC: May I ask to deal with	10	CHAIRPERSON: Mr Madlanga, perhaps it
11	the last part? It doesn't have to have been a case put	11	would be better if you actually put the passages that you
12	forth under oath. I've just said the case put forth before	12	have in mind. I suspect, you may have other passages in
13	this Commission, that may be by way of opening addresses	13	mind but I suspect you're referring to exhibit – I think
14	and slides and so on and so on, so it doesn't necessarily	14	it's GGG4 which is in the bundle, volume A that's been put
15	have to be a story given to or put forth before –	15	in as part of the witness's evidence against, it's under
16	CHAIRPERSON: It just refers to evidence	16	tab 8 and it's – I think you're referring to, at least you
17	that has been given previous – up to now.	17	may be referring to other passages too, to 229 and 230, 229
18	MR MADLANGA SC: Yes, yes.	18	being lines, well, it's 7 down to 12 and then on the
19	CHAIRPERSON: Effectively your point	19	following page at the foot of 230, line 28 to the top of
20	relates, as I understand you, to the entire SAPS	20	page 231 line 2. Those are two passages that I think are
21	presentation.	21	covered by what you put but you may have other passages as
22	MR MADLANGA SC: Yes, yes, Mr Chairman.	22	well, I don't know but in fairness to the witness I think
23	CHAIRPERSON: Okay, which I take it the	23	he's entitled to know –
24	witness is aware of.	24	MR MADLANGA SC: Yes.
25	MR MADLANGA SC: Yes, Chair.	25	CHAIRPERSON: - what precisely you're
	_		
1	Page 11585 CHAIRPERSON: So he's not put at a	1	Page 11587 referring to.
1 2	-	1 2	
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2	CHAIRPERSON: So he's not put at a disadvantage in answering the question. He's not at a	2	referring to. MR MADLANGA SC: Yes, yes. Thank you,
2 3	CHAIRPERSON: So he's not put at a disadvantage in answering the question. He's not at a disadvantage therefore in answering the question.	2 3	referring to. MR MADLANGA SC: Yes, yes. Thank you, thank you Mr Chairman.
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		1	
1	Page 11588	1	Page 11590
1	disagree but I also want to explain. In my evidence I did indicate that I was making Mr Zokwana to understand the	1	while giving evidence, to receive support, now support hasn't been defined, from his sons. I'm assured that these
3	seriousness of the matter of convincing the members to hand	2	are not the General's sons, they are in fact his
4	firearms voluntarily – not firearms, sorry, weapons. I was	4	protestors, protectors.
5	also saying to him I need information of those people that	5	CHAIRPERSON: The only one here who has
	we can say they are the convenors and those that he himself	6	protestors is Mr Mpofu. So these are his protectors. I
6 7	informed me earlier on that they were taken by force to go	7	must say I didn't see any help being given to the witness.
	to the mountain, but earlier on I also said that the	7 8	I don't know whether Mr Madlanga can confirm that that is
8			5
9	context of the bloodshed it was today, tomorrow and –	9	SO.
10 11	because I was saying what was happening since the previous time. I also said that I could not tell Mr Zokwana that	10 11	MR MADLANGA SC: I did not notice any assistance there, Mr Chairman.
12	the police are still, are doing a plan or another plan	12	CHAIRPERSON: I take it it's now been
13		12	explained to the widows, they now understand the position.
14	because the plan by that time it is, it was a confidential matter.	13	The witness isn't allowed to receive any assistance of the
15	MR MADLANGA SC: General, I will deal	14	kind, or support, of the kind that was suggested and if it
16	with these matters –	16	were to happen I would immediately do something about it.
17	MAJOR-GENERAL MPEMBE: I'm sorry, I'm	17	So they can rest assured that they don't have to fear
18	sorry, Chairperson, I still want just –	17	anything of that nature or anything untoward. Major-
19	CHAIRPERSON: If you've still got	19	General you're still under oath and you're still without
20	something to say you must give him a chance to say it.	20	support. Mr Madlanga.
21	MAJOR-GENERAL MPEMBE: I'm sorry,	20	MR MADLANGA SC: Thank you, Mr Chairman,
22	Chairperson, I only explained on the 15th. Let me go back	22	Commissioners. General, in your view is there or was there
23	to the 16th [inaudible] the 13th. Chairperson, when I speak	23	consistency in the claim by the police -
24	about the 13th at the intercession I was referring to both	24	CHAIRPERSON: I'm sorry, Mr Madlanga,
25	participants and non-participants.	25	before you move onto that point, there was an unfinished
			5
	Page 11589		Page 11591
1	MR MADLANGA SC: Just for completeness,	1	Page 11591 point from before lunch. The witness was talking about his
1 2	MR MADLANGA SC: Just for completeness, the non-participants, who are you referring to?	1 2	point from before lunch. The witness was talking about his fear that there might be bloodshed on the 13th and he said
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		1	
	Page 11592	1	Page 11594
1	where the people who were reporting on duty is staying.	1	Chairperson. Chairperson, SAPS did take into consideration
2	And we did not know those that are working at Lonmin where	2	the informal settlement based on history and it also took
3	are they staying and in that view is it will be safe for us	3	those decisions based on both - on negative attraction
4	to let them not move inside either of those settlements but	4	points. In going through the informal settlement you could
5	to move outside of them. But not necessarily the way and	5	have reached some of the negative points.
