

# 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 128

5 SEPTEMBER 2013

PAGES 13326 TO 13520



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1 [PROCEEDINGS ON 5 SEPTEMBER 2013]  
 2 [09:45] CHAIRPERSON: The Commission resumes.  
 3 Sorry that we're not starting at the time that I had  
 4 announced but we had housekeeping matters to attend to  
 5 before we could start. Mr Semenya, are you leading the  
 6 next witness?  
 7 MR SEMENYA SC: With the leave of the  
 8 Chair and Commissioners, yes.  
 9 CHAIRPERSON: Leave granted.  
 10 MR SEMENYA SC: Chair, can we have  
 11 Colonel Scott stand up and take an oath?  
 12 CHAIRPERSON: Duncan George Scott.  
 13 CHAIRPERSON: If you could use that -  
 14 what are your full names, Duncan. Are you prepared to take  
 15 the oath, will that be binding on your conscience -  
 16 MR SEMENYA SC: Maybe if Mr Scott could  
 17 have his mike on.  
 18 CHAIRPERSON: Shall we start again?  
 19 Record your full names.  
 20 COLONEL SCOTT: Duncan George Scott, sir.  
 21 CHAIRPERSON: If I ask you to take an  
 22 oath will that be binding on your conscience?  
 23 COLONEL SCOTT: That would be, sir.  
 24 CHAIRPERSON: Do you swear that the  
 25 evidence you will give before this Commission will be the

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1 truth, the whole truth and nothing but the truth. Please  
 2 raise your right hand and say I swear, so help me God.  
 3 COLONEL SCOTT: I swear so to God.  
 4 CHAIRPERSON: Please be seated. Yes, Mr  
 5 Semenya?  
 6 DUNCAN GEORGE SCOTT: d.s.s.  
 7 EXAMINATION BY MR SEMENYA: Colonel, with  
 8 the permission of the Chair, I will be putting leading  
 9 questions to you, except in areas where the answers to  
 10 those questions are not in a written form in any of the  
 11 documents that you are going to deal with, okay. You have  
 12 before you a set of documents, one of which is marked  
 13 FFF18. Do you see that document?  
 14 COLONEL SCOTT: I've got it.  
 15 MR SEMENYA SC: That document is the  
 16 first of the statements you made with regard to the  
 17 Marikana matter, is that right?  
 18 COLONEL SCOTT: That's correct.  
 19 CHAIRPERSON: I'm sorry to interrupt you,  
 20 Mr Semenya, I see this bundle we've been given, for which I  
 21 wish to thank you, contains FFF18, GGG39, HHH20 and then it  
 22 looks like an extra statement, which isn't an exhibit yet,  
 23 by Colonel Visser. Should we not give it an exhibit letter  
 24 now so that -  
 25 MR SEMENYA SC: Yes, I'm just trying to

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1 identify each document -  
 2 CHAIRPERSON: Yes, yes, I see.  
 3 MR SEMENYA SC: About that document which  
 4 is FFF18, it's an exhibit already, it was commissioned on  
 5 the 18th of October 2012, is that right?  
 6 COLONEL SCOTT: That's correct.  
 7 MR SEMENYA SC: Your signature on the  
 8 page before last appears with a date on top being the 4th of  
 9 September 2012, do you see that?  
 10 COLONEL SCOTT: That is correct, yes.  
 11 MR SEMENYA SC: Are you able to explain  
 12 that?  
 13 COLONEL SCOTT: This statement was  
 14 completed on that date by the 4th of September and it was  
 15 commissioned in Rustenburg with a pretty lady at the  
 16 advocates' offices there on the 18th of October.  
 17 MR SEMENYA SC: Okay. The next document  
 18 you will find in the bundle of documents you have is marked  
 19 GGG39, do you see that?  
 20 COLONEL SCOTT: I see it.  
 21 MR SEMENYA SC: That too is a document  
 22 you, an affidavit you deposed to in November 2012, is that  
 23 right?  
 24 CHAIRPERSON: I must tell you my copy  
 25 isn't an affidavit because it's unsigned and unattested.

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1 MR SEMENYA SC: Alright, we'll get -  
 2 CHAIRPERSON: He can solve the problem by  
 3 confirming under oath that the contents are correct. As a  
 4 fact, as a fact our one isn't signed or attested.  
 5 MR SEMENYA SC: Okay. Barring any  
 6 typographical errors that may appear in that statement, is  
 7 that your statement?  
 8 COLONEL SCOTT: It is my statement.  
 9 MR SEMENYA SC: And do you confirm its  
 10 contents to be true?  
 11 COLONEL SCOTT: There's only one small  
 12 discrepancy I find in paragraph 2.  
 13 MR SEMENYA SC: Well, we'll get to those,  
 14 yes.  
 15 COLONEL SCOTT: Okay.  
 16 MR SEMENYA SC: Barring those, this is a  
 17 true account of facts that fell within your knowledge, is  
 18 that right?  
 19 COLONEL SCOTT: Yes, that's correct.  
 20 MR SEMENYA SC: The other document that  
 21 then follows is a document marked HHH20, do you have that  
 22 in front of you?  
 23 COLONEL SCOTT: Yes.  
 24 CHAIRPERSON: Sorry, let me correct what  
 25 I said to you earlier. We have a copy of GGG39 which is

<p style="text-align: right;">Page 13330</p> <p>1 duly signed and attested on the 19th of November and then 2 behind it we have what looks like a copy of the same 3 document, I haven't compared the two but that's the one I 4 looked at the end of and that is undated and unsigned but 5 it's the same document, obviously it was just inserted in 6 the file by mistake. So if that's correct then we have a 7 duly signed and attested GGG39.</p> <p>8 MR SEMENYA SC: I'm grateful to you, 9 Chair. The document now, Colonel, that you're dealing with 10 is marked HHH20. Do you have that?</p> <p>11 COLONEL SCOTT: yes.</p> <p>12 MR SEMENYA SC: It too has in the 13 tramlines written on it, "Consolidated statement of Duncan 14 Scott."</p> <p>15 COLONEL SCOTT: That's correct.</p> <p>16 MR SEMENYA SC: That document bears your 17 signature on page 148 of 150, is that right?</p> <p>18 COLONEL SCOTT: That's correct.</p> <p>19 MR SEMENYA SC: And dated the 10th July 20 2013.</p> <p>21 COLONEL SCOTT: That's correct.</p> <p>22 MR SEMENYA SC: The other document you 23 have has no exhibit number but it is a further statement –</p> <p>24 CHAIRPERSON: I'm sorry, Mr Semenya, that 25 one hasn't got an attestation certificate. It's signed on</p>	<p style="text-align: right;">Page 13332</p> <p>1 CHAIRPERSON: Oh sorry, you're quite 2 right. JJJ1 and JJJ2. Perhaps I should just – well, 3 perhaps you can describe them for me, Mr Semenya.</p> <p>4 MR SEMENYA SC: These documents, Chair, 5 appear as item number 5 on the list of documents my learned 6 colleague Chaskalson will be dealing with. They will be 7 item 5 on that list.</p> <p>8 CHAIRPERSON: Yes, the first appears to 9 be a digital image dated the 1st, dated the 25th of January 10 2013 appearing on the Google Earth site and the second one 11 is also a Google image of the same date. I don't know 12 whether we can describe them in any greater detail than 13 that. The one seems to be a different –</p> <p>14 MR SEMENYA SC: If we can use the 15 elevation that appears there, Chair.</p> <p>16 CHAIRPERSON: Yes.</p> <p>17 MR SEMENYA SC: The one would be 1149, 18 the other one will be 1145.</p> <p>19 CHAIRPERSON: Yes. JJJ1 is the elevation 20 1145 metres and JJJ2 is the elevation 1114 – sorry, 1149 21 metres.</p> <p>22 MR SEMENYA SC: Thank you. The next 23 document, Colonel, you have before you is a statement of 24 Colonel Visser.</p> <p>25 CHAIRPERSON: Shall we make that JJJ3?</p>
<p style="text-align: right;">Page 13331</p> <p>1 148 but on my copy 149 is blank. Now perhaps the 2 attestation certificate should be there.</p> <p>3 MR SEMENYA SC: The attestation is not – 4 do you confirm HHH to be your consolidated statement of the 5 events in Marikana?</p> <p>6 COLONEL SCOTT: Yes, I do.</p> <p>7 MR SEMENYA SC: Barring again typos, it 8 is a true account of the facts as you know them?</p> <p>9 COLONEL SCOTT: Yes.</p> <p>10 CHAIRPERSON: He – ja, that's alright.</p> <p>11 And then there are two, what appear to be two annexures 12 which are, look like Google photographs and then we have 13 Colonel Visser.</p> <p>14 MR SEMENYA SC: Well, yes, yes, Chair. 15 The two Google maps, we will refer to them in the course of 16 your evidence but may we have them marked the next exhibit, 17 Chair?</p> <p>18 CHAIRPERSON: Well, I think we can now 19 move on to J, can we? H was the letter which was reserved 20 for General Mpembe so these will be J1 and 2. Sorry, what 21 I said wasn't recorded. For Colonel Scott we could use the 22 letter J. So these two documents can be J1 and J2.</p> <p>23 MR SEMENYA SC: I'm indebted to you, 24 Chair.</p> <p>25 MS PILLAY: Chair, it would be JJJ.</p>	<p style="text-align: right;">Page 13333</p> <p>1 MR SEMENYA SC: Indeed, Chair. That will 2 be marked JJJ3. The last document before you is a 3 confirmatory affidavit relevant to JJJ3 which is your 4 confirmatory affidavit of contents contained in JJJ3. Do 5 you have that?</p> <p>6 COLONEL SCOTT: I don't have that before 7 me but I know I've signed that.</p> <p>8 CHAIRPERSON: I see there's a one page 9 document at the end of the file which would then be – shall 10 we make it JJJ3.1 and JJJ3.2.</p> <p>11 MR SEMENYA SC: Indeed, Chair.</p> <p>12 CHAIRPERSON: So the main affidavit which 13 is the 30 page affidavit, is JJJ3.1 and the one page 14 affidavit – that is, that's dated the 3rd September – and 15 the one page affidavit which is by this witness, which will 16 be JJJ3.2, that's an affidavit deposed to by the witness on 17 the 4th of September and that's JJJ3.2.</p> <p>18 MR SEMENYA SC: Thank you. Colonel, can 19 I then ask you to go back to your supplementary statement –</p> <p>20 COMMISSIONER HEMRAJ: Mr Semenya, this is 21 a further statement of Colonel Visser. You're not putting 22 the first statement in?</p> <p>23 MR SEMENYA SC: Madam Commissioner –</p> <p>24 COMMISSIONER HEMRAJ: JJJ3.1 says 25 "Further statement." Is there one that precedes this that</p>

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1 you'd want us to apply our minds to, or not?

2 CHAIRPERSON: In fact in paragraph 2 of

3 JJJ3.1 there's a reference to two earlier affidavits made

4 by Colonel Visser, one on the 16th of May 2013 and the other

5 on the 30th of July. I don't know whether you're going to

6 put them in or not but –

7 MR SEMENYA SC: No, Chair.

8 CHAIRPERSON: - they are referred to

9 here.

10 MR SEMENYA SC: The only relevance of

11 Colonel Visser's further affidavit which appears here,

12 merely deals with the compilation of what we call exhibit L

13 to which this witness was a co-author. The other two

14 statements are not relevant to him.

15 CHAIRPERSON: I see, thank you.

16 MR SEMENYA SC: The consolidated

17 statement HHH20, can I invite you to go to that document?

18 Do you have it?

19 COLONEL SCOTT: I'm there.

20 MR SEMENYA SC: Just so that we

21 understand the context of the various affidavits you

22 deposed to, can I draw your attention to paragraph 52.20

23 appearing on page 147 of 149. Are you there?

24 COLONEL SCOTT: I'm there.

25 MR SEMENYA SC: Can you read out what you

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1 say to us there?

2 COLONEL SCOTT: It reads as follows, "My

3 statement provides my experience of the days at Marikana to

4 the best of my recollection. I cannot account for all my

5 time spent at Marikana or every conversation or incident,

6 but I've spent much time reflecting on the days and

7 recalling the events, conversations and thoughts which

8 formed my decisions and suggestions over the days. What I

9 have portrayed in my statement is what I can account for.

10 I say this, "understanding I have much time in dealing with

11 the police's presentation and realising that hindsight is a

12 danger which I have consciously tried to avoid in

13 preparation of this statement."

14 MR SEMENYA SC: Okay. Colonel, can we

15 now go back to deal with section B. You will find that

16 appearing on page 2 of the statement HHH20. Are you there?

17 COLONEL SCOTT: I'm there.

18 MR SEMENYA SC: There under section 1 of

19 B you deal with your career experience, is that right?

20 COLONEL SCOTT: That's correct.

21 MR SEMENYA SC: With you matriculating in

22 1986 at Randfontein High School and being drafted in the

23 national service in '87 and '88, is that right?

24 COLONEL SCOTT: That's correct.

25 MR SEMENYA SC: You complete your

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1 training in the STF selection course 14 in 1993.

2 COLONEL SCOTT: That's correct.

3 CHAIRPERSON: May I enquire whether

4 copies of this statement from which you are now leading

5 have been made available to the media? Obviously you're

6 going to deal with the highlights now but you may well

7 think it important that the media should have the complete

8 copy so that they can report extra bits that are not dealt

9 with in your highlighted section if they consider it

10 relevant.

11 MR SEMENYA SC: I'll make sure that

12 happens, Chair. As you say, you were one of the 16 who

13 succeeded in that course of a group of 310 candidates that

14 were there, is that right?

15 COLONEL SCOTT: That's correct.

16 MR SEMENYA SC: This was in 1993.

17 COLONEL SCOTT: Yes.

18 MR SEMENYA SC: And you completed the

19 mandatory advanced courses and you were deployed

20 operationally over two years in 1995 as well, is that

21 right?

22 COLONEL SCOTT: That's correct.

23 MR SEMENYA SC: And it was early in your

24 STF career that you, the unit management earmarked you as a

25 potential training instructor, is that right?

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1 COLONEL SCOTT: That's correct.

2 MR SEMENYA SC: By 1996 you trained as an

3 instructor for STF and in 1998 you were appointed STF urban

4 phase leader, is that right?

5 COLONEL SCOTT: That's correct.

6 MR SEMENYA SC: What does that entail?

7 COLONEL SCOTT: A phase leader is

8 somebody that becomes a field leader that takes, in this

9 case, the urban field forward, is in control of that field

10 within the STF environment and has to manage the

11 instruction and the training given in that field.

12 MR SEMENYA SC: And what did you have to

13 do with the methodologies adopted by the urban phase

14 leaders?

15 COLONEL SCOTT: At the time that I took

16 it over I had started cross-training with sister units

17 internationally as well as nationally and I had taken best

18 practices and started enhancing and applying new strategies

19 in training, which eventually were becoming adopted by our

20 division training as best practices.

21 MR SEMENYA SC: And it was in 2007 that

22 you were tasked to be the STF section head, is that right?

23 COLONEL SCOTT: No.

24 MR SEMENYA SC: What are you saying to us

25 against paragraph 5.4?

<p style="text-align: right;">Page 13338</p> <p>1 COLONEL SCOTT: I was tasked in 2007 to 2 represent the unit at a planning of an inter-departmental 3 operation . 4 MR SEMENYA SC: And that was code-named 5 Air Wolf. 6 COLONEL SCOTT: That's right. 7 MR SEMENYA SC: What did you do there? 8 COLONEL SCOTT: It was a dual operation 9 and I was in charge of the planning thereof, the organising 10 and the deploying of the forces in that operation. It was 11 in preparation for the football World Cup as well as to 12 combat certain crime taking place on the borderline of 13 South Africa. 14 MR SEMENYA SC: And against paragraph 5.5 15 you tell us what happened on the completion of the 16 operation Air Wolf and what instructions you got from the 17 Deputy National Commissioner Pruis, is that right? 18 COLONEL SCOTT: That's correct. 19 MR SEMENYA SC: You also deal with things 20 that you did relevant to the 2010 FIFA World Cup that was 21 hosted in this country, is that right? 22 COLONEL SCOTT: That is correct. 23 MR SEMENYA SC: Against paragraph 5.6 you 24 tell us the responsibilities you had in 2007, is that 25 right?</p>	<p style="text-align: right;">Page 13340</p> <p>1 MR SEMENYA SC: Your leadership positions 2 you held are also dealt with in paragraph 5.10 going 3 forward, is that right? 4 COLONEL SCOTT: That's correct. 5 MR SEMENYA SC: That's where you tell us 6 you played a leading role in planning, organising and co- 7 ordinating multi-disciplinary operations where high risk 8 units were integrated, is that right? 9 COLONEL SCOTT: That's correct. 10 MR SEMENYA SC: You also tell us about 11 Operation Air Wolf to which you made earlier reference, is 12 that right? 13 COLONEL SCOTT: That's correct. 14 MR SEMENYA SC: And under paragraph 15 5.10.3 you deal with various roles that you occupied and 16 painted it Greenpoint operational shield 1, operation 17 shield 2 and operation shield 3. 18 COLONEL SCOTT: That's correct. 19 [10:04] MR SEMENYA SC: So too, you deal with the 20 matters of the FIFA World Cup again. Under that paragraph 21 you also include in it Operation Squeeze, the criminals 22 that happened in Soshanguve, Pretoria, is that right? 23 COLONEL SCOTT: That's correct. 24 MR SEMENYA SC: You also deal in the line 25 of your experience with what happened with the African</p>
<p style="text-align: right;">Page 13339</p> <p>1 COLONEL SCOTT: That's correct. 2 MR SEMENYA SC: And at that point you 3 held various things, both as a Colonel, later as Brigadier, 4 up until you are the full Colonel you are today, is that 5 right? 6 COLONEL SCOTT: No, I was a Lieutenant- 7 Colonel and I completed the job description of the vacant 8 post of the Colonel and was promoted, after time, into that 9 position. 10 MR SEMENYA SC: Oh yes, thank you. Your 11 policing experience you describe against paragraph 5.9 and 12 page 6 of that document, is that right? 13 COLONEL SCOTT: That's correct. 14 MR SEMENYA SC: You had a year and eight 15 months policing experience in Maritzburg SAP Community 16 Service Centre, is that right? 17 COLONEL SCOTT: Are we at paragraph 18 5.9.1? Yes, one year and eight months. 19 MR SEMENYA SC: And some three months' 20 experience in the public order policing based at unit 2, 21 Diepkloof, is that right? 22 COLONEL SCOTT: That's correct. 23 MR SEMENYA SC: And 20 years' experience, 24 operational experience in the special task force? 25 COLONEL SCOTT: That's correct.</p>	<p style="text-align: right;">Page 13341</p> <p>1 Union Summit that was in Equatorial Guinea. 2 COLONEL SCOTT: That's correct. 3 MR SEMENYA SC: You deal also too in your 4 course of experience with the conference of parties that 5 was Cops 17, held in Durban. 6 COLONEL SCOTT: That's right. 7 MR SEMENYA SC: In your experience, 8 Colonel, you have undergone various training as an STF 9 urban instructor for 14 courses during the period 96 to 10 2009, is that right? 11 COLONEL SCOTT: That's right. 12 MR SEMENYA SC: As an STF urban based 13 leader to which you testified earlier, you did 12 courses 14 there during 1998 and 2009. 15 COLONEL SCOTT: That's correct. 16 MR SEMENYA SC: - instructor 2004 to 17 2009. 18 COLONEL SCOTT: That's correct. 19 MR SEMENYA SC: STF weapon face leader 20 for one course, right? 21 COLONEL SCOTT: That's right. 22 MR SEMENYA SC: And you cite various 23 other training that you received during the course of your 24 career, is that right? 25 COLONEL SCOTT: That I've presented, yes.</p>

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1 MR SEMENYA SC: You have also – you also  
 2 deal against paragraph 5.12 with various initiatives to  
 3 introduce systems aimed at streamlining problematic areas.  
 4 COLONEL SCOTT: That's correct.  
 5 MR SEMENYA SC: Those you table quite at  
 6 some length throughout page 9 to 10, as well as the top of  
 7 page 11, is that right?  
 8 COLONEL SCOTT: That's correct.  
 9 MR SEMENYA SC: Your qualifications are  
 10 that of a matric as you told us in 1986, your national  
 11 diploma in policing that you got cum laude in 1997, am I  
 12 right?  
 13 COLONEL SCOTT: That's correct.  
 14 MR SEMENYA SC: Then you have the BTech  
 15 degree in policing which you did at Pretoria Technikon in  
 16 2003.  
 17 COLONEL SCOTT: That's correct.  
 18 MR SEMENYA SC: You enumerate a whole  
 19 number of courses that you did over the period of your  
 20 career with the South African Police Service. Those you  
 21 tabulate against paragraph 5.13.2. Is that right?  
 22 COLONEL SCOTT: That's correct.  
 23 MR SEMENYA SC: And we may mention that  
 24 in relation to the operational commanders training, the OCT  
 25 in 2002, following the recommendation of the Goldstone

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1 Commission, you came out as a best student when dealing  
 2 with the focus on training, which was to re-orientate the  
 3 police service in the proper public order policing.  
 4 COLONEL SCOTT: That's correct. If I can  
 5 just make mention to 5.13.2, the second bullet, internal  
 6 stability course 1992, the course is a dual course, dealing  
 7 with internal stability and combined POP training. It was  
 8 not a complete six weeks POP training. There were two  
 9 weeks dedicated to POP training in that course.  
 10 MR SEMENYA SC: Just in summary, what did  
 11 that entail, that POP training?  
 12 COLONEL SCOTT: That POP training was at  
 13 the basic level of the front man on the ground, and it had  
 14 to deal with the tactical options employed by POPs, the  
 15 formations.  
 16 CHAIRPERSON: So, do we change this  
 17 bullet to read, "internal stability course 1992, a six week  
 18 course (two weeks POP)?"  
 19 COLONEL SCOTT: That's right.  
 20 MR SEMENYA SC: And the one bullet before  
 21 last, that deals specifically with hostage negotiators  
 22 course, is that right?  
 23 COLONEL SCOTT: That's correct.  
 24 MR SEMENYA SC: What did that entail?  
 25 COLONEL SCOTT: So this entails

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1 addressing conflictive situations where the police are  
 2 called in and you need to resolve it through dialogue,  
 3 that's the short nutshell of it.  
 4 MR SEMENYA SC: Okay. The next page, at  
 5 13 you deal with the external local providers, you deal  
 6 with those in quite some detail, is that right?  
 7 COLONEL SCOTT: That's correct.  
 8 MR SEMENYA SC: And on page 14, you deal  
 9 with various commendations and awards you have received in  
 10 the course of your career.  
 11 COLONEL SCOTT: That's correct.  
 12 MR SEMENYA SC: But may we make special  
 13 mention of the third bullet on the top of page 14, you tell  
 14 us you were in the USA and what was happening there?  
 15 COLONEL SCOTT: The protective  
 16 intelligence investigation course.  
 17 MR SEMENYA SC: Yes.  
 18 COLONEL SCOTT: That was a course that  
 19 was presented in South Africa by a United States  
 20 delegation, and that deals with the gaining of  
 21 intelligence, the analysing of intelligence and then the  
 22 acting upon that intelligence, or the verifying of it, to  
 23 give it over to the operational side to act upon.  
 24 MR SEMENYA SC: And the next bullet?  
 25 COLONEL SCOTT: The next bullet is the

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1 tactical commanders course which is the training of leaders  
 2 over the crisis response teams which was a course on page  
 3 13, last bullet where we see the USA crisis response team  
 4 training. The course in 2001 included one week of team  
 5 leader training. The United States later developed its own  
 6 course in team leader, which we see as the fourth bullet on  
 7 14, page 14, which it was dedicated to training the leaders  
 8 over the operational members on the ground.  
 9 MR SEMENYA SC: So that is where you  
 10 train the commanders.  
 11 COLONEL SCOTT: This is not the - a South  
 12 African course, this was just a course we attended with the  
 13 United States, yes.  
 14 MR SEMENYA SC: For the commanders?  
 15 COLONEL SCOTT: Yes.  
 16 MR SEMENYA SC: Yes, there are various  
 17 commendations you have received over the period, both  
 18 academic and others which you received in the special task  
 19 force, is that right?  
 20 COLONEL SCOTT: That's correct.  
 21 MR SEMENYA SC: Those are dealt with on  
 22 page 15 of your statement.  
 23 COLONEL SCOTT: That's correct.  
 24 MR SEMENYA SC: There are milestones you  
 25 point out that appear on page 16 of your statement, am I

<p style="text-align: right;">Page 13346</p> <p>1 right?</p> <p>2 COLONEL SCOTT: That's right.</p> <p>3 MR SEMENYA SC: Section C now begins to</p> <p>4 deal with the events at Marikana, can we get to those?</p> <p>5 COLONEL SCOTT: Yes.</p> <p>6 MR SEMENYA SC: "On Monday, the 13th, you</p> <p>7 tell us that you received a phone call from Brigadier</p> <p>8 Fritz, that is 13th of August 2012, is that right?</p> <p>9 COLONEL SCOTT: That's correct.</p> <p>10 MR SEMENYA SC: What does Brigadier Fritz</p> <p>11 say to you?</p> <p>12 COLONEL SCOTT: Brigadier Fritz basically</p> <p>13 told me that there was an incident at Marikana, that I</p> <p>14 needed to report there. General Annandale was awaiting me.</p> <p>15 I needed to assist in the planning and co-ordination of an</p> <p>16 operation in apprehending suspects that had attacked police</p> <p>17 members that day.</p> <p>18 MR SEMENYA SC: And who is Brigadier</p> <p>19 Fritz?</p> <p>20 COLONEL SCOTT: Brigadier Fritz is the,</p> <p>21 at that time he was the section head of the special task</p> <p>22 force, that's the commander, overall commander of the</p> <p>23 special task force.</p> <p>24 MR SEMENYA SC: That is the commander</p> <p>25 under whom you –</p>	<p style="text-align: right;">Page 13348</p> <p>1 paragraph 6.2 that at that time, you were not aware of the</p> <p>2 ongoing strike action at Lonmin Mine?</p> <p>3 COLONEL SCOTT: No, I wasn't.</p> <p>4 MR SEMENYA SC: And you thought this to</p> <p>5 be just one of the STF operations about which Brigadier</p> <p>6 Fritz was talking to you about?</p> <p>7 COLONEL SCOTT: That's correct. He had</p> <p>8 mentioned that the suspects had run to a mountain and my</p> <p>9 understanding at that time, it was the Magaliesburg</p> <p>10 Mountains, interpreting the mountain as a true mountain in</p> <p>11 the English sense, and that we had to conduct a follow up</p> <p>12 operation to track literally the spoor of the perpetrators</p> <p>13 and attempt to arrest them.</p> <p>14 MR SEMENYA SC: And on your way to</p> <p>15 Marikana you called Major-General Annandale, did you not?</p> <p>16 COLONEL SCOTT: That's right.</p> <p>17 MR SEMENYA SC: What did you say to him?</p> <p>18 COLONEL SCOTT: I mentioned to him that</p> <p>19 we were en route and he assisted me with directions to get</p> <p>20 to the JOC area at the Lonmin Mine.</p> <p>21 MR SEMENYA SC: Okay. And you say on</p> <p>22 your way there, what did you do while travelling to</p> <p>23 Pretoria?</p> <p>24 COLONEL SCOTT: En route, as is customary</p> <p>25 with a call out responsive operation, we would start with</p>
<p style="text-align: right;">Page 13347</p> <p>1 COLONEL SCOTT: Under whom I report</p> <p>2 directly to, yes.</p> <p>3 MR SEMENYA SC: Right. So the</p> <p>4 information from Brigadier Fritz is that you should go to</p> <p>5 Marikana, report to Major-General Annandale, do you do</p> <p>6 that?</p> <p>7 COLONEL SCOTT: Yes.</p> <p>8 MR SEMENYA SC: Does he give you some</p> <p>9 information why you should be going there?</p> <p>10 COLONEL SCOTT: Brigadier Fritz or?</p> <p>11 MR SEMENYA SC: That is Brigadier Fritz.</p> <p>12 COLONEL SCOTT: At that time, he</p> <p>13 mentioned that policemen had been killed in an incident in</p> <p>14 Marikana. The information was very minimal and that we</p> <p>15 were required as the special task force to go and assist in</p> <p>16 apprehending the suspects who had escaped from the police</p> <p>17 thereafter.</p> <p>18 MR SEMENYA SC: What were the facts told</p> <p>19 to you about that around the killing of the policemen as</p> <p>20 you say?</p> <p>21 COLONEL SCOTT: At that stage, it was</p> <p>22 very, there wasn't much. I had just been told that</p> <p>23 policemen had been hacked and had died, so that there were</p> <p>24 pangas and that type of dangerous weapon involved.</p> <p>25 MR SEMENYA SC: And you tell us against</p>	<p style="text-align: right;">Page 13349</p> <p>1 the appreciation process immediately and start formulating</p> <p>2 strategy, understanding that time is of essence and one</p> <p>3 needs to hit the ground running sometimes. So you wouldn't</p> <p>4 wait necessarily until you get to the scene, but you'd</p> <p>5 start with your planning procedure already en route.</p> <p>6 MR SEMENYA SC: Yes, and as you earlier</p> <p>7 say, from the information you received Brigadier Fritz, you</p> <p>8 really thought that the mountain he is referring to was the</p> <p>9 Magaliesburg Mountain.</p> <p>10 COLONEL SCOTT: That's correct.</p> <p>11 MR SEMENYA SC: And you thought the group</p> <p>12 of people after whom you had to track, would be a group of</p> <p>13 how many more or less?</p> <p>14 COLONEL SCOTT: I estimated about ten,</p> <p>15 being told that it was two policemen that had at that time</p> <p>16 died. That was about the size of the group at most that I</p> <p>17 thought we would have to pursue and attempt to arrest.</p> <p>18 MR SEMENYA SC: And you tell us that at</p> <p>19 that time you were beginning to conceptualise an operation</p> <p>20 deployment of various units.</p> <p>21 COLONEL SCOTT: That's correct.</p> <p>22 MR SEMENYA SC: In your mind, at that</p> <p>23 time, as your statement says, you had had in mind an STF</p> <p>24 led operation with the assistance of the NIU, the TRT and</p> <p>25 POP.</p>