6	then my answer it will be in the line in which I explained	6	MR MADLANGA SC: Are you done, General?
7	now.	7	MAJOR-GENERAL MPEMBE: Correct,
8	MR MADLANGA SC: You say you as an	8	Chairperson.
9	individual did not intend to protect the informal	9	MR MADLANGA SC: My question before the
10	settlements. Was that your view as an individual or is	10	debate we've just heard now was or perhaps let me just make
11	that a view that was shared by SAPS as an institution?	11	sure that I still understand what your response was. Did
12	MAJOR-GENERAL MPEMBE: Chairperson, I	12	you say that what you were protecting was not the informal
13	answer it in a way that as an overall commander I did	13	settlements themselves, did you say so?
14	represent SAPS but if that is not my view - but I thought	14	MAJOR-GENERAL MPEMBE: Chairperson, I did
15	that as an overall commander what I was thinking in terms	15	say that informal settlement was taken into account. These
16	of what was happening as a result of the modus operandi,	16	are the reasons that I've given.
17	that is a view of SAPS.	17	MR MADLANGA SC: Were you protecting the
18	MR MADLANGA SC: But General, it is not	18	informal settlements, General? Or let me put it
19	inconceivable that an overall commander may have a view	19	differently, I'm sorry. Was the plan to protect informal
20	which may not be shared by the rest of SAPS as an	20	settlements?
21	institution, do you accept that?	21	MAJOR-GENERAL MPEMBE: Chairperson, I did
22	MAJOR-GENERAL MPEMBE: Chairperson, I	22	indicate that when the protestors they move in groups and
23	don't understand SAPS as an institution, maybe if that	23	they enter the informal settlement, based on history,
24	could be explained to me or is it referring to those that	24	normally there is a destruction of properties and where the
25	were reporting to me or as an institution? I just wondered	25	frustrations are being taken out. But when they enter
	Page 11593		Page 11595
1			
1	if it can be clarified.	1	individually they normally think individually and they,
2	if it can be clarified. MR MADLANGA SC: Perhaps let me ask the	1 2	
			individually they normally think individually and they,
2	MR MADLANGA SC: Perhaps let me ask the	2	individually they normally think individually and they, historically based, they disperse and based on those, yes
2 3	MR MADLANGA SC: Perhaps let me ask the question differently, General. Was your view that what was	2 3	individually they normally think individually and they, historically based, they disperse and based on those, yes we also take into consideration the informal settlements.
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1	Page 11596 MR MADLANGA SC: Mr Chairman, Mr	1	Page 11598
1	MR MADLANGA SC: Mr Chairman, Mr Chairman, I would submit that my learned friend can raise	1	hand entry in that picture which – there's a rectangle there around the writing, pointing to a red figurine, do
3	the point, if he wants to suggest that what I am suggesting	2	you see that? Do you see that?
	is in fact not the position but if that is not what he is	4	MAJOR-GENERAL MPEMBE: Chairperson, I'm
4	-		•
5	suggesting then I do not see what the problem or how the	5	not quite sure that – are you referring to those that, the
6	problem arises.	6	two ones or maybe –
7	CHAIRPERSON: To some extent it's kind of	7	CHAIRPERSON: I think counsel is
8	a double question. The question assumes something and he's	8	referring to the red figures at the bottom left hand corner
9	asked whether he agrees with that. Perhaps if you put the	9	of that slide. There's a quad, there's a rectangle above
10	first part separately, get the answer that you expect	10	an arrow which points to the first of those red figures and
11	you'll get then you can then move to the second part -	11	in it are the words "FHA2 deployed to protect the informal
12	MR MADLANGA SC: I did not ask him	12	settlements." I think counsel is referring to both of the
13	whether he agrees, it's a question, Mr Chairman. I did not	13	red figures, is that correct?
14	ask him for agreement, I'm asking for his view, whether he	14	MR MADLANGA SC: Yes. You see that,
15	says throughout when SAPS planned SAPS were consistent,	15	General?
16	always consistent, we will protect informal settlements.	16	MAJOR-GENERAL MPEMBE: May I point, so
17	We will protect informal settlements, I'm asking whether	17	that we should – are you, is the counsel referring to this?
18	SAPS' approach to that was consistent. It's a simple	18	MR MADLANGA SC: Yes and then I was going
19	question.	19	to refer you to the writing above within the rectangle.
20	[14:25] CHAIRPERSON: Mr Ngalwana, I think the	20	The Chairman has already read it and you do see what it
21	question so framed is unobjectionable. He's simply asking	21	says, "forward holding area 2 deployed to protect the
22	for information, as I understand it, so he may proceed.	22	informal settlements." Do you see that?
23	You may proceed, Mr Madlanga.	23	MAJOR-GENERAL MPEMBE: Correct,
24 25	MR MADLANGA SC: Please answer, please answer the question, General.	24 25	Chairperson. MR MADLANGA SC: And you see that the
25		20	WIR WADLANGA SC. And you see that the
	Page 11597		Page 11599
1	Page 11597 MAJOR-GENERAL MPEMBE: Chairperson, the	1	Page 11599 date there is the 16th of August 2012?
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1	Page 11600	1	Page 11602
1	actually telling them when to move, where to move, how to	1	of documents to which the witness would be referred.