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1 COLONEL SCOTT: That's correct.  
 2 MR SEMENYA SC: And you had in mind to  
 3 the deployment of the SAAF helicopters, is that right?  
 4 COLONEL SCOTT: That's correct.  
 5 MR SEMENYA SC: And had in mind that they  
 6 will do with the helicopters an aerial command platform.  
 7 COLONEL SCOTT: That being the police  
 8 helicopter, yes.  
 9 MR SEMENYA SC: Yes. You tell us under  
 10 paragraph 6.4 as you say, what was going on in your mind on  
 11 your way to Marikana.  
 12 COLONEL SCOTT: That's correct.  
 13 MR SEMENYA SC: On arrival at the Lonmin  
 14 Mine, you then go and meet with Major-General Annandale.  
 15 COLONEL SCOTT: That's right.  
 16 MR SEMENYA SC: What does he tell you?  
 17 COLONEL SCOTT: Major-General Annandale  
 18 at that time briefed me more properly as to the situation  
 19 and this is when it started occurring to me that the  
 20 information I had received was insufficient to have made  
 21 the right strategy, as we see in the previous paragraph.  
 22 MR SEMENYA SC: The Commission knows by  
 23 the time you arrive at Marikana, this is now the Monday,  
 24 the 13th, what time more or less was that?  
 25 COLONEL SCOTT: It was approximately

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1 19:30, half past seven in the evening. Half past seven to  
 2 eight o'clock.  
 3 MR SEMENYA SC: And as you know, by the  
 4 time you arrived there had been ten fatalities already.  
 5 COLONEL SCOTT: I understand that now,  
 6 yes.  
 7 MR SEMENYA SC: Because of the events  
 8 unfolding there, it was anticipated that the National  
 9 Commissioner, General Phiyega was going to come.  
 10 COLONEL SCOTT: I was informed, yes, that  
 11 she was on route.  
 12 MR SEMENYA SC: And what were you asked  
 13 to do in relation to her arrival and coming to Marikana?  
 14 COLONEL SCOTT: I was asked to set up an  
 15 orientation where we would brief her as to the location of  
 16 where we were, and give a brief description of where the  
 17 attacks took place.  
 18 MR SEMENYA SC: As you tell us you were  
 19 also introduced to Mr Graham Sinclair, who is he?  
 20 COLONEL SCOTT: At that time, I was  
 21 introduced to Mr Sinclair at the lapa which later became  
 22 the JOC, by General Annandale, and I understood him to have  
 23 a high position in the security of the mine.  
 24 MR SEMENYA SC: What does Mr Sinclair  
 25 tell you?

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1 COLONEL SCOTT: Mr Sinclair assisted me  
 2 in orientating me to the environment as I myself didn't  
 3 quite know where I was. It was dark. We looked firstly on  
 4 the mine maps and then I took him to a Google map, and we  
 5 plotted specifically where we were, plotted where he said  
 6 that the miners had been coming together, or the strikers.  
 7 He showed me as well where, and explained to me at that  
 8 time that there had been two fatalities on the Sunday with  
 9 the mine security. We plotted that position and then he  
 10 showed me the approximate positions of where the police had  
 11 been attacked earlier that day and I plotted that as well,  
 12 on the Google map.  
 13 MR SEMENYA SC: Regarding the size of the  
 14 problem, were you briefed, having come, understanding that  
 15 you are just going to be dealing with a group of ten?  
 16 COLONEL SCOTT: No, at this stage, the  
 17 number was told to me as an approximate crowd of about  
 18 3 000 people.  
 19 MR SEMENYA SC: And you tell us against  
 20 paragraph 6.6 that you now realised that the situation was  
 21 different from what you had initially understood, is that  
 22 right?  
 23 COLONEL SCOTT: That's correct.  
 24 MR SEMENYA SC: And you then, after the  
 25 briefing you received from both General Annandale and Mr

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1 Sinclair, you then start to do what you call an  
 2 appreciation process.  
 3 COLONEL SCOTT: That's correct.  
 4 MR SEMENYA SC: What does that entail?  
 5 COLONEL SCOTT: Similar to what I was  
 6 doing en route, it's the gathering of as much information  
 7 as possible, the filtering of that information and  
 8 structuring it into certain classification groups, which  
 9 eventually speaks to your plan. So it assists you to  
 10 structure a plan properly, assists you to make strategy,  
 11 which you will implement into your plan, etcetera. It's  
 12 supposed to bear the full gathering of information and  
 13 assessing of the information.  
 14 MR SEMENYA SC: And that you do with the  
 15 assistance of your Google Earth Satellite map as you tell  
 16 us, placing various icons where would be the koppie, where  
 17 would be the miners, where would be the various areas of  
 18 importance that you are going to use to brief the National  
 19 Commissioner, am I right?  
 20 COLONEL SCOTT: That's correct.  
 21 MR SEMENYA SC: And you tell us that from  
 22 that time onward, all inputs were being absorbed. Who are  
 23 you referring to? Absorbed by who, by yourself?  
 24 COLONEL SCOTT: Referring to myself, yes.  
 25 MR SEMENYA SC: And which would influence



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1 the moulding of an operational concept and what does that  
 2 entail?  
 3 COLONEL SCOTT: The concept for the  
 4 operation is the solution in a broad statement. So one  
 5 needs to start moving in that direction, once you  
 6 understand what the problem is, where the problem is, what  
 7 your resources are, and then you would establish from your  
 8 resources, how you would best deal with the problem, the  
 9 solution thereto. That becomes an operational concept  
 10 which you thereafter need to operationalise with more  
 11 specific information which you brief.  
 12 MR SEMENYA SC: Yes, and then you do that  
 13 to prepare to brief the National Commissioner who was  
 14 expected, as you tell us, to arrive around 20:15.  
 15 COLONEL SCOTT: The briefing to the  
 16 National Commissioner was just an orientation briefing,  
 17 although working dually already on, knowing that there  
 18 would need to be an operational plan put in place, she was  
 19 not briefed at that time on any operation concepts,  
 20 etcetera. They were still in the process of being  
 21 formulated.  
 22 MR SEMENYA SC: Yes. And you tell us  
 23 that the National Commissioner arrived there in company of  
 24 the then Provincial Commissioner, Gauteng. There was there  
 25 too the Provincial Commissioner, North West, and so was

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1 there General Mpembe and General Naidoo. Is that right?  
 2 COLONEL SCOTT: That's correct.  
 3 MR SEMENYA SC: And you also say there  
 4 were other commanders that were in Marikana who were  
 5 present in that briefing.  
 6 COLONEL SCOTT: That's correct, they were  
 7 the commanders deployed that day on the ground.  
 8 MR SEMENYA SC: Did you do the briefing?  
 9 Did you brief the National Commissioner and the delegation  
 10 there?  
 11 COLONEL SCOTT: I simply orientated the  
 12 National Commissioner to where we were and to where the  
 13 incident had taken place and the actual briefing as to what  
 14 occurred was drawn out of the operational commanders that  
 15 were on the ground that day.  
 16 MR SEMENYA SC: After the briefing of the  
 17 National Commissioner and her delegation, they left the JOC  
 18 to go and meet with mine management, is that right?  
 19 COLONEL SCOTT: To my understanding, yes.  
 20 MR SEMENYA SC: You remained behind and  
 21 started building an outline of the operation Platinum  
 22 presentation and gained more information on the Marikana  
 23 environment.  
 24 COLONEL SCOTT: That's correct.  
 25 MR SEMENYA SC: And what the history of

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1 the situation was.  
 2 COLONEL SCOTT: That's correct.  
 3 MR SEMENYA SC: When the National  
 4 Commissioner's delegation returned, there was a second  
 5 meeting, is that right?  
 6 COLONEL SCOTT: That's correct.  
 7 MR SEMENYA SC: Do you recall any  
 8 particular concerns which the National Commissioner had  
 9 during that second session?  
 10 COLONEL SCOTT: What specifically stands  
 11 out to me, was she was concerned on the lack of information  
 12 and she said that, you know, to plan properly, or to put  
 13 something in place in order to deal with the situation  
 14 effectively we needed more information on the situation.  
 15 MR SEMENYA SC: By "information" you are  
 16 referring to what?  
 17 [10:24] COLONEL SCOTT: To intelligence.  
 18 MR SEMENYA SC: What in particular was  
 19 she concerned about that lack of intelligence, it's lack of  
 20 intelligence relating to what?  
 21 COLONEL SCOTT: It was the general lack  
 22 of intelligence, when questions were posed at who're  
 23 dealing with, etcetera, there was no clear answer to it and  
 24 the exact reasons for why was happening, what was  
 25 happening, we understood that there was a strike, we

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1 understood that there was conditions to that strike but why  
 2 the violence towards the police, etcetera, that was not  
 3 understood at that time.  
 4 MR SEMENYA SC: Was it evident that the  
 5 perpetrators are people who come from that area or what?  
 6 COLONEL SCOTT: No, at that time, I know  
 7 the word is being used often, it, they were seen as  
 8 faceless. It was unknown or uncertain as to specifically  
 9 who they were.  
 10 MR SEMENYA SC: Okay and you continue to  
 11 say that they would have left the meeting around 23:00, is  
 12 that right?  
 13 COLONEL SCOTT: That's correct.  
 14 MR SEMENYA SC: Okay and you continue to  
 15 tell us about this strategic guidance that you captured in  
 16 the briefing presentation to the commanders, you said that  
 17 originated during that meeting?  
 18 COLONEL SCOTT: Yes, when they were  
 19 discussing, from what I can recall there, the small bits of  
 20 that meeting, they were discussing how to deal with the  
 21 situation or how the police should go forward the following  
 22 day. I would be looking at what the strategic guidelines  
 23 were in order to capture that, to stick to that.  
 24 MR SEMENYA SC: What were the ideas -  
 25 must happen going forward?

<p style="text-align: right;">Page 13358</p> <p>1 COLONEL SCOTT: Well the proposal I made  2 while in that, and that's what I recall clearly was stating  3 that should the police choose to go into a tactical option  4 the next day, to disperse crowds, etcetera that if there  5 was a confrontation that possibly the public and the media  6 may interpret that as being a retaliation on the police  7 because of the deaths the previous day and I said that  8 reasoning that we needed to look at dialogue having  9 understood through having negotiation background that we  10 should give opportunity through dialogue to educate the  11 strikers top the illegality of their actions first, request  12 them through dialogue to first lay down weapons or to  13 disperse before eventually moving anywhere close to what we  14 would presume to be tactical options.  15 MR SEMENYA SC: It was your perception  16 that the emotions were high on all sides was it not?  17 COLONEL SCOTT: Yes.  18 MR SEMENYA SC: And that a tactical  19 option at that time was ill-advised?  20 COLONEL SCOTT: Yes.  21 MR SEMENYA SC: Your suggestion, proposal  22 that this be commenced with negotiating a solution with the  23 strikers was it embraced?  24 COLONEL SCOTT: It was listened to and  25 the National Commissioner came back to it in her summary</p>	<p style="text-align: right;">Page 13360</p> <p>1 COLONEL SCOTT: That if, you know through  2 looking at the media sources and the news, etcetera and  3 through the experiences where we have been, that you would  4 find if there was violence directed towards the police to  5 this level its normally when protesters or strikers or  6 whoever they may be have issues with the state itself. But  7 when it comes to service delivery or labour related that  8 the police is normally the third party and the violence is  9 normally directed towards infrastructure or towards others  10 and not towards the police.  11 MR SEMENYA SC: And that is what you  12 describe at the bottom of that paragraph on page 21.  13 COLONEL SCOTT: That's right and when I'm  14 referring to violence here I'm not talking about the normal  15 throwing of stones, etcetera, I'm talking about the level  16 of violence of choosing to attack and kill police officers.  17 MR SEMENYA SC: What also informed your  18 reasoning at the time, you articulate in paragraph 6.13  19 where you say, "the killing of police officials," it was  20 your view, "that the strikers had crossed a barrier where  21 they would with greater ease take decision to confront the  22 police again should the police be required to resolve the  23 situation tactically."  24 COLONEL SCOTT: It was my view at the  25 time, yes.</p>
<p style="text-align: right;">Page 13359</p> <p>1 and said that she believes that's the pathway we should  2 follow as well.  3 MR SEMENYA SC: And that's what you tell  4 us against paragraph 6.11 of your statement?  5 COLONEL SCOTT: Yes.  6 MR SEMENYA SC: That to diffuse the  7 situation a dialogue must be initiated and that police  8 negotiators should be brought onto the scene, is that  9 right?  10 COLONEL SCOTT: That's correct.  11 MR SEMENYA SC: And you tell us that this  12 was based on your own experience in STF operations?  13 COLONEL SCOTT: That's correct and in the  14 courses I had done which deal with scenarios beyond what  15 the special taskforce deals with.  16 MR SEMENYA SC: Yes. Against paragraph  17 6.12 you say, "after hearing the briefing given to the  18 National Commissioner by the commanders involved in the  19 conflict incident," it should read, right, "earlier in the  20 day which had tragic results you formed the view this group  21 of strikers had taken their level of willingness to achieve  22 their goals to levels beyond what the police had previously  23 experienced in labour and service delivery unrest."  24 COLONEL SCOTT: That was my opinion yes.  25 MR SEMENYA SC: What do you mean by that?</p>	<p style="text-align: right;">Page 13361</p> <p>1 MR SEMENYA SC: What was the basis for  2 that view?  3 COLONEL SCOTT: I guess just human nature  4 because having killed police officers were, my  5 understanding at that time were trying to carry out their  6 duty, should they be confronted again logic tells me that  7 if they should try to confront the strikers again that the  8 possibility existed because police officers had been killed  9 already that they may resort to the same type of violence  10 again.  11 MR SEMENYA SC: What was the information  12 that you had in relation to the weapons that were in  13 possession by the strikers?  14 COLONEL SCOTT: I was told that it was  15 pangas and spears which was involved in the incident on  16 Monday but that when speaking with Mr Sinclair thereafter  17 and obviously hearing what had happened and the police  18 officers that had been attacked got to understand that from  19 there that they had access now to firearms as well.  20 MR SEMENYA SC: And then you tell us  21 against paragraph 6.14, "that after the briefing of the  22 National Commissioner was concluded you continued to obtain  23 more information on the situation as is required to provide  24 for the formulation of an operational concept."  25 COLONEL SCOTT: That's right.</p>

<p style="text-align: right;">Page 13362</p> <p>1 MR SEMENYA SC: And thereby you mean?</p> <p>2 COLONEL SCOTT: What I started doing,</p> <p>3 we've got different areas we need to gain information in</p> <p>4 and one of them is what are the resources available in</p> <p>5 order to make the determination to fill a gap if there were</p> <p>6 resources needed to be acquired. At that time I was</p> <p>7 obtaining what resources were available to be utilised to</p> <p>8 deal with the situation, from the security side.</p> <p>9 MR SEMENYA SC: And then you do a new</p> <p>10 appreciation given a new scenario now unfolding before you?</p> <p>11 COLONEL SCOTT: That's right.</p> <p>12 MR SEMENYA SC: And what do you do with</p> <p>13 that?</p> <p>14 COLONEL SCOTT: Well appreciation as we</p> <p>15 know it, we talk about four Ms and a T and when we looked</p> <p>16 at the strategic inputs that were given at the meetings we</p> <p>17 start utilising those to make a mission, which is a guiding</p> <p>18 statement and so we start looking for those strategic</p> <p>19 guidelines to form a mission. We then look at the next one</p> <p>20 which it's just an acronym which we call menace and that is</p> <p>21 normally the opponent or the destabiliser, be it an event</p> <p>22 or be it people and we have to analyse who they are, what</p> <p>23 they're doing, what their modus operandi is, how they're</p> <p>24 armed if they are armed, etcetera. We then, the next M</p> <p>25 would be the milieu, French word for environment and we</p>	<p style="text-align: right;">Page 13364</p> <p>1 attention.</p> <p>2 COLONEL SCOTT: That's right.</p> <p>3 MR SEMENYA SC: You concluded that that</p> <p>4 needed to be approached with a strategy to allow the</p> <p>5 strikers to be made aware of that unlawfulness, what do you</p> <p>6 mean by that?</p> <p>7 COLONEL SCOTT: The unlawfulness is the,</p> <p>8 as we know the constitution states that you have the right</p> <p>9 to protest but you cannot do so armed and having understood</p> <p>10 that the strikers were armed and of the history of the</p> <p>11 violence which was now being made known to me at that time</p> <p>12 it was obvious that the, there was an illegal element to</p> <p>13 this.</p> <p>14 MR SEMENYA SC: Why did you think it</p> <p>15 necessary that they be made aware of the fact that their</p> <p>16 conduct was contravening the law.</p> <p>17 COLONEL SCOTT: Once again we've seen</p> <p>18 many times in South Africa that there's a grey area when it</p> <p>19 comes to what is a dangerous weapon and what is a</p> <p>20 traditional weapon and I sometimes think that the strikers</p> <p>21 themselves are not aware of what is illegal when they are</p> <p>22 truly carrying illegal weapons. I think they would know</p> <p>23 that stolen firearm is illegal but not necessarily that a</p> <p>24 panga or a spear may be illegal but seen as traditional.</p> <p>25 So to enlighten them to these facts so that they understood</p>
<p style="text-align: right;">Page 13363</p> <p>1 look at the environment we found ourselves in and then we</p> <p>2 look at the means and the means refers to the resources</p> <p>3 available from the tactical or the policing side in order</p> <p>4 to work in that environment, deal with that opponents in</p> <p>5 accordance with the mission and the T stands for the time</p> <p>6 frame that we have to do it in.</p> <p>7 MR SEMENYA SC: Okay. With all of that</p> <p>8 you continue against paragraph 6.16 you deal with the</p> <p>9 consultation, the information that is gathered particularly</p> <p>10 information given to you by General Annandale as well as Mr</p> <p>11 Sinclair, is that right?</p> <p>12 COLONEL SCOTT: That's correct.</p> <p>13 MR SEMENYA SC: You are now given the</p> <p>14 recent history of the strike in the Rustenburg area and the</p> <p>15 violence that was experienced up to that point.</p> <p>16 COLONEL SCOTT: That's correct.</p> <p>17 MR SEMENYA SC: And so too you are given</p> <p>18 to understand the layout of the geography there?</p> <p>19 COLONEL SCOTT: To a limited degree, yes.</p> <p>20 MR SEMENYA SC: Yes, and you tell us that</p> <p>21 in your analysis of the strikers they were contravening the</p> <p>22 law by gathering to protest but this time with weapons?</p> <p>23 COLONEL SCOTT: That's correct.</p> <p>24 MR SEMENYA SC: You saw that as a large-</p> <p>25 scale ongoing illegal action which required police</p>	<p style="text-align: right;">Page 13365</p> <p>1 where the police stood with regard to the situation.</p> <p>2 MR SEMENYA SC: Okay, and you then</p> <p>3 continue to say that you begin to take into account the</p> <p>4 suggestion that you made to the National Commissioner</p> <p>5 earlier, that is of using the police negotiators?</p> <p>6 COLONEL SCOTT: That's right.</p> <p>7 MR SEMENYA SC: And you say in paragraph</p> <p>8 6.19 there was also the issue that probabilities are that</p> <p>9 amongst the strikers there were murder suspects also who</p> <p>10 police needed to apprehend and illegal firearms which</p> <p>11 needed to be retrieved, is that right?</p> <p>12 COLONEL SCOTT: That's correct.</p> <p>13 MR SEMENYA SC: And you also tell us that</p> <p>14 notwithstanding the attention the police had to direct</p> <p>15 towards combating of violent crime there was also</p> <p>16 sporadically occurring violence around Marikana?</p> <p>17 COLONEL SCOTT: That's right.</p> <p>18 MR SEMENYA SC: And this comes from the</p> <p>19 history as you obtained with conflicts on Saturday, Sunday</p> <p>20 and Monday?</p> <p>21 COLONEL SCOTT: Yes.</p> <p>22 MR SEMENYA SC: Okay. It is important</p> <p>23 that we deal with these things so that we can appreciate</p> <p>24 what is it that you thought you were planning for, Colonel,</p> <p>25 in paragraph 6.20 you say, that Monday evening on realising</p>

<p style="text-align: right;">Page 13366</p> <p>1 that the mountain was actually a koppie and that the 2 suspects were part of a much larger group of reportedly 3 militant strikers with estimates being given to be around 3 4 000 people you realised that the initial operational 5 strategy that you had conceptualised on route to Marikana 6 would no longer be an option and that the situation 7 required a different approach, is that right? 8 COLONEL SCOTT: That's correct. 9 MR SEMENYA SC: And you say that approach 10 is one that should and required to be led by public order 11 policing. 12 COLONEL SCOTT: That's correct. 13 MR SEMENYA SC: They were to play the 14 leading role? 15 COLONEL SCOTT: That's right. 16 MR SEMENYA SC: And why is that so? 17 COLONEL SCOTT: I believe that obviously 18 the size of the group automatically starts taking it 19 towards public order policing. It's difficult at this time 20 as well, with the limited information and not relying now 21 on hindsight but at that time the group of 3 000 was seen 22 as being the striking group. I was not aware yet that 23 there was a militant group. But I knew that there was no 24 way that the tactical units themselves would be able to 25 move towards a group like that. We needed to first deal</p>	<p style="text-align: right;">Page 13368</p> <p>1 members would need a protective element, in essence your 2 reasoning was that if tactical units were deployed in 3 support to protect the POP members they would with 4 reassurance focus their attention of the public order 5 policing tactics. 6 COLONEL SCOTT: Yes. 7 MR SEMENYA SC: Stated simply it was your 8 view that with the benefit of the tactical units being 9 present during a POP operation the POP members would do 10 their work with greater assurance? 11 COLONEL SCOTT: That's correct and if 12 there were dangerous situations or arrests that needed to 13 be made of dangerous individuals that the POPs could rely 14 on the better trained tactical members beyond them to deal 15 with those situations. 16 MR SEMENYA SC: And as you said at the 17 bottom of the page, if the police needed to use the POP 18 members to resolve the situation tactically they would be 19 able to stand information with more confidence to apply any 20 defensive or offensive of tactical options required of 21 them. 22 COLONEL SCOTT: That's correct. 23 MR SEMENYA SC: And they would do that 24 with a better knowing that they have immediate support if 25 required.</p>
<p style="text-align: right;">Page 13367</p> <p>1 with that on a public order basis and then the strategies 2 thereafter actually spoke to how to utilise the tactical 3 units. 4 MR SEMENYA SC: And your assessment of 5 the situation was that POP members would be in danger if 6 they needed to confront the strikers with a tactical 7 option, is that right? 8 COLONEL SCOTT: That was my view, yes. 9 MR SEMENYA SC: And you say because the 10 POP members highest level of offensive operations is still 11 carried out with less than lethal force thus having the POP 12 members primary weapons intended for non lethal 13 application, is that right? 14 COLONEL SCOTT: That's correct. 15 MR SEMENYA SC: There you really are 16 saying that POP members would have, apart from their side 17 arm, they would have your teargas, they would have the stun 18 grenades, they would have water cannons and they would have 19 the ultimate offensive weapon rubber bullets? 20 COLONEL SCOTT: Yes. 21 MR SEMENYA SC: Or rubber rounds in this 22 instance? 23 COLONEL SCOTT: Yes. 24 MR SEMENYA SC: You continue to say to us 25 that while considering this issue you reasoned that the POP</p>	<p style="text-align: right;">Page 13369</p> <p>1 COLONEL SCOTT: That's right. 2 MR SEMENYA SC: If we may stop here for a 3 little while. The tactical units you had in mind would be? 4 COLONEL SCOTT: The, starting at the 5 lower end the Tactical Response Teams, known as the TRT, 6 the National Intervention Unit, the NIU and the Special 7 Taskforce, STF. 8 MR SEMENYA SC: And as you say you 9 reasoned that POP would need to play leading role and be 10 the first line of contact with the strikers thus the 11 operational concept would need to embrace the strategies 12 utilised in public order operations but with an added 13 element of the tactical units employed in various roles of 14 support. 15 COLONEL SCOTT: That's right. 16 MR SEMENYA SC: What supporting role did 17 you have in mind for the TRT? 18 COLONEL SCOTT: Well the TRT was there as 19 I say, if the situation became acceptably to dangerous for 20 public order policing members to deal with, that they could 21 withdraw into safe havens which I planned to be the Nyalas 22 which would permit the TRT members at that time to move 23 forward to make arrests and not have to put members with 24 non lethal force essentially in their possession into 25 harm's way.</p>

<p style="text-align: right;">Page 13370</p> <p>1 MR SEMENYA SC: And for the NIU?</p> <p>2 COLONEL SCOTT: A similar role and for</p> <p>3 the STF a similar, that's dealing with the crowd as such at</p> <p>4 the koppie, although there were secondary roles as well for</p> <p>5 all those units when it came to further phases but at this</p> <p>6 stage I wasn't thinking yet necessarily the sequential</p> <p>7 phases although they were part of the mindset already. I</p> <p>8 knew there would need to be high risk arrests made where</p> <p>9 the firearms would be in possession of those that took them</p> <p>10 from the deceased miners and police members.</p> <p>11 MR SEMENYA SC: And you tell us that the</p> <p>12 plan you were conceiving it would have to be one that was a</p> <p>13 hybrid similar to plans used on other major events, is that</p> <p>14 right?</p> <p>15 COLONEL SCOTT: That's correct.</p> <p>16 MR SEMENYA SC: But you tell us that with</p> <p>17 this the emphasis was also on bringing the ongoing violence</p> <p>18 and the destruction of property to an end.</p> <p>19 COLONEL SCOTT: Sorry, can you just</p> <p>20 repeat that.</p> <p>21 MR SEMENYA SC: Against paragraph 6.24</p> <p>22 you tell us that there was also an added emphasis to this</p> <p>23 hybrid operation that was also to try and bring to fold the</p> <p>24 ongoing violence and the destruction to property.</p> <p>25 COLONEL SCOTT: That's correct.</p>	<p style="text-align: right;">Page 13372</p> <p>1 threat rather than confronting the authority represented in</p> <p>2 the show of force they are physically able to see." This</p> <p>3 is the show of force dissuasion tactic you say you describe</p> <p>4 that as?</p> <p>5 COLONEL SCOTT: That's correct. Many</p> <p>6 times a suspect or a perpetrator may sum up his opportunity</p> <p>7 to take on a police official and if you can show them a</p> <p>8 show of force or an overwhelming show of force from your</p> <p>9 side, reason tends to return and they tend to back down</p> <p>10 through possibly intimidation or what we like to say is we</p> <p>11 dissuade them from action against the police.</p> <p>12 MR SEMENYA SC: This is part of what</p> <p>13 would later be part of your plan about the impact of police</p> <p>14 numbers in any environment of this kind.</p> <p>15 COLONEL SCOTT: Yes.</p> <p>16 MR SEMENYA SC: Past experience, what</p> <p>17 would a large number of police presence cause as a reaction</p> <p>18 to such a situation?</p> <p>19 COLONEL SCOTT: Well, past experience</p> <p>20 dealing in specialised environments or very high risk</p> <p>21 environments, one has to assess your opponent again. If we</p> <p>22 were dealing with somebody who was suicidal or possibly</p> <p>23 somebody dealing with martyrdom in a terrorist situation,</p> <p>24 you wouldn't want to necessarily have a show of force, but</p> <p>25 when you're dealing with people that have a desire to live</p>
<p style="text-align: right;">Page 13371</p> <p>1 MR SEMENYA SC: And also the safety of</p> <p>2 the police members while they carry out their duty?</p> <p>3 COLONEL SCOTT: Yes. At this time with</p> <p>4 the limited knowledge and the limited information given one</p> <p>5 is working on basic policing principles which are generic</p> <p>6 throughout the police in pretty much any situation we find.</p> <p>7 [10:44] MR SEMENYA SC: And those would be what?</p> <p>8 COLONEL SCOTT: That any police official</p> <p>9 arriving at any situation which is conflictive or looking</p> <p>10 aggressive, would always use dialogue as a first resort</p> <p>11 unless of course he is immediately challenged with a force</p> <p>12 that he needs to respond to proportionately in order to</p> <p>13 bring it back down, whereby he would bring his own force</p> <p>14 level down in order to retain or to move back to the</p> <p>15 dialogue level.</p> <p>16 MR SEMENYA SC: Okay. And you describe</p> <p>17 those as the use of dialogue in the first instance, is that</p> <p>18 right?</p> <p>19 COLONEL SCOTT: That's right.</p> <p>20 MR SEMENYA SC: And you also say that,</p> <p>21 "Depending on the situation, when dealing with persons who</p> <p>22 have contravened the law and have a desire to escape or</p> <p>23 fight, the police are to provide a show of force to help</p> <p>24 the transgressors reason logically that they are better off</p> <p>25 complying with the request of the police to de-escalate the</p>	<p style="text-align: right;">Page 13373</p> <p>1 and you can see that they're not reasoning well, this is</p> <p>2 when you could bring in a show of force to help them to</p> <p>3 reason again and this has worked for us in the past many a</p> <p>4 time. When my unit has arrived on scene, there are times</p> <p>5 that the negotiators would make mention that our unit is</p> <p>6 there and the perpetrator at that time would simply give</p> <p>7 up, knowing that he has now either got to take the</p> <p>8 opportunity to hand himself over or, if his desire is that</p> <p>9 he would need to confront the unit coming in to arrest him</p> <p>10 and many times they simply give up.</p> <p>11 MR SEMENYA SC: Yes and you say if that</p> <p>12 does not dissuade the crowd and a situation gets worse,</p> <p>13 what is the next step?</p> <p>14 COLONEL SCOTT: Well, you would need to</p> <p>15 always have a contingency action, a standby action, a</p> <p>16 tactical option available. We know that we're in a police</p> <p>17 service, we work inside the country and we can't allow acts</p> <p>18 to go – I don't want to say punished, but we need to</p> <p>19 apprehend those that have committed certain acts because</p> <p>20 they need to be brought through the system as is expected</p> <p>21 of the police service.</p> <p>22 MR SEMENYA SC: And you say there would</p> <p>23 then, depending on the situation, be a force continuum that</p> <p>24 is employed to meet the challenge. What is the, what are</p> <p>25 the ranges in this continuum?</p>