2	move was Captain Kidd, not so?	2	MR MADLANGA SC: Do you now have it,
3	MAJOR-GENERAL MPEMBE: Correct,	3	General?
4	Chairperson. In my answer for forward holding area 2 the	4	MAJOR-GENERAL MPEMBE: Correct,
5	words that were prescribed, it was referred to I should	5	Chairperson.
6	read, it was talking about forward area 2. That's why I	6	MR MADLANGA SC: General, right at the
7	said Lieutenant-Colonel Pitsi.	7	bottom of page 83, at the foot of page 8346 – I remember
8	MR MADLANGA SC: My focus for now,	8	the Chairman once raised the issue of bottom with me –
9	General, is what is written in that rectangle, which is	9	against line 22 Mr Semenya was leading General Annandale in
10	that that forward holding area that is 2 was deployed there	10	chief and this is what he says, "In fact, when we look at
11	to protect the informal settlement and this is something	11	EEE14.1, what would you say is the positive attraction
12	that is planned for the 16th of August. Now would you be	12	there?" And then the General responds, "Chairperson, if we
13	surprised if I were to suggest to you, and I'm going to	13	look to the top," and do you have EEE14.1 there, General?
14	demonstrate it, if I were to suggest to you that on the	14	Do you have it? The photograph showing one of the wings of
15	same day whilst SAPS is planning for the protection of this	15	a chopper propeller. General, it's up there now. SO
16	informal settlement, it in fact did not plan for the	16	General Annandale says, "Chairperson, if we look to the
17	protection of Nkaneng informal settlement. Do you dispute	17	top, slightly to the right top corner of the picture, and
18	that?	18	we take the whole line from the police, barbed wire and
19	MAJOR-GENERAL MPEMBE: Chairperson, the	19	Nyalas, that's the position that we see three of them, and
20	protection that I spoke about it was based on the reasons	20	then we see another one that is at the first
21	that I've given earlier on.	21	and then we see another one that is at the first
22	MR MADLANGA SC: General, I'm dealing	22	smaller kraal, and you take that whole area to that corner,
23	with consistency, I'm not asking you about reasons. What	23	but also to the right-hand side of the photo, Chairperson,
24	I'm suggesting to you is that on the 16th of August 2012 the	24	then you will see what I meant when I said you can just
25	police purport to be protecting the informal settlement	25	move a couple of metres back towards the west and then you
	Page 11601		Page 11603
1	Page 11601 adjacent to forward holding area 2 but on that very same	1	Page 11603 can move to the right of the picture, which would be the
1 2		1 2	5
	adjacent to forward holding area 2 but on that very same		can move to the right of the picture, which would be the
2	adjacent to forward holding area 2 but on that very same day they in fact do not plan to protect – I will	2	can move to the right of the picture, which would be the north area, and then you can enter that total area, because
2 3	adjacent to forward holding area 2 but on that very same day they in fact do not plan to protect – I will demonstrate it to you – they do not plan to protect Nkaneng	2 3	can move to the right of the picture, which would be the north area, and then you can enter that total area, because as we can see the people standing around, there's also
2 3 4	adjacent to forward holding area 2 but on that very same day they in fact do not plan to protect – I will demonstrate it to you – they do not plan to protect Nkaneng informal settlement. Would it surprise you if I	2 3 4	can move to the right of the picture, which would be the north area, and then you can enter that total area, because as we can see the people standing around, there's also roads and a number of roads that's leading into the area.
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	Page 11604		Page 11606
1	CHAIRPERSON: We're going to have to	1	people that are there, General? Do you see the many
2	describe that for the record. Those unfortunate people who	2	people?
3	have to read the record in 50 years' time won't follow the	3	MAJOR-GENERAL MPEMBE: Correct,
4	this's and thats, not to mention the unfortunate people who	4	Chairperson.
5	have got to read the record in a couple of months' time	5	MR MADLANGA SC: Now from the passage
6	with argument -	6	that I read to you, would you agree that part of what
7	[14:45] MR MADLANGA SC: Just below the blade	7	General Annandale says is to the effect that SAPS expected
8	going roughly straight down, General, there is what appears	8 9	or rather regarded this area, this area, as part of the
9 10	to be an electrical pole. I don't see it there, Mr Chairman, I do see it on my picture. I'm a bit blind.	9 10	positive attraction area? Am I reading General Annandale correctly?
10	CHAIRPERSON: It is there. If you look	11	MAJOR-GENERAL MPEMBE: Chairperson,
12	very carefully where I indicated –	12	before I answer maybe I need to understand at what stage
13	MR MADLANGA SC: Perhaps the Chairperson	13	was this photo being taken? It was after dispersal or
14	can explain for record purposes where "there" is.	14	what, so that I should be able to know the time that has
15	CHAIRPERSON: Yes, I'll do so happily.	15	happened.
16	If one looks at the yellow marking at the end of the blade	16	MR MADLANGA SC: That is totally
17	of the helicopter and one goes to the extreme left hand	17	irrelevant to the question, General. You can take the
18	corner, left hand corner of that yellow section and one	18	picture as is or you can disregard the people altogether
19	goes straight down for – one crosses what appears to be a	19	and take it as totally blank with just the permanent
20	road or a path and then just below that there is what	20	features. Is it not so that a correct reading of what
21	appears to be the electric pole to which counsel has	21	General Annandale says is that the police regarded this as
22	referred.	22	a positive attraction area?