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1 COLONEL SCOTT: Even when we go tactical,  
 2 and I speak on behalf of the task force or any other police  
 3 officer, he would confront the opponent firstly with verbal  
 4 commands, unless of course he enters and he gets shot at or  
 5 he approaches and he gets shot at immediately, you would  
 6 need to then defend your life, for instance, but in essence  
 7 a police officer has got principles of going forward with  
 8 the force continuum. So he needs to assess the level of  
 9 force coming towards him and he would meet it at that same  
 10 level to try to de-escalate the force down to lower levels  
 11 and as the force de-escalates, so he de-escalates his level  
 12 of force, which needs to be proportionate at all times, but  
 13 when we come in we have the mindset of starting at verbal,  
 14 verbal command.  
 15 MR SEMENYA SC: What would come next  
 16 after the verbal command?  
 17 COLONEL SCOTT: If I speak on behalf of  
 18 our unit, we start with verbal command but we actually go  
 19 on - before that we would have a visual presence. So  
 20 normally you would see the presence of a tactical officer  
 21 and understand that they are well-trained, they are well-  
 22 equipped and that would be your opponent should you choose  
 23 to want confrontation. But when the members do need to  
 24 confront then we start with loud and aggressive verbal  
 25 commands to intimidate the opponent into giving up and

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1 surrendering. Moving from that, we're trained in - and  
 2 this is, most police officers have some degree of training  
 3 in unarmed combat or self-defence and from there one can  
 4 move to the less lethal options which even ourselves carry,  
 5 which are Taser weapons, pepper spray to disorientate or to  
 6 gain the advantage and from that one would move to multiple  
 7 take-downs once a member has been disorientated.  
 8 MR SEMENYA SC: And in public order  
 9 policing environment, what would be the force continuum  
 10 there?  
 11 COLONEL SCOTT: Well, the public order  
 12 one would also expect that dialogue would be given  
 13 beforehand, understanding that in public order you are  
 14 dealing with crowds and we know that not all crowds have  
 15 the same intention, that there could be bystanders,  
 16 onlookers, others with other agendas. So you give the  
 17 verbal instruction to allow those that don't want to be  
 18 part, to leave and thereafter you would start again with  
 19 your lowest level of force to try to get people to leave  
 20 and eventually escalate through the levels. And I  
 21 understand there are documents which do speak to the order  
 22 of that but in understanding Marikana and as we'll see  
 23 later in the statement, I chose to recommend the water  
 24 cannons being utilised first, the reason for that being the  
 25 greater standoff distance, to not have the police have to

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1 try to get too close which is the normal force continuum  
 2 which you would expect of them.  
 3 MR SEMENYA SC: Yes. And it was your  
 4 reasoning, you tell us, that POP would provide the first  
 5 line of policing in the initial operational strategy to  
 6 restore order to the area, due to the size of the crowd and  
 7 with the ability to apply non-lethal force to restore  
 8 order.  
 9 COLONEL SCOTT: That's right.  
 10 MR SEMENYA SC: Past experience, what  
 11 would happen with a large crowd of people when a verbal  
 12 warning is given to disperse?  
 13 COLONEL SCOTT: From the observations  
 14 I've had, the limited experience in POPs at that time,  
 15 which also I did deal with, with crowds and marchers and  
 16 protesters but from where, sitting back in major events, et  
 17 cetera, when verbal warnings are issued and the police have  
 18 taken up a line, the crowd generally starts dispersing.  
 19 They understand where the police are at and they understand  
 20 what's possibly next to come and most times the crowd  
 21 simply disperses on its own or moves away to another  
 22 environment.  
 23 MR SEMENYA SC: And during that time, as  
 24 you say, that logic would prevail to those who are seeking  
 25 no confrontation and would disperse by themselves.

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1 COLONEL SCOTT: That's correct.  
 2 MR SEMENYA SC: On page 27 you tell us  
 3 that you remained aware that a tactical option would need  
 4 to be planned for as well, should that situation get there.  
 5 COLONEL SCOTT: That's right.  
 6 MR SEMENYA SC: And you tell us that you  
 7 were, however, mindful that any tactical option by POP  
 8 could be met with the same response as was experienced on  
 9 Monday the 13th.  
 10 COLONEL SCOTT: That was my view at that  
 11 time, yes.  
 12 MR SEMENYA SC: And that the - maybe a  
 13 confrontation that mimics what happened on that Monday.  
 14 COLONEL SCOTT: That's correct.  
 15 MR SEMENYA SC: You also tell us that the  
 16 rationale was based on the precept that police should only  
 17 move to an offensive POP tactical option if the strike has  
 18 escalated, a threat of violence and destruction by  
 19 mobilising as a group to move to a predetermined target.  
 20 COLONEL SCOTT: That's right. At that  
 21 time we didn't know what the actions or the movements of  
 22 the group would be. In hindsight we know that the group  
 23 stayed at the koppie no. At that time on that Monday night  
 24 we had no idea what the group would be doing the next day  
 25 so - whether they would mobilise as a large group and move

<p style="text-align: right;">Page 13378</p> <p>1 towards certain mine infrastructure. I was aware at this 2 time as well that the mine infrastructure was being 3 targeted, as in the K4 shaft on the Sunday night. 4 MR SEMENYA SC: And the damage to the 5 vehicles, et cetera. 6 COLONEL SCOTT: That's right. 7 MR SEMENYA SC: And you tell us that the 8 other alternative which could dictate the police action 9 would be if all other options to resolve the situation 10 without force were exhausted and there was no other means 11 to restore order to the area but to bring the strikers back 12 in line with the legal requirements for a lawful protest. 13 COLONEL SCOTT: That's correct. 14 MR SEMENYA SC: And there you're simply 15 stating that there was ultimately going to be a need to 16 restore law and order. 17 COLONEL SCOTT: Well, we - the situation 18 was such that it was unacceptable due to the illegality of 19 the situation and dialogue would be first but ultimately 20 any plan that was going to be presented needed to have 21 ultimately the tactical option also included because one 22 could not simply make a plan where dialogue was the end 23 result, should the strikers at that stage refuse the 24 dialogue, because we didn't even know whether they would 25 negotiate with the police, that obviously there needed to</p>	<p style="text-align: right;">Page 13380</p> <p>1 COLONEL SCOTT: That's correct. 2 MR SEMENYA SC: And the instruction by 3 Brigadier Calitz to both you and Lieutenant-Colonel Merafi 4 was that you must start now conceptualising an operational 5 strategy to deal with the situation. 6 COLONEL SCOTT: That's correct. 7 MR SEMENYA SC: Would this be a 8 convenient stage, Chair? 9 CHAIRPERSON: Yes, very well. We'll take 10 the tea adjournment at this stage for quarter of an hour. 11 [COMMISSION ADJOURNS COMMISSION RESUMES] 12 [11:29] CHAIRPERSON: The Commission resumes. 13 Colonel, you're still under oath. Mr Semenya? 14 MR SEMENYA SC: Thank you, Chair. 15 CHAIRPERSON: I take it you want to 16 proceed with the evidence-in-chief. 17 MR SEMENYA SC: Indeed, Chair. 18 DUNCAN GEORGE SCOTT: s.u.o. 19 EXAMINATION BY MR SEMENYA (CONTD): 20 Colonel, we had just deal with the instruction of Brigadier 21 Calitz that you and Lieutenant-Colonel Merafi must sit down 22 and draw a plan and you knew, as you recall or as you 23 recall there was going to be a JOCCOM meeting at 6 o'clock 24 in the morning. 25 COLONEL SCOTT: Yes sir, that's how I had</p>
<p style="text-align: right;">Page 13379</p> <p>1 be steps, as we know, in the force continuum as I've 2 mentioned in the principles of the policing, to then move 3 to a show of force and then possibly at the end have to 4 disperse the crowd or deal with the crowd with public order 5 policing as the frontline. 6 MR SEMENYA SC: And therefore you decided 7 to have in your plan a contingency plan for the safety of 8 the POP members. 9 COLONEL SCOTT: That's right. 10 MR SEMENYA SC: And to have the 11 protection of the tactical units in assisting the POP 12 action, if employed. 13 COLONEL SCOTT: Yes, but I think one must 14 understand that the public order policing is just that, 15 it's public order policing and it is done with non-lethal 16 force. The tactical forces that were positioned were there 17 to deal with high risk arrests, et cetera, not to do public 18 order policing with sharp point ammunition. 19 MR SEMENYA SC: Yes. And it was during 20 the early hours of Tuesday morning that you were introduced 21 to Brigadier Calitz. Brigadier Calitz introduced you to 22 Lieutenant-Colonel Merafi. 23 COLONEL SCOTT: That's right. 24 MR SEMENYA SC: Who you were told and you 25 now know is a commander of the POP unit in Rustenburg.</p>	<p style="text-align: right;">Page 13381</p> <p>1 it. 2 CHAIRPERSON: Sorry, you're at paragraph 3 6.30 of the statement, page 28. 4 MR SEMENYA SC: That is correct, Chair. 5 Is that right? 6 COLONEL SCOTT: That is correct. 7 MR SEMENYA SC: And then you arranged 8 with Mr Sinclair to print a large copy of a satellite photo 9 of the area where the koppie was located and you gathered 10 around the table in the JOC to discuss the options that are 11 available to the police. 12 COLONEL SCOTT: That's right. It was a 13 room just adjacent or just off the JOC room itself. 14 MR SEMENYA SC: Alright. 15 COLONEL SCOTT: Adjoining room. 16 MR SEMENYA SC: So in company you have 17 Lieutenant-Colonel Merafi, you've got Mr Sinclair and you 18 say other police officers. Who else was there? 19 COLONEL SCOTT: It's as you've said. Mr 20 Sinclair was there, he was assisting us with information 21 that we needed. Colonel Merafi who I'd been introduced to 22 and I'm not sure of the others but he had two members with 23 him that he'd brought with him. 24 MR SEMENYA SC: And you facilitated the 25 planning session.</p>

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1 COLONEL SCOTT: Yes.

2 MR SEMENYA SC: Starting with a problem

3 solving process.

4 COLONEL SCOTT: Yes.

5 MR SEMENYA SC: This, you say, means that

6 you analyse what the problem is, you identify possible

7 solutions, you review the concept and you decide on the co-

8 ordinating instructions. What does that entail?

9 COLONEL SCOTT: Co-ordinating

10 instructions are simply instructions where we would give

11 the operational concept structure. It's not the specific

12 briefing, it's just more directed towards the time line of

13 when we would expect to do things and in what sequence we

14 would expect to do those things.

15 MR SEMENYA SC: Like backing backwards,

16 if you know you're going to do an operation at this time,

17 what should happen before that time, et cetera.

18 COLONEL SCOTT: That's right. It's a

19 reverse time line.

20 MR SEMENYA SC: And you tell us that Mr

21 Sinclair was present during some of the planning that you

22 were doing, providing you with information which the

23 security at the time had.

24 COLONEL SCOTT: Yes. He was actually

25 very helpful to us. I think without him being there we

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1 would have really struggled. He gave us, at that time as

2 well when we went into that planning circle, quite a bit of

3 information regarding who, at that stage who – I'm

4 presuming who he thought the strikers were, how many they

5 were, what their movements were.

6 MR SEMENYA SC: And part of the

7 information given to you is that some of the strikers moved

8 away from the koppie at night and returned in the morning.

9 COLONEL SCOTT: Yes.

10 MR SEMENYA SC: But also that there was

11 some small part of strikers, small group, rather, of

12 strikers who spent the night at the koppie.

13 COLONEL SCOTT: That's the information

14 received, yes.

15 MR SEMENYA SC: And that in the morning

16 many strikers would then move through Nkaneng settlement,

17 back to the koppie.

18 COLONEL SCOTT: Yes. I recall him

19 specifically showing me that when we went out for a later

20 orientation and he showed me where the Wonderkop mine

21 hostels were and orientated me as to the Nkaneng settlement

22 and then showed me what the path of the miners were, or the

23 strikers.

24 MR SEMENYA SC: With that information at

25 hand, you then devised what you call an opportunistic plan.

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1 COLONEL SCOTT: Yes.

2 MR SEMENYA SC: Can you tell us what that

3 is?

4 COLONEL SCOTT: I'm not sure if at this

5 stage it would be good to go to the actual map so that I

6 can show an orientation on that map as I speak to –

7 CHAIRPERSON: You must do what you

8 consider best to enable you to convey to us what you –

9 COLONEL SCOTT: Yes.

10 CHAIRPERSON: - what you what to tell us.

11 COLONEL SCOTT: Yes. I had a similar map

12 and it'll come up on screen –

13 CHAIRPERSON: Aren't these maps already

14 exhibits – I'm told I turned my machine off by mistake. If

15 this map is already an exhibit please give us the exhibit

16 number. If it isn't, tell me that and then we can give it

17 an exhibit number and describe it for the record.

18 COLONEL SCOTT: Chairperson, to my

19 knowledge it's not. It is included in your bundles. I

20 think it's –

21 MR MAHLANGU: There's the Google maps.

22 COLONEL SCOTT: - to get one today.

23 MR SEMENYA SC: Chair, we're going to be

24 referring to item 5, as we described it, and it is –

25 CHAIRPERSON: So it'll be JJJ4 and how

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1 does one describe it? Well, you can describe it so that

2 people can find it. Are these the two Google maps attached

3 to your statement – oh, I see. We haven't – we've marked

4 those already. We've marked them already and we described

5 them by the elevations, as far as I recall. The first one

6 is JJJ3 point – JJJ1 is a Google Earth image, elevation

7 1145 metres and JJJ2 is a Google Earth image, elevation

8 1149 metres. Which are you referring to first?

9 COLONEL SCOTT: Chairperson, I'm going to

10 go into the actual programme itself, Google Earth. I

11 printed those out as hard copies obviously but in the

12 programme I can better show you. That's why I gave you an

13 aerial view as well as a closer view of the actual document

14 that I'll speak to now.