23	MR MADLANGA SC: And the shadow of the	23	MR NGALWANA: Chair, I hesitate to remind
24	pole is visible to the left at the base. Then General, you	24	my learned friend but at some stage we're going to have to
25	move from that pole just slightly down, slightly down to	25	do a re-examination and for him to say this area here, it
	Page 11605		Page 11607
1	there. I will explain the "there" just now but you saw	1	wouldn't quite help when we have to go through the record,
2	there. I will explain the "there" just now but you saw where I pointed, not so?	2	wouldn't quite help when we have to go through the record, if he may please remember that.
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	Page 11608		Page 11610
1	MR MADLANGA SC: Mr Mpofu is correctly	1	which the crowd being managed would disperse to or towards.
2	saying for the record I should describe those. These, for	2	Now Mr Semenya is asking General Annandale what in your
3	the record, are roads that very roughly, very roughly are	3	planning did you consider the positive attraction area to
4	running at 90 degrees to what I've referred to as a wide	4	be and this is exactly what General Annandale says he
5	path or road that, when running left, gets to where the	5	refers – of course not just this area, as you can see that
6	Nyala with the barbed wire trailer is. So these roads	6	passage it refers to a whole lot of areas but part of what
7	proceed from this wide path into the informal settlement	7	he says is a reference to this area.
8	roughly at 90 degrees. You've already answered, you've	8	CHAIRPERSON: - he referred to exhibit, I
9	already answered the question. Now I'm going to my next	9	think it's EEE12 which is the photograph that we have at
10	question, General, which is would you not agree then that	10	the moment, is that right?
11	what General Annandale in essence is saying is that amongst	11	MR MADLANGA SC: Yes, Mr Semenya in so
12	others, the areas of positive attraction would have	12	many words actually referred to EEE14.1, Mr Chairman, thank
13	included the informal settlement which is just below what	13	you.
14	I've referred to as the wide path or road. Would you not	14	CHAIRPERSON: EEE14, not EEE12.
15	accept that?	15	MR MADLANGA SC: May I just very quickly
16	MAJOR-GENERAL MPEMBE: I agree,	16	refer to the transcript, Mr Chairman, Commissioners, page
17	Chairperson, and any agreement is also based on the reasons	17	2964 day 28. This is what Brigadier Mkhwanazi says
18	that I have already given.	18	although, of course, we know that to an extent he appears
19	MR MADLANGA SC: In short then, General,	19	to have been disowned as an expert but this is what he
20	on the 16th the police planned to protect the informal	20	says, "With the positive attraction point, it's where we
21	settlement adjacent to forward holding area 2 but on that	21	look at the position if the participants in a certain
22	same day they did not plan to protect the informal	22	march, if they are going maybe to be pushed back or maybe
23	settlement to the north-east of koppie 1, that is – or	23	be disbursed. One has to look what can be the appropriate
24	rather that part of Nkaneng informal settlement which is to	24	direction where they can be taken to, where they will be
25	the north-east of koppie 1. Do you accept that?	25	able to get to their vehicles," and so on and so on. So
		1	
	Page 11609		Page 11611
1	Page 11609 CHAIRPERSON: Sorry, Mr Madlanga, is it	1	Page 11611 surely that is exactly what General Annandale must have
1 2	9	1 2	9
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2	CHAIRPERSON: Sorry, Mr Madlanga, is it not the north-west that you're talking about? If one looks	2	surely that is exactly what General Annandale must have been addressing himself to.
2 3	CHAIRPERSON: Sorry, Mr Madlanga, is it not the north-west that you're talking about? If one looks at page 150, slide 150 of exhibit L in the top right hand	2 3	surely that is exactly what General Annandale must have been addressing himself to. MAJOR-GENERAL MPEMBE: Chairperson, I do
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1	Page 11612 the same with forward area holding 2. The fact that they	1	Page 11614 two sentences of paragraph 8 and this is what he says, "The
2	were going to move to Karee, we didn't say they mustn't	2	basic line was to be formed when the barbed wire was being
3	enter at all but we need also to check that when they	3	deployed. It was our responsibility to protect the
4	enter, when they pass there they could not be able to do	4	settlement from attack by anyone and to disarm any armed
5	any other destruction, neither we didn't know who is	5	protesters going past the line and arrest them." Do you
6	staying there, who is well in the knowledge of the	6	see that?
7	protesters is now on duty or he is employed by Lonmin.	7	CHAIRPERSON: The other important point
8	Hence we were talking of that protection but if they went	8	is paragraph 3 where he says that "At 10AM that morning
9	there in groups surely they could have been followed, they	9	Lieutenant-Colonel Pitsi was redeployed by Brigadier Calitz
10	could have been dispersed further so that they mustn't go	10	to the frontline, i.e. to the koppie. Lieutenant-Colonel
11	there in groups but putting the people there, it was to say	11	Pitsi left with 40 POP members and four Nyalas and one
12	make sure that if they pass they do not also do the	12	Casspir, left me in command of the remaining units." So in
13	destruction and that is the meaning of posting the people	13	effect what he's saying is that from then on he was in
14	there.	14	charge of forward holding area 2.
15	[15:04] MR MADLANGA SC: I find that very	15	MR MADLANGA SC: Now General, what I do
16	confusing to me, General.	16	not quite understand from the last answer you gave before
17	CHAIRPERSON: I'll take the tea	17	the tea adjournment is this, can you explain it to me and
18 19	adjournment when it's convenient to you, Mr Madlanga. Tell me when it's appropriate and we'll take the adjournment.	18 19	to the Commission why it is that in respect of the informal settlement abutting forward holding area 2, SAPS saw a need
20	If you want to carry on with this point for a bit you can	20	to have police lined up there to protect that informal
20	do so, I'm in your hands.	20	settlement when they did not at the same time see a need to
22	MR MADLANGA SC: There may be a lot of	22	have police lined up along that part of Nkaneng that I
23	follow-up questions on it actually, Mr Chairman, I'm only	23	earlier referred you to, to protect it as well. Can you
24	on my second question right from the beginning so it may	24	explain that to me in a way that makes sense?
25	take a bit of time, so perhaps it is appropriate.	25	MAJOR-GENERAL MPEMBE: Chairperson, I'm
	Page 11613		Page 11615
1	CHAIRPERSON: Very well, we'll take the	1	requesting that maybe in my explanation also to indicate
2	CHAIRPERSON: Very well, we'll take the tea adjournment.	2	requesting that maybe in my explanation also to indicate from the slide so that the counsel can understand.
	CHAIRPERSON: Very well, we'll take the tea adjournment. [COMMISSION ADJOURNS COMMISSION RESUMES]	2 3	requesting that maybe in my explanation also to indicate from the slide so that the counsel can understand. MR MADLANGA SC: Are you asking for
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1	Page 11616	1	Page 11618
1	Lieutenant-Colonel Pitsi had been redeployed, of forward	1	there, they are not moving in groups, he might have been
2	holding area 2, and also he read out that sentence about	2	allowed to enter there because that person could be knowing
3	the instructions. Is that – you only handed it in for	3	where is he going, where is he going to stay, but if they
4	those two purposes, did you?	4	could have come in groups surely Captain Kidd will suspect
5	MR MADLANGA SC: Yes, Mr Chairman, thank	5	that, one, they might be going to a certain place which
6	you.	6	somebody is known staying there who is on duty or he is
7	MAJOR-GENERAL MPEMBE: Chairperson, to	7	employed but this is what I'm saying, it should have been
8	what Captain Kidd is actually saying is that if the people	8	envisaged from the planning point of view.
9	came in groups at this informal settlement, that would	9	MR MADLANGA SC: Let's look at – oh,
10	require that that group should be dispersed. The dispersal	10	sorry. Now General, let us look at the last sentence of
11	could have moved in that direction as I indicated earlier,	11	paragraph 8. It reads, "It was our responsibility to
12	which is the direction of the Karee hostel. Chairperson, I	12	protect the settlement from attack by anyone and to disarm
13	will request the slide that the counsel did show me, the	13	any armed protesters going past the line and arrest them."
14	one it's 14, so that I should also indicate –	14	You see that? Surely General, that must mean that even an
15	CHAIRPERSON: [Inaudible]	15	individual protester who was armed would have been stopped
16	MAJOR-GENERAL MPEMBE: Chairperson, on	16	by Captain Kidd's group and disarmed. That is what –
17	this slide what Major-General Annandale was saying is that	17	CHAIRPERSON: And arrested.
18	if a group of protesters, after it has been dispersed it	18	MR MADLANGA SC: And arrested. That is
19	could come this way, that could be a negative attraction	19	what this means, not so?
20	but if they move they had to be, break up in smaller groups	20	MAJOR-GENERAL MPEMBE: Chairperson, the
21	to come this way. From groups dynamic, as long as they are	21	plan was saying those that they did not hand the weapons
22	moving in groups they tend to destroy and this is what I'm	22	and while still having them, not necessarily going to
23	trying to explain but if they move individually they can	23	Nkaneng, they could have been disarmed and arrested but
24	come to Nkaneng. Captain Kidd can explain but what I'm	23	what I'm trying to explain between the Nkaneng and those
25	saying now is that if in that forward holding area 2 in	24	that are carrying weapons is that if the individual could
25	saying now is that if in that for ward holding area 2 in	25	
	Page 11617		Page 11619
	Tuge Herr		
1	that Nkaneng, if individuals were walking individually, I	1	have gone to Nkaneng not armed, not in groups, he could
1 2	that Nkaneng, if individuals were walking individually, I don't say that they prevented them but they could have let	1 2	
	don't say that they prevented them but they could have let		have gone to Nkaneng not armed, not in groups, he could have been allowed to enter.