15 CHAIRPERSON: Yes.

16 COLONEL SCOTT: It won't go further than

17 that. It'll basically show you what you have as pictures

18 there.

19 CHAIRPERSON: Well, if you're going to –

20 Mr Chaskalson, do you want to say something?

21 MR CHASKALSON SC: Mr Chairperson, we

22 contemplated the same problem in relation to our exhibits

23 and I would respectfully suggest that we should give the

24 Google Earth file itself, the electronic file, a separate

25 exhibit number because one can show a great deal more on



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1 the electronic file than on the hard copies.  
 2 CHAIRPERSON: Okay, so we will have JJJ4  
 3 and that'll be – how do you describe the file? Google  
 4 Earth file, how – does one describe the file?  
 5 COLONEL SCOTT: The name is  
 6 "Opsplatinum.kmz."  
 7 CHAIRPERSON: Opsplatinum.kmz. Is that  
 8 the description? Alright, so we have that exhibit then,  
 9 JJJ4, Google Earth file Opsplatinum.kmz.  
 10 COLONEL SCOTT: I know it may be brought  
 11 up later, Chairperson, and I'm not that acquainted with  
 12 all, how to check the validity of IT documents, I think, as  
 13 well as maybe the evidence leaders and their people but I  
 14 do understand that the date modified speaks to when the  
 15 file was created.  
 16 CHAIRPERSON: Alright, so you want me  
 17 then to add to the description of the exhibit, Google Earth  
 18 file Opsplatinum.kmz and in brackets, date modified  
 19 2012.08.14 05:46AM. You agree, Mr Chaskalson, that's a  
 20 necessary part of the description of the exhibit?  
 21 MR CHASKALSON SC: We do agree that it's  
 22 not necessarily a necessary part but Colonel Scott's  
 23 description of what signifies is correct, that is when it  
 24 was saved, according to the clock on his computer.  
 25 CHAIRPERSON: Well, if anyone has to read

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1 this record later, to the extent of looking at the  
 2 exhibits, we've got enough on record now by way of  
 3 description of the exhibit for the exhibit to be found  
 4 without any difficulty, which is the exercise we're busy  
 5 with. It's now already a conflict of testimony as to  
 6 whether modified means created or saved. I don't know  
 7 whether we have to resolve that dispute now but he said one  
 8 thing, you said another, Mr Chaskalson.  
 9 MR SEMENYA SC: Well, Chair, for the  
 10 purposes of the evidence-in-chief we intend to convey no  
 11 more than the fact that this document as at that date was  
 12 in existence. There may very well be some debate but at  
 13 least what is not in debate, debatable, is that the  
 14 document was in existence on Colonel Scott's computer at  
 15 that date.  
 16 CHAIRPERSON: And time, yes. Well, I  
 17 take it that's a satisfactory resolution of the difference.  
 18 Shall we proceed? We've now zoomed in on an image which we  
 19 can see which in fact is – is that the picture that you  
 20 copied for us?  
 21 COLONEL SCOTT: That's the picture you  
 22 have.  
 23 CHAIRPERSON: Or one of the pictures you  
 24 copied. Which one is it?  
 25 COLONEL SCOTT: The first picture you

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1 have would simply, would be at about, I think round about  
 2 looking something to that –  
 3 CHAIRPERSON: 45 is – JJJ1 is the  
 4 elevation 1145 metres and JJJ2 is elevation 1149. Now  
 5 those are the two that you printed out for us which are  
 6 annexed to your affidavit, so which one are we looking at  
 7 now, JJJ1 or 2?  
 8 COLONEL SCOTT: I'll speak first to the  
 9 wide angle.  
 10 MR CHASKALSON SC: Mr Chairperson, I'm  
 11 sorry to interrupt at this stage but it may become relevant  
 12 later on and I do need to raise an issue now, which is that  
 13 what is being shown on the screen is not in fact  
 14 Opsplatinum.kmz in the form in which it was saved at 5:46  
 15 because what Colonel Scott has done – and I'm not  
 16 suggesting there's anything untoward about this but the  
 17 version that was saved – how Google Earth works is you have  
 18 a key which has a series of icons which will then be  
 19 plotted onto the aerial photograph and you can, by  
 20 adjusting the key on the left, which Colonel Scott is now  
 21 calling up, you can identify which icons you want to  
 22 display at any given time. I wonder, Colonel, if you can  
 23 just click one of the icons to show how it will go away  
 24 when you remove it, so the T for the target. Now all of,  
 25 on the version of the file that was saved at 5:46AM, all of

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1 the – the key was complete but not all of the items were  
 2 marked for display. On another file called  
 3 Opsplatinum.kmz, I think Opsplatinum2 which was saved a  
 4 little later, about 15 minutes later, all of the icons were  
 5 marked for display. It may become relevant at a later  
 6 stage. I just do want to make that distinction now.  
 7 CHAIRPERSON: All I'm concerned with at  
 8 the moment is that we describe the exhibits which have been  
 9 put in so that when we read the record later and when  
 10 subsequent people read the record, it'll be apparent what  
 11 exactly is being talked about at the moment. That's my  
 12 only concern.  
 13 MR CHASKALSON SC: That's precisely my  
 14 point, Mr Chairperson, is what you're looking at on the  
 15 screen is not what someone who subsequently calls up the  
 16 file, the electronic file Opsplatinum.kmz in the form that  
 17 it was saved at 15:46 will see.  
 18 CHAIRPERSON: Well, would you are to  
 19 describe for us, for the purposes of the record, what we  
 20 are now looking at, at the moment so that that problem  
 21 falls away?  
 22 MR CHASKALSON SC: Well, you're looking  
 23 at one of two things. We could describe it in one of two  
 24 ways, either one could say it is the file Opsplatinum2.kmz  
 25 as it would appear when called up, or it would be the file

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1 Opsplatinum.kmz in which all icons have been highlighted on  
 2 the satellite photo. Now that wasn't the form in which  
 3 Opsplatinum.kmz was saved at 15:46. I'm not suggesting  
 4 that anything will turn on this particular example but it  
 5 may become relevant at a later stage when we're dealing  
 6 with Google Earth plans and what was visible and what  
 7 wasn't visible.

8 CHAIRPERSON: Yes, I understand. Do you  
 9 understand my sole concern is that later when the record is  
 10 read, those who read it must be able to follow what exactly  
 11 has been said there.

12 MR CHASKALSON SC: I wonder if we, if I  
 13 could suggest possibly a methodology for – well, a way of  
 14 resolving this problem. If Colonel Scott could re – un-  
 15 save Opsplatinum.kmz and call it up in the form that it was  
 16 saved, which in fact Colonel Scott has just done that.

17 COLONEL SCOTT: But if I can give clarity  
 18 –

19 CHAIRPERSON: Am I correct in thinking  
 20 that one has got to read kmz and kmz2, which are the two  
 21 images that are relevant, we've got to read them together  
 22 and if one compares one with the other, one then can follow  
 23 the point that's being made. Is that correct?

24 MR CHASKALSON SC: It is for the purposes  
 25 of describing what one sees, Mr Chairman, but I don't want

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1 to suggest that the icons that Colonel Scott displayed  
 2 first up weren't on the file, they were.

3 CHAIRPERSON: No, no, I understand that.  
 4 All we're concerned with is producing an intelligible  
 5 record, that's all I'm concerned with and if we do it that  
 6 way the record will be sufficiently intelligible. So  
 7 Colonel, you understand the problem that I have, I just  
 8 want it to produce an intelligible record, that's one of my  
 9 responsibilities.

10 COLONEL SCOTT: Yes.

11 CHAIRPERSON: If you would help me to do  
 12 that you'll earn my gratitude.

13 COLONEL SCOTT: I'll quite simply explain  
 14 why it is as it is. When we start with a briefing of a  
 15 plan, you don't put the whole operational concept up. Part  
 16 of the background to a plan is you first orientate the  
 17 people that you are briefing to the environment that  
 18 they're in, thus it is saved in that format and then later  
 19 you can click on that format when you want to move to  
 20 showing them the operational concept and all the icons fall  
 21 into place later in your presentation where you now brief  
 22 them as to the actual operation and what you want them to  
 23 do.

24 CHAIRPERSON: As long as you make it  
 25 clear as you proceed with your evidence which image we're

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1 looking at, at which time, then I think there won't be a  
 2 problem, at least for the moment.

3 COLONEL SCOTT: Right. In essence, I'm  
 4 not trying to give the full planning briefing. It's just  
 5 speaking to the strategy still which was derived with  
 6 Colonel Merafi and two others at that meeting that evening  
 7 and what was critical there was when Mr Sinclair spoke to  
 8 us and said, but not the whole 3 000 remains at the koppie  
 9 overnight. The majority of them move away and there's only  
 10 a core group which do remain and this gave rise to an  
 11 opportunistic plan or strategy, if one would, that anyone –  
 12 and my reasoning at that time was, anybody staying at the  
 13 koppie, and I know that night was cold, it was close to  
 14 zero degrees, had to be staying there for a very good  
 15 reason and had to be possibly part of the core grouping and  
 16 possibly the grouping that, as we saw, was the smaller  
 17 grouping that had attacked the police earlier that day.

18 It was at this time as well when speaking about  
 19 the grouping and what would happen to the strikers with Mr  
 20 Sinclair that he also mentioned to us in the line of, as  
 21 far as my recollection can go, that the Karee hostel was  
 22 predominantly an AMCU grouping of men that would stay there  
 23 and that, explaining to us further about the Wonderkop side  
 24 which he'd mentioned where the miners' security had died  
 25 earlier was predominantly a more NUM dominated area. Thus

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1 the conflict on the Saturday when the grouping tried to  
 2 march through to go to the NUM offices. So with this  
 3 background and this understanding now, understanding that  
 4 the people on the koppie – and I simply give my reasoning  
 5 at that time – that they possibly came from Karee, that  
 6 they did not necessarily want to return to Karee,  
 7 understanding that - and at this same time I understood  
 8 that the group that the police tried to apprehend on the  
 9 Monday were actually on their way from Karee to the koppie.  
 10 Later I learned that they'd actually come from the koppie,  
 11 going in that direction and were trying to return. And my,  
 12 as I say, part of what we do when we plan is we're taught  
 13 to think like our opponents and then to try to counter what  
 14 our opponents would be doing and thinking like the  
 15 opponents, knowing that the police had had conflict with  
 16 them earlier that day, not wanting them to return – I would  
 17 not want to return to my place of residence knowing that  
 18 the police could have operations ready to pick me up,  
 19 specifically knowing that if they come from a hostel, mine  
 20 security could have identified them. And with that and  
 21 knowing the conditions of the weather it was, as I say I  
 22 was out and about at that time, it was really cold, so to  
 23 be staying out on the mountain or the koppie you needed to  
 24 have a very good reason.

25 My synopsis of that was, is that that's possibly

<p style="text-align: right;">Page 13394</p> <p>1 a core group, it's possibly a group that was involved in 2 attacking the police and if we could simply isolate that 3 group and prevent others from arriving to reinforce them or 4 to assist them, that it would work.</p> <p>5 We were also told at this time, Mr Sinclair 6 mentioned to us that their intelligence sources said that 7 there were possibly about 2 000 supporters, would be on 8 their way from the Mooinoi area the next morning to come 9 and join the gathering at the koppie and this explains why 10 I have an early warning team there. If I just – I just 11 want to see if I can put the roads in place. This was just 12 off the N – I'm not sure what the N, what highway it is, 13 it's one of the national roads and at one of the first 14 intersections an early warning team just to say whether 15 there were people coming in and it gives rise – and I'm 16 moving from the outside in now, to why there would be a 17 roadblock there and a roadblock here on the two roads which 18 would be, that I could see which were coming into the 19 koppie. It could stop buses – 20 [11:49] MR CHASKALSON SC: Sorry, Colonel, I'm 21 sorry to interrupt again. Mr Chairperson, with your 22 concern about an orderly record I think it may at this 23 point be appropriate to mark – 24 CHAIRPERSON: I was at the point of 25 saying something about it, it's not good saying a roadblock</p>	<p style="text-align: right;">Page 13396</p> <p>1 CHAIRPERSON: Make no promises that you 2 can't keep, carry on. 3 MR CHASKALSON SC: I can envisage a great 4 deal of difficulty in keeping the record intelligible 5 because there's going to be a great deal of questioning in 6 relation to Google Earth plans and my submission would be 7 that we adopt one of two methodologies. The one might be 8 each icon on a Google Earth plan has properties which can 9 be identified which gives its coordinates. So if Colonel 10 Scott for instance goes to one of those road blocks, any 11 one and right clicks his mouse and goes down to properties 12 we'll have exact coordinates and they might be identified 13 that way. 14 CHAIRPERSON: The other one? 15 MR CHASKALSON SC: The other one would be 16 use the hardcopy and for Colonel Scott to circle the road 17 block and say it's at, and mark it A and then speak to it 18 as A but I think we need a consistent methodology because 19 there will be a lot of questioning around these documents. 20 CHAIRPERSON: Colonel, it's your evidence 21 which of those two methods would you prefer? 22 COLONEL SCOTT: Sir, I think it's 23 probably going to be easier to mark the hardcopies, because 24 to have to put into exhibit all these lat longs is – 25 CHAIRPERSON: Well we will see on the</p>
<p style="text-align: right;">Page 13395</p> <p>1 here and a roadblock there, here a roadblock there a 2 roadblock everywhere a roadblock. That doesn't help us 3 when we read the record later. So I understand you've 4 shown us a roadblock but I would be grateful if you would 5 give a short description as to where it is on the image. 6 So the, what you say will be understood by those who read 7 it subsequently. 8 COLONEL SCOTT: Okay. There was an early 9 warning team of police members positioned possibly a 10 kilometre or two north of the N1 highway, on the road 11 leading to Mooinoi. We had a roadblock set up which was 12 going to be at Marikana town, at the T-junction in the town 13 which would have a road travelling towards the east, 14 towards the power station and where the koppie is 15 ultimately located and then we had a second road block on 16 an incoming road, the same road which would lead to 17 Marikana town but this time just past the BMR smelter 18 towards the, this is towards the east of the koppie, the 19 first road block being towards the west of the koppie on 20 the same road and that was to stop any mass busses, taxi 21 whatever means of transport would be coming because I 22 assumed and I think correctly that they would not walk that 23 distance to get to the koppie. 24 MR CHASKALSON SC: Mr Chairperson, this 25 will be my last interruption. But maybe the best way –</p>	<p style="text-align: right;">Page 13397</p> <p>1 screen what you're talking about. So if you'd be kind 2 enough to mark on your copy the record, we'll trust, you 3 don't have to show us every time to make sure it's right. 4 If you mark on your copy of the record by indicating what 5 it is that you're marking and then at the end of the day 6 you can hand it in and that can be photostatted but that's 7 probably the sensible way to do it, isn't it. 8 COLONEL SCOTT: Can I request possibly 9 that the legal team, I don't have a hardcopy with me. So 10 if they can mark what I'm showing. Okay so the road block, 11 if we can start at the early warning group as the letter A. 12 CHAIRPERSON: I'm sorry to interrupt you 13 Colonel. You say you haven't got the hardcopies yourself. 14 I'll give you mine. Now Advocate Pingla points out to me 15 that if one looks at JJJ1 one can see a roadblock marked 16 and one can see an early warning marked. The only one that 17 isn't marked is the second one, the second roadblock. So 18 bear in mind what you've got on the copy that you printed 19 for us and then in the description you give refer to that 20 and if there's something you have to add because it's not 21 covered put it in by pen and just say what you've done and 22 then at the end of the day we'll get your hardcopy with the 23 markings and it will be part of the record. 24 COLONEL SCOTT: Okay we're going back to 25 the early warning group. I'll mark that as A. If we move</p>