2 3	don't say that they prevented them but they could have let them go because they will understand that they are going to	2	have gone to Nkaneng not armed, not in groups, he could have been allowed to enter. MR MADLANGA SC: General, let us please
2 3 4	don't say that they prevented them but they could have let them go because they will understand that they are going to the place that they know they are staying there, but if	2 3 4	have gone to Nkaneng not armed, not in groups, he could have been allowed to enter. MR MADLANGA SC: General, let us please forget about Nkaneng. I'm not asking you about Nkaneng
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	Page 11620		Page 11622
1	MR MADLANGA SC: And that applied to even	1	in practice? As I understand it, the plan was that once
2	people approaching Captain Kidd, even if it was just one	2	the barbed wire was uncoiled and in position, the people on
3	person. It didn't have to be groups of 10 and above, even	3	the other side of the wire, the protesters, strikers, were
4	one person. I would like you to please answer that	4	to be told that they must lay down their arms and go and
5	question directly, General.	5	the idea was that it was thought that some of them would do
6	MAJOR-GENERAL MPEMBE: Correct,	6	that but others would remain. And apparently what was then
7	Chairperson.	7	going to happen, I think the plan makes that clear, those
8	MR MADLANGA SC: Now I will go back to an	8	who stayed who didn't lay down their arms, then there was
9	earlier question which - is it correct that no provision	9	going to be an advance into the area and they were going to
10	was made for similar protection for that part of Nkaneng	10	be dispersed into smaller groups and then disarmed. But as
11	that I earlier referred to, which I said is just below what	11	I understand the evidence, unless I've missed something,
12	I referred to as a wide path or road. Do you accept that	12	there was no idea of dealing with people who left. In
13	no similar provision for protection was made for that part	13	other words there were 3 000 people on the koppie, there
14	of Nkaneng?	14	were I think about 400 were the group in the front and I
15	MAJOR-GENERAL MPEMBE: Chairperson, I	15	think the evidence was from General Annandale that it was
16	said that the dispersal in the westerly direction at that	16	thought that probably about, that some of the 400, that all
17	point could have allowed that one who had a dangerous	17	the people on the koppie would go. The people in the front
18	weapon, he could still have been pursued and disarmed.	18	of the 400, some of them would go and the remainder would
19	Secondly, anyone who could have moved inside Nkaneng at	19	have to be dealt with. Now he didn't suggest that those
20	that point, he could not have been allowed to move in a	20	who left at that early warning, taking their arms with
21	group but individually. But protection as the counsel is	21	them, would be pursued and disarmed. The idea was to deal
22	referring to, it's not actually protection but it was a	22	with those who remain because those were regarded, I think,
23	visibility to look in terms of what I'm talking about now.	23	as the hard core of people who had to be dealt with. Now
24	In this case, in this one, those that were dispersing	24	if I'm correct in saying that, then it follows that those
25	there, they could still have followed them, they could	25	people who left on the initial warning, carrying their
	Page 11621		Page 11623
1	still have done what I'm talking about now.	1	weapons with them, would be able to get to – certainly $\ensuremath{\vec{v}}$
2	still have done what I'm talking about now. [15:46] MR MADLANGA SC: General, that doesn't	2	weapons with them, would be able to get to – certainly Nkaneng. They might have had difficulty, they would
2 3	still have done what I'm talking about now. [15:46] MR MADLANGA SC: General, that doesn't answer my question. Perhaps let me approach this from	2 3	weapons with them, would be able to get to – certainly Nkaneng. They might have had difficulty, they would clearly have had difficulty in getting to the other
2 3 4	still have done what I'm talking about now. [15:46] MR MADLANGA SC: General, that doesn't answer my question. Perhaps let me approach this from another angle. Slide 181 in exhibit L shows us that police	2 3 4	weapons with them, would be able to get to – certainly Nkaneng. They might have had difficulty, they would clearly have had difficulty in getting to the other informal settlement because Captain Kidd's people would
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	Dego 11/04		Dago 11/0/
1	Page 11624 there was anyone, as the Chairperson suggested, that he	1	Page 11626 CHAIRPERSON: If there's an objection you
2	could have left with a dangerous weapon, the earlier	2	can – but then it goes on, this is the important point,
3	testimony showed that how they could have been positioned	3	"After the voluntary departure, those refusing to leave
4	in terms of the dispersal and before the dispersal. You	4	will be searched and the whole area would be swept for
5	remember when I indicated 100 metres away and also the POP	5	dangerous weapons." And it goes on, "If the protesters
6	line which of course they had been reinforced by Mere and –	6	refuse to put their weapons down and leave the koppies,
	Mere reinforced – so they could still have been followed	7	
7	-		stage 3 would be implemented." In other words, the plan does not appear to have made provision for pursuing people
8	and asked to drop their weapons or be arrested by those	8	
9	that they could have been there. But those that they could	9	who left voluntarily, taking their dangerous weapons with
10	have gone to that side of Nkaneng, they were from here to	10	them. Is that correct or do I understand the plan
11	go that side, it could not have been easy because that's	11	incorrectly? If I understand it incorrectly, can you refer
12	why then there was the prepositioning. Chairperson, I'm	12	me to something in one of the documents setting out the
13	talking about the area, forward area holding 2. It's	13	plan where it appears that I'm incorrect – I'm incorrect,
14	somewhere when you go to the Karee mine on the other side.	14	it's really whether my impression is incorrect obviously.
15	Chairperson, you'll remember when I indicated with slide	15	If you can persuade me to the contrary, well then that'll
16	181 to say that before the dispersal could take place the	16	be acceptable -
17	POP could have been positioned for dispersal and those that	17	MAJOR-GENERAL MPEMBE: Chairperson, the
18	could have been placed for a show of force, surely they	18	plan has also been referring to those that will still be in
19	could – the POP and those had been placed for a show of	19	possession of dangerous weapons, they will also be, they
20	force, if they see anyone moving, because they were there	20	will also be disarmed and arrested. Maybe we can also look
21	because first of all we said that we could not disperse or	21	under the mission of the plan.
22	see anyone moving. We were in a position to see anyone who	22	CHAIRPERSON: If one gets that – you see
23	is moving there with dangerous weapons, surely we could	23	I know what phase 3 of stage 3 said, that if the protesters
24	have followed the individual, request or order the	24	were to disperse into smaller groups they had to be
25	individual either to drop the weapon or to follow him and	25	circled, isolated, etcetera, but that doesn't deal with the
1	Page 11625	1	Page 11627
1	to arrest that individual.	1	point that I'm putting to you now, but if there's something
2	to arrest that individual. CHAIRPERSON: But was that the plan? If	2	point that I'm putting to you now, but if there's something in the plan that I've overlooked I'd be grateful if you'd
2 3	to arrest that individual. CHAIRPERSON: But was that the plan? If you look at slide 175 of exhibit L you'll see that what is	2 3	point that I'm putting to you now, but if there's something in the plan that I've overlooked I'd be grateful if you'd draw it to my attention.
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		1	
1	Page 11628 there's something in the plan, not dealing with people	1	Page 11630 [16:05] CHAIRPERSON: There may be something else
2	going through the police line – that's a different matter	2	that you haven't drawn my attention to. I'm just telling
3	and of course there are other aspects about that which we	3	you my problem with what you've shown me.
4	can go into later – but whether the people who left, not	4	
5	going through the police line, voluntarily, carrying their	5	context, Chair? If you look at - the first slide to which
6	dangerous weapons with them, what was going to happen to	6	I referred the Chairperson falls under stage 1. If you
7	them. It doesn't appear from the documents I've seen that	7	look 1, 2, 3, about five pages before that on page 60, that
8	it was part of the plan to chase after them then and there.	8	specific plan starts at page 60 and that deals with stage
9	As far as I could see, the idea was to concentrate on those	9	1.
10	who stayed but if I've missing something and you can draw	10	CHAIRPERSON: That's not stage 1 as it
11	my attention to it, I'll be grateful.	11	was referred to on the 16th. That's stage, that's the first
12	MR MADLANGA SC: Chair, perhaps Chair,	12	edition, as it were, of the plan as it existed on the 14th
13	perhaps the Chairperson might like to look at, at least	13	of August. That's not stage 1 as that expression was used
14	four slides in SS3 and consider whether that in the plan is	14	in the context of what was going to happen on the 16th of
15	consistent with –	15	August. If I'm wrong on that you must correct me.
16	CHAIRPERSON: Just give me the numbers?	16	MR MADLANGA SC: No, you're quite correct
17	MR MADLANGA SC: Yes.	17	Chair, I understand that. I'm just going through the
18	CHAIRPERSON: SS3 is in volume A of the	18	stages. Then the second slide to which I referred relates
19	bundle and behind tab 3 and the pages appear to be	19	to stage 2 as at the 16th and you'll find that on page 88
20	numbered.	20	but the relevant slide is, as I've indicated, page 92.