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1 to the roadblock to the west, I'll mark that as B. If we  
 2 speak to the roadblock which is just south of the koppie  
 3 but east on the road, I'll mark that as C and then zooming  
 4 in to the north was also what I termed a stopper group, in  
 5 case, I couldn't make out whether the pathway that was  
 6 there was a dirt road or just a pathway and so there was a  
 7 stopper group to the north and that will be D. In essence  
 8 now the concept for this operational strategy was going to  
 9 be that as I mentioned we would want to isolate those that  
 10 were on the koppie. In doing so we would utilise the razor  
 11 wire with the public order police Nyalas to do that. That  
 12 part of the operation I foresaw, as you can see there are  
 13 two colours on the screen, there's an orange line and a  
 14 blue line and that the razor wire would be deployed from  
 15 two directions in order to speed it up. This was to be a  
 16 first light operation to in essence give us the element of  
 17 surprise when moving in and that whoever was at the koppie  
 18 would be unprepared or unknowledgeable about what our  
 19 possible tactics may be. Half of the razor wire would move  
 20 to the right on the orange line from the southern side to  
 21 the north and the other half would drive in and deploy  
 22 from, on the blue line from the north towards the south. A  
 23 small exit area which is depicted in pink and we can mark  
 24 that as Echo or E was to be where we would on the opposite  
 25 side as you can see to the Nkaneng area where, is where we

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1 would bring out the strikers as we requested them to come  
 2 out in an orderly fashion. They would be processed there  
 3 in that purple area and weapons either left inside or  
 4 brought with them would be taken from them. At this point,  
 5 at the same echo point you can see the two vehicles that  
 6 are standing there. That signifies, I'm not sure if we  
 7 want to give those a number or not, they're already at the  
 8 Echo or the area marked E, that signified the police  
 9 transportation trucks that the strikers that have been at  
 10 this stage apprehended would be loaded into, would be taken  
 11 to a processing area to be interviewed.

12 CHAIRPERSON: Are these, I think they  
 13 call them cantors.

14 COLONEL SCOTT: Cantors yes.

15 CHAIRPERSON: So these would be two  
 16 cantors?

17 COLONEL SCOTT: Yes. At that same point  
 18 there would also be the forensic services as well as the  
 19 detectives who would actually deal with the processing of  
 20 any evidence as well as the processing of the strikers as  
 21 they comes through. So in essence that part of the  
 22 operation which later becomes significant of stage 4 or  
 23 phase 4 is planned for the area called E. During the  
 24 moving in and first encircling and setting out of the  
 25 filtering line what is positioned at Echo E was first to be

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1 positioned what is termed the FHA, it's demarcated on the  
 2 map and that was the forward holding area. So that the  
 3 detectives, the forensic services and the cantor, the  
 4 lorries would not be there until called forward in order to  
 5 continue with the loading or the processing of evidence or  
 6 people. What is shown as an I is in fact –

7 CHAIRPERSON: For those transcribing the  
 8 record by I, you mean the letter I.

9 COLONEL SCOTT: The letter I is actually  
 10 signifying observation post and the observation post that  
 11 you see here has got two vehicles with it, one in green,  
 12 one in red. The green depicts the special taskforce and  
 13 the red depicts the national intervention unit. These two  
 14 were to go to the letter I which is positioned on koppie 3  
 15 as we know it and they were to go to koppie 3, they were to  
 16 establish a reaction team behind what I could see from the  
 17 Google satellite picture I thought it to be some form of a  
 18 small koppie as well and they were to be out of sight. A  
 19 small team from the special task force was to move in  
 20 forward and was to first they would have moved out before  
 21 the rest and they would have had eyes on, as we say onto  
 22 koppie 1 where we assumed that the strikers were and they  
 23 would literally have given the information of what was  
 24 going on while the rest of the police assets were moving  
 25 into their positions.

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1 They had a dual purpose, the national  
 2 intervention unit and the special task force vehicles there  
 3 as a reaction team would respond when requested by the  
 4 operational commander if there were now life threatening  
 5 situations which were occurring with police members, that  
 6 they had better skills to move into to help in those, and  
 7 that was in case the filtering line or the situation at the  
 8 koppie became to dangerous. If I can just go in a closer  
 9 we see figures marked in yellow of what would be almost  
 10 police figures on the Google Earth map. They are  
 11 positioned inside the Nkaneng settlement and those I was  
 12 what I was envisioning to be crime intelligence agents or  
 13 operatives. Either police members themselves or their  
 14 members that they had recruited and I had positioned them  
 15 there for the reason that Mr Sinclair had mentioned to me  
 16 that people had been moving from around the Nkaneng area  
 17 coming through and they actually, they approached the  
 18 koppie through this area.

19 CHAIRPERSON: You say this area?

20 COLONEL SCOTT: This area being through –

21 CHAIRPERSON: Perhaps mark it on your  
 22 hardcopy then we all know what it is.

23 COLONEL SCOTT: It was a general  
 24 direction but it was from the Nkaneng settlement into –

25 CHAIRPERSON: You can mark the general –

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1 COLONEL SCOTT: Okay.

2 CHAIRPERSON: Sorry to interrupt you.

3 You can mark the general direction on the hard copy.

4 You've indicated to us on the screen but if you can mark it

5 on the hardcopy then it will be permanently recorded.

6 COLONEL SCOTT: Alright. What I would

7 say then it's the red line area that is running through the

8 Nkaneng settlement. There's a red line, although it does

9 extend over the veld towards the south, but the red line

10 that's running through the Nkaneng settlement is the area

11 that the strikers would come out to the koppie during the

12 day time.

13 CHAIRPERSON: I think you also indicated

14 where you anticipated they would leave the red line and

15 march, and go towards the koppie, I think perhaps if you

16 can draw that on your hardcopy for us.

17 COLONEL SCOTT: I'm not understanding,

18 Chairperson. The?

19 CHAIRPERSON: You've indicated as I

20 thought earlier, where you anticipated the strikers would

21 move from Nkaneng.

22 COLONEL SCOTT: Ja.

23 CHAIRPERSON: To the koppie, I thought

24 you indicated a spot between the, it's really the second

25 and the third car which are to be seen in close proximity

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1 to the orange line, that's moving from the left.

2 COLONEL SCOTT: Ja.

3 CHAIRPERSON: There's a figure between

4 the second car and the third car, I understood you to say

5 that was where you thought some of the people might come in

6 on the way to the koppie. If I'm correct then you can mark

7 that on your hardcopy, if I'm mark please what you had in

8 mind.

9 COLONEL SCOTT: Okay it was, as I had it,

10 Chair, at this stage it was very vague, a very wide, there

11 was no specific point which was pointed out to say that's

12 where they come through, It was just said they move from

13 deeper in the Nkaneng settlement, they walk through it and

14 they walk through it onto the koppie. As I say at this

15 time and this was later clarified when Mr Sinclair took me

16 out to orientate me and we stood at the forward holding

17 area where he had actually established his own security

18 checkpoints and that's the point where he would show me

19 this is Wonderkop Hostel, there's the Nkaneng settlement,

20 that's where the koppie is and, as I say, it was a general

21 direction which was given which helped to lead to the

22 building of this strategy further into the Google map just

23 before 6am.

24 CHAIRPERSON: I think we've got the

25 method working for indicating -

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1 COLONEL SCOTT: Yes.

2 CHAIRPERSON: What you were trying to

3 convey to us and a way of ensuring that those who read the

4 record subsequently will be able to follow so we can carry

5 on now.

6 COLONEL SCOTT: Okay.

7 COMMISSIONER HEMRAJ: May I just enquire,

8 the encircling of the koppie was only in respect of the

9 core group that remained overnight?

10 COLONEL SCOTT: Yes.

11 COMMISSIONER HEMRAJ: Thank you.

12 COLONEL SCOTT: Yes, as I say this was

13 to, because we initially we didn't plan, we were actually

14 going into to plan for a 3 000 group and how to deal with

15 that, how we would approach it on the Tuesday and when we

16 did get the information from Mr Sinclair that most of them

17 leave overnight and there's only a core group which remains

18 we see that as an opportunity to say well lets deal with

19 the core group. Let's try and apprehend them and prevent

20 others from coming through and that's where you see the

21 yellow line, the prevention line is what we call a

22 filtering line which was made up of public order policing

23 and TRT members. Initially these TRT members would just

24 assist the Public Order Policing in the deployment of the

25 wire, the razor wire and then move towards the filtering

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1 line. Now the reasoning behind the filtering line as well,

2 as well as what was, we didn't go into in depth what we

3 would do necessarily if they refused to come out of the

4 razor wire. We just saw, put a barrier up between the

5 police and the protestors, we didn't want conflict, we

6 didn't want to from a human line which we thought may

7 become something that, would be considered to be attacked.

8 So the razor wire, put it up and then dialogue with those

9 inside to get reason, to get them to exit through the area

10 we marked as E, the processing area to get into the trucks,

11 hand in their weapons, etcetera. The filtering line as

12 well would be tasked to, I wouldn't say necessarily prevent

13 people, but prevent armed people from approaching and

14 anybody that was armed and even their job was going to be

15 to also engage in dialogue with people that were

16 approaching, explaining again the illegality of armed

17 protesting, etcetera, requesting them to return or to back

18 away while this operation was underway.

19 CHAIRPERSON: I assume by armed I take it

20 you mean armed with dangerous weapons?

21 COLONEL SCOTT: Yes.

22 CHAIRPERSON: So if someone with a stick

23 came past you let him through, someone came past with a

24 panga or an assegai -

25 COLONEL SCOTT: Yes.

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1 CHAIRPERSON: You wouldn't let him  
 2 through unless he surrendered his –  
 3 COLONEL SCOTT: Yes.  
 4 CHAIRPERSON: His panga or his assegai.  
 5 COLONEL SCOTT: That's correct.  
 6 CHAIRPERSON: Am I understanding you  
 7 correctly?  
 8 COLONEL SCOTT: Ja. As I say it, and I  
 9 don't want to go into detail known now or thought out now,  
 10 but that is pretty much we didn't go into the extreme  
 11 depths of really looking deeply into, once we've done this  
 12 where would it lead us, one of three paths, they would  
 13 either sit, they would either come out or they may even  
 14 decide to attack. Those options were not looked at as yet.  
 15 It was 2 o'clock in the morning as I said we came up with  
 16 the basic strategy as you see it there and it was to be  
 17 presented to the JOCCOM for further comment and way forward  
 18 after this was delivered to them that morning, the Tuesday  
 19 morning.  
 20 MR SEMENYA SC: Yes, Colonel, what you  
 21 have just described tells us that there was a idea to  
 22 encircle a small group of people on the koppie as a  
 23 possible solution to the problem?  
 24 COLONEL SCOTT: That's correct. I  
 25 thought if we could apprehend the leadership or the core

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1 militant group at that time that it may bring an end to  
 2 everything.  
 3 MR SEMENYA SC: And you tell that to us  
 4 as appears on your statement from paragraph 6.33 on page  
 5 29. You also continued to describe how that encirclement  
 6 was to happen and how the briefing would be done at the 6  
 7 o'clock morning JOCCOM meeting.  
 8 COLONEL SCOTT: That's right.  
 9 MR SEMENYA SC: And you continue in your  
 10 document to describe exactly what you were telling us, what  
 11 would be the role of the STF, that of the NIU. You will  
 12 see as you continue on your statement you also describe the  
 13 cantors and their role in paragraph 6.36.4 and the  
 14 movements of the various other units.  
 15 COLONEL SCOTT: That's correct.  
 16 MR SEMENYA SC: As you tell us, Mr  
 17 Sinclair had also warned you that he had information about  
 18 those people you describe, the 2 000 odd people who would  
 19 be coming from Mooinooi area to the south of Marikana,  
 20 that's what you have just been dealing with now.  
 21 COLONEL SCOTT: Yes.  
 22 MR SEMENYA SC: And how you conceived  
 23 positioning the various units as your evidence reveals,  
 24 correct?  
 25 COLONEL SCOTT: That's correct.