21	MR MADLANGA SC: Pagination 64, slide 53	21	That slide relates to stage 2 discussion.
22	under "Mission." The exercise, of course, is to test	22	CHAIRPERSON: I don't think that's
23	whether that would be consistent with a suggestion –	23	correct because if you look at page 92 under "Operational
24	CHAIRPERSON: I beg your pardon, under	24	overview" you'll see what was envisaged and I think by
25	"Mission?"	25	stage 2 they are referring to, on page 88 they are
1	Page 11629	1	Page 11631
1	MR MADLANGA SC: Mission, the top slide	1	referring to what one can call the second edition of the
2	MR MADLANGA SC: Mission, the top slide there, Chair.	2	referring to what one can call the second edition of the plan at that stage. The word "stage" appears to be used in
2 3	MR MADLANGA SC: Mission, the top slide there, Chair. CHAIRPERSON: Have you got anything	2 3	referring to what one can call the second edition of the plan at that stage. The word "stage" appears to be used in some cases in the headings, indicating the edition of the
2 3 4	MR MADLANGA SC: Mission, the top slide there, Chair. CHAIRPERSON: Have you got anything better than that?	2 3 4	referring to what one can call the second edition of the plan at that stage. The word "stage" appears to be used in some cases in the headings, indicating the edition of the plan and elsewhere it's used to indicate a specific
2 3 4 5	MR MADLANGA SC: Mission, the top slide there, Chair. CHAIRPERSON: Have you got anything better than that? MR MADLANGA SC: Yes, page 78 again the	2 3 4 5	referring to what one can call the second edition of the plan at that stage. The word "stage" appears to be used in some cases in the headings, indicating the edition of the plan and elsewhere it's used to indicate a specific operational portion, as it were, of the plan which one sees
2 3 4 5 6	MR MADLANGA SC: Mission, the top slide there, Chair. CHAIRPERSON: Have you got anything better than that? MR MADLANGA SC: Yes, page 78 again the similar slide under "Mission," the bottom slide.	2 3 4 5 6	referring to what one can call the second edition of the plan at that stage. The word "stage" appears to be used in some cases in the headings, indicating the edition of the plan and elsewhere it's used to indicate a specific operational portion, as it were, of the plan which one sees if one looks at the page to which you've referred me, 92,
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	MR MADLANGA SC: Mission, the top slide there, Chair. CHAIRPERSON: Have you got anything better than that? MR MADLANGA SC: Yes, page 78 again the similar slide under "Mission," the bottom slide. CHAIRPERSON: Yes. MR MADLANGA SC: Page 92, the top slide. CHAIRPERSON: I see that. MR MADLANGA SC: And page 112, the top slide. CHAIRPERSON: Yes, those are all relating to the mission. Now the mission, does that only relate to stage 3 or does that include stages 4, 5 and 6? MR MADLANGA SC: Well, it's an overall mission of the plan, Chair. CHAIRPERSON: Well, the plan includes stages 4, 5 and 6, so what we're concerned with now is what was going to happen, as I understand it, at stage 3. I know all about stage 4, 5 and 6 and presumably that'll be dealt with more fully later but at the moment we're concerned with stage 3. All you can show me is that the mission as a whole, in other words the plan as a whole,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	referring to what one can call the second edition of the plan at that stage. The word "stage" appears to be used in some cases in the headings, indicating the edition of the plan and elsewhere it's used to indicate a specific operational portion, as it were, of the plan which one sees if one looks at the page to which you've referred me, 92, but not the mission slide but the one below it, the operational overview. The point is that it does look – you know, if I'm wrong you can correct me but it does look as if when they talk about the mission every time they're talking about the whole operation including all the stages in the narrow sense, up to stage 6 which was, I think it was one of the cordon and search operations. MR MADLANGA SC: Perhaps this might be more useful, Chair. If the Chairperson has a look at page 130, that deals with stage 3 and the mission is specifically a stage 3 mission on page 131 at the bottom slide. There's no talk there of stage 4, 5 and 6. That specifically states 3 and it effectively repeats, though not in exact terms, the same mission as in the other three to which I've referred earlier. CHAIRPERSON: Well, if you would turn to 132, the second slide, you get what's called "An

	Page 11632
1	evidence it was clear that the idea was, the hope was to
2	encourage most of the strikers to leave and those who were
3	left were to be dispersed into smaller groups, encircled
4	and then disarmed, this is to say after the others who had
5	already gone had taken their arms with them insofar as they
6	had arms. That does seem to be the position but I see it's
7	now 10 past four. Perhaps you and I should cease this
8	debate for the moment, see if the witness has anything to
9	contribute and then we can continue with the cross-
10	examination on Thursday morning but let's see if the
11	witness has anything he wishes to add. Is there anything
12	you wish to add, Major-General?
13	MAJOR-GENERAL MPEMBE: Yes, Chairperson.
14	CHAIRPERSON: You may be able to draw my
15	attention to something I've overlooked, which assists.
16	MAJOR-GENERAL MPEMBE: Chairperson, I
17	would like the esteemed Commission and Chairperson to go to
18	"Operational overview of stage 3" page, paginated page 133
19	and it's bullet number 3. It says, "If protesters have
20	dispersed into smaller groups, they must be approached,
21	isolated, encircled, so all persons can be properly
22	searched for dangerous weapons" –
23	CHAIRPERSON: I see that.
24	MAJOR-GENERAL MPEMBE: - "and arrests to
25	be effected."
	Page 11633
1	Page 11633 CHAIRPERSON: Yes, yes, I see that. I
1 2	
	CHAIRPERSON: Yes, yes, I see that. I
2	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate
2	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will
2 3 4	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's
2 3 4 5	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway,
2 3 4 5 6	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've
2 3 4 5 6 7	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway,
2 3 4 5 6 7 8	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although
2 3 4 5 6 7 8 9	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a
2 3 4 5 6 7 8 9 10	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss
2 3 4 5 6 7 8 9 10 11 12	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence
2 3 4 5 6 7 8 9 10 11	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now
2 3 4 5 6 7 8 9 10 11 12 13 14	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now adjourn.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now
2 3 4 5 6 7 8 9 10 11 12 13 14	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now adjourn.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now adjourn.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now adjourn.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	CHAIRPERSON: Yes, yes, I see that. I take it, firstly in view of the time, it's inappropriate for us to continue the debate but I suspect that there will be some evidence about that and what that means. So it's probably a good point at which we can conclude the evidence for the day. I'm sure you must be very tired anyway, having been giving evidence from the beginning and as I've explained before, we will not be sitting tomorrow although I shall be meeting with the evidence leaders to do a provisional survey of the evidence to come and how long it's likely to take and so on, which I'll later discuss with the parties, if necessary. We'll resume the evidence and your evidence at 9:30 on Thursday morning. We'll now adjourn.
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