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1 MR SEMENYA SC: And you tell us as you  
 2 did about the forward holding area and that the purpose of  
 3 this as a plan would have been to have a rapid deployment  
 4 so that you're able to catch the would be strikers, armed  
 5 strikers unawares or unprepared?  
 6 COLONEL SCOTT: Yes, in essence it was  
 7 just to isolate what we believed to be the leadership or  
 8 the core group and then from there to deal just with them  
 9 and not necessarily a larger group numbering up to 3 000  
 10 odd.  
 11 MR SEMENYA SC: At the bottom of page 32  
 12 you say against paragraph 6.38 after recapping the  
 13 operational concept with Lieutenant Colonel Merafe and the  
 14 other POP members they agreed on the approach and you said  
 15 you would capture it into a presentation for the 6 o'clock  
 16 JOCCOM briefing.  
 17 COLONEL SCOTT: That's correct.  
 18 MR SEMENYA SC: And the meeting adjourned  
 19 at that time of the morning but Mr Sinclair then drove you  
 20 to the BMR Smelter where he had a security detail posted  
 21 there, am I right?  
 22 COLONEL SCOTT: That's right.  
 23 MR SEMENYA SC: What does that mean?  
 24 [12:08] COLONEL SCOTT: He was orientating me, he  
 25 took me in his vehicle and drove me around just to show me,

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1 as I said I arrived at the mine in dark. I was very  
 2 unaware, I had never been to the mine before, so he took me  
 3 to drive me to show me exactly where it was and I had now  
 4 the concept in my mind from the Google Earth Satellite  
 5 photograph, but still that is a photograph taken some time  
 6 up to a year or two previously.  
 7 MR SEMENYA SC: So he takes it to the  
 8 koppie at a safe distance, cautions against getting too  
 9 closer and it was during that time that you are getting the  
 10 orientation of what is at the koppie and surrounds. Is  
 11 that right?  
 12 COLONEL SCOTT: Yes.  
 13 MR SEMENYA SC: And Mr Sinclair then  
 14 says, as you tell us, during that orientation, that they  
 15 can offer the Project Coin helicopter to do a  
 16 reconnaissance flight early in the morning, correct?  
 17 COLONEL SCOTT: That's correct.  
 18 MR SEMENYA SC: And those reconnaissances  
 19 were done giving you what information?  
 20 COLONEL SCOTT: That was to, for me to  
 21 ascertain more precisely how many people were at the  
 22 koppie. The idea was to get a better idea because  
 23 obviously it would impact the plan if we were expecting  
 24 there to be a hundred or less, then there could be far  
 25 more, or for that matter whether there was anybody at the

<p style="text-align: right;">Page 13410</p> <p>1 koppie.</p> <p>2 MR SEMENYA SC: Right. You wake up at</p> <p>3 04:30, just a few hours after you entered there, and you</p> <p>4 return to the briefing room where you start building the</p> <p>5 presentation for the operational concept, is that right?</p> <p>6 COLONEL SCOTT: That's correct.</p> <p>7 MR SEMENYA SC: You arranged again a</p> <p>8 Google Earth Satellite map with icons to display as you</p> <p>9 were walking us through with this presentation, am I right?</p> <p>10 COLONEL SCOTT: That's correct.</p> <p>11 MR SEMENYA SC: And you continued to</p> <p>12 build a power point presentation to cover all the major</p> <p>13 aspects, what is the situation, what the mission is, the</p> <p>14 execution, admin and logistics and commanding signals.</p> <p>15 COLONEL SCOTT: That's right.</p> <p>16 MR SEMENYA SC: On paragraph 7.2 you say</p> <p>17 you started formatting a presentation that Monday evening,</p> <p>18 during the time and while the senior police officers were</p> <p>19 in a meeting with the mine management, correct?</p> <p>20 COLONEL SCOTT: That's right.</p> <p>21 MR SEMENYA SC: And to save time in</p> <p>22 building the presentation, you used the design from a</p> <p>23 previous briefing you had built for Operation Rhino,</p> <p>24 correct?</p> <p>25 COLONEL SCOTT: That's correct.</p>	<p style="text-align: right;">Page 13412</p> <p>1 10 persons who were on the koppie.</p> <p>2 COLONEL SCOTT: That was the report we</p> <p>3 received, yes.</p> <p>4 MR SEMENYA SC: You were not part of the</p> <p>5 reconnaissance team throughout?</p> <p>6 COLONEL SCOTT: No, I was working on the</p> <p>7 presentation.</p> <p>8 MR SEMENYA SC: But there was a second</p> <p>9 reconnaissance flight that brought back the information</p> <p>10 much later, around 06:30 that there were about 15 to 20</p> <p>11 persons on the koppie.</p> <p>12 COLONEL SCOTT: That's right. By then,</p> <p>13 it was just – the sun wasn't up, but it was light enough to</p> <p>14 now see.</p> <p>15 MR SEMENYA SC: And you considered that</p> <p>16 favourable to implement your concept which was devised, I</p> <p>17 think the word should read, with Lieutenant-Colonel Merafe</p> <p>18 is that right?</p> <p>19 COLONEL SCOTT: Yes.</p> <p>20 MR SEMENYA SC: In the morning, six</p> <p>21 o'clock you were under the impression that JOCCOM was</p> <p>22 supposed to meet that time and that you had to do a</p> <p>23 briefing at that time. Is that right?</p> <p>24 COLONEL SCOTT: That's right.</p> <p>25 MR SEMENYA SC: But so you tell us, that</p>
<p style="text-align: right;">Page 13411</p> <p>1 MR SEMENYA SC: Now Operation Rhino was</p> <p>2 also an operation in which you were involved which included</p> <p>3 the use of various units working in unison. Is that right?</p> <p>4 COLONEL SCOTT: That's right.</p> <p>5 MR SEMENYA SC: And you say, this</p> <p>6 explains why the planning presentation for Operation</p> <p>7 Platinum have some of the Operation Rhino slides at the end</p> <p>8 of the document. I think we will deal with this a little</p> <p>9 later in much greater detail when we compare what was on</p> <p>10 the Google map, what was on the presentation and at what</p> <p>11 time those came to be. Is that okay, Colonel?</p> <p>12 COLONEL SCOTT: It's fine. As I say,</p> <p>13 this is to the best of my recollection of how I can work I</p> <p>14 out. I know I used the Operation Rhino previous slide</p> <p>15 show, because I format my own slides when I make the</p> <p>16 presentations. I don't use the standard one that you find</p> <p>17 in the programme itself but to the best of my recollection</p> <p>18 this is how I did it.</p> <p>19 MR SEMENYA SC: Okay. Then around 05:30</p> <p>20 in the morning you arranged a helicopter reconnaissance</p> <p>21 flight to seek confirmation of the numbers of people who'd</p> <p>22 have been on the koppie. Is that right?</p> <p>23 COLONEL SCOTT: That's right.</p> <p>24 MR SEMENYA SC: And because it was still</p> <p>25 dark, you used a torch and you could only see more or less</p>	<p style="text-align: right;">Page 13413</p> <p>1 due to lack of availability of some of the role-players you</p> <p>2 were expecting to brief, you delayed the presentation and</p> <p>3 in the meantime, you upgraded the presentation thinking the</p> <p>4 role-players had only left Lonmin Mine premises after</p> <p>5 midnight and had far to travel. Is that right?</p> <p>6 COLONEL SCOTT: That's correct. I was</p> <p>7 expecting them to arrive any time after six, six onwards.</p> <p>8 MR SEMENYA SC: But you were also</p> <p>9 informed that there would be additional personnel or</p> <p>10 members who would come to assist with that operation. Is</p> <p>11 that right?</p> <p>12 COLONEL SCOTT: That's correct.</p> <p>13 MR SEMENYA SC: Most of them were not</p> <p>14 there at that time for the six o'clock morning operation,</p> <p>15 is that right?</p> <p>16 COLONEL SCOTT: That's right.</p> <p>17 MR SEMENYA SC: At the bottom of the</p> <p>18 page, you tell us that you concluded then that the</p> <p>19 envisioned concept to deploy the police members in</p> <p>20 encircling the koppie and forming a filtering line, was no</p> <p>21 longer an option. Why was that the case?</p> <p>22 COLONEL SCOTT: We sent out a</p> <p>23 reconnaissance flight again sporadically, and the feedback</p> <p>24 that was coming in was that the koppie was filling up, and</p> <p>25 by about eight, between eight, just after eight, they said</p>

<p style="text-align: right;">Page 13414</p> <p>1 to us that the group is back at the strength of about 3 000 2 and at that stage, I realised that the ability to deploy 3 with a surprise to just surround those that would be at the 4 koppie, the smaller group, is no longer going to work. 5 MR SEMENYA SC: Yes. During the morning 6 you also received feedback from STF reconnaissance team 7 that you had sent out for observation post that they can go 8 to – what we now know to the koppie 3. Correct? 9 COLONEL SCOTT: That's correct. 10 MR SEMENYA SC: But they came back to 11 tell you that the terrain and the feasibility of that 12 operating as an observation post was not suited. 13 COLONEL SCOTT: That's correct, they said 14 there's a lot of movement in that very vicinity. 15 MR SEMENYA SC: And that they also 16 reported that some of the strikers were moving through 17 koppie 3 to get to koppie 1 and at times some would have – 18 would move between koppie 1 and 3 for short periods. 19 COLONEL SCOTT: Yes. 20 MR SEMENYA SC: Given this information 21 you reverted to addressing the challenges you had 22 identified by re-evaluating the situation. Correct? What 23 did you do then? 24 COLONEL SCOTT: Once I saw that we 25 couldn't implement that initial strategy I started</p>	<p style="text-align: right;">Page 13416</p> <p>1 get there as well. 2 MR SEMENYA SC: So the next generation of 3 planning is one of patrolling the area and engaging the 4 strikers with a view to speak them out these arms they are 5 carrying. 6 COLONEL SCOTT: Are you talking now after 7 the sector policing? 8 MR SEMENYA SC: No, you are moving now 9 from the left, encircle the small group – 10 COLONEL SCOTT: Yes? 11 MR SEMENYA SC: - you are now at a point 12 where you think you are going to do the sector policing 13 patrolling – 14 COLONEL SCOTT: Yes? 15 MR SEMENYA SC: - and using dialogue as a 16 means of trying to disarm those who are armed. 17 COLONEL SCOTT: No, not during the sector 18 patrols. There was no dialogue. It was simple interaction 19 with community members to understand the atmosphere and 20 their points of view. But there was no dialogue, there was 21 no interaction at this time with the patrols, with the 22 strikers at the koppie. 23 MR SEMENYA SC: Yes, what I am trying to 24 establish, Colonel, is the encircling operation would have 25 been a tactical operation as you used the word.</p>
<p style="text-align: right;">Page 13415</p> <p>1 understanding that the police forces were arriving. We had 2 nobody in the field. Knowing how I felt the previous 3 night, not knowing where the koppie was, how to 4 geographically orientate myself, I relied on an approach 5 which I've employed before, it's a sector patrol approach. 6 So I split the environment around the koppie into four 7 different sectors. At this stage, I approached General 8 Mpmembe, I asked him if we could deploy the police members 9 who were there to go and patrol, so that we could put the 10 newly arrived forces with some of the forces who had been 11 working in the area already, and they would move into the 12 four different sectors to patrol and to orientate 13 themselves. I also needed information at this time, which 14 I didn't have and that was, amongst others, just what the 15 attitude of the people in the environment were, not 16 necessarily the strikers but the rest of the people that 17 they would encounter on route. I needed to know, I already 18 envisioned where to place what I was calling the police 19 neutral area, due to my information at that time of the 20 Wonderkop hostels being an area where conflict has resulted 21 and that the NUM offices were behind those still. The 22 police would then place themselves between the striker 23 group and those targets which I anticipated. So I needed 24 to know how to get there, and I tasked some of the groups 25 on patrol to go and look at the road conditions on how to</p>	<p style="text-align: right;">Page 13417</p> <p>1 COLONEL SCOTT: Yes. 2 MR SEMENYA SC: But that gets abandoned. 3 COLONEL SCOTT: Yes. 4 MR SEMENYA SC: You no longer going 5 tactical with your second stage of thinking. 6 COLONEL SCOTT: Yes. 7 MR SEMENYA SC: And you tell us against 8 paragraph 7.8 that you developed another interim 9 operational concept, that is now of using these patrols for 10 multiple purposes, is that right? 11 COLONEL SCOTT: That's correct. That was 12 the sector policing patrol strategy 13 MR SEMENYA SC: The one that you have 14 just been addressing now for us? 15 COLONEL SCOTT: That is correct. 16 MR SEMENYA SC: And you say the patrol 17 strategy would have the police group that was too large to 18 brief, using computer based satellite photos, that you had 19 developed. You realised that the newly arrived police 20 members needed to be orientated and integrated into the 21 respective forces in the area already. 22 COLONEL SCOTT: That's correct. 23 MR SEMENYA SC: You would be having 24 various units coming from various provinces, and the idea 25 was to split them into units with locals being able to</p>



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1 orientate those that were arriving from outside.  
 2 COLONEL SCOTT: That's correct.  
 3 MR SEMENYA SC: At the bottom, you say  
 4 that would have also been an advantage to give you presence  
 5 in the area to prevent acts of intimidation, violence and  
 6 destruction of property.  
 7 COLONEL SCOTT: That's correct.  
 8 MR SEMENYA SC: There was a task on this  
 9 number of members of the police to gather intelligence.  
 10 COLONEL SCOTT: That's correct.  
 11 MR SEMENYA SC: To map out the approach  
 12 routes which the strikers would use.  
 13 COLONEL SCOTT: It was more to map out  
 14 the routes that we would be looking at. At this time, the  
 15 strikers, the majority of them to my understanding, were at  
 16 the koppie already. I just wanted to know how we would get  
 17 there –  
 18 MR SEMENYA SC: But also -  
 19 COLONEL SCOTT: - which route to use.  
 20 MR SEMENYA SC: But also to secure at  
 21 that neutral area from –  
 22 COLONEL SCOTT: Yes.  
 23 MR SEMENYA SC: - which you'd operate.  
 24 You deal further down and say you requested information on  
 25 the atmosphere around the area, and the attitude of the

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1 local population towards the police presence.  
 2 COLONEL SCOTT: That's correct.  
 3 MR SEMENYA SC: Why did you do this?  
 4 COLONEL SCOTT: It's important to know  
 5 what the community is feeling towards the police at that  
 6 time, specifically in my view after what happened on the  
 7 Monday. So that's why to engage just with normal members  
 8 of the community, because this also, thinking from a  
 9 tactical point of view now, when we do deploy to the  
 10 neutral area, we've got to consider whether there's a  
 11 danger so to say to our rear at the same time, when we're,  
 12 everybody facing the group of strikers.  
 13 MR SEMENYA SC: Yes. It was around  
 14 eighth o'clock to nine when you speak with Major-General  
 15 Mpembe, you introduce the idea of patrols and you get his  
 16 approval.  
 17 COLONEL SCOTT: Yes.  
 18 MR SEMENYA SC: And now the mid-morning  
 19 of that day, with Major-General Mpembe at the JOC, you say  
 20 against paragraph 7.11, "there were some of the commanders  
 21 present there as well."  
 22 COLONEL SCOTT: That's right.  
 23 MR SEMENYA SC: "Who were briefed on the  
 24 sector patrol approach" and then you divided them into  
 25 various zones.

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1 COLONEL SCOTT: That's right.  
 2 MR SEMENYA SC: "We also have a grid in a  
 3 exhibit L," that shows how you were planning to have the  
 4 patrol happen, is that right?  
 5 COLONEL SCOTT: That's correct, it's  
 6 slide 64 speaks to the sector patrol explanation, and slide  
 7 65 shows the gridded map. The maps that I would hand out  
 8 to the commanders would all be gridded because of the air  
 9 operation and because of the scale of the environments, so  
 10 that it was a quick reference method that members could  
 11 remember to certain areas, whether the helicopter could  
 12 speak down to the people on the ground or the people on the  
 13 ground speak to the helicopter, you couldn't simply point  
 14 to a tree or a bush or a pole, nobody would know where you  
 15 were. So it's a grid method where one would simply say,  
 16 for instance on this grid, the koppie unfortunately falls  
 17 in the middle but it's on the, we can say Echo 5, E5, and  
 18 that would be the eastern side of the koppie, and that's  
 19 how we would refer to.  
 20 MR SEMENYA SC: So that when you  
 21 communicate with various units you'd use the horizontal  
 22 line, well it meets with the vertical one and those people  
 23 would know that command is addressed to them.  
 24 COLONEL SCOTT: In concert, yes, although  
 25 we would speak to the block that they fall into.

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1 MR SEMENYA SC: Okay. There was a JOC  
 2 meeting as you describe, the POP members would travel in  
 3 Nyalas with a minimum of three in convoy, accompanied by at  
 4 least three soft skinned vehicles carrying tactical police  
 5 members from the TLT or the NIU in support of them as a  
 6 contingency.  
 7 COLONEL SCOTT: That's right.  
 8 MR SEMENYA SC: This also was a show of  
 9 force strategy in relation to the operation as you  
 10 contemplated it.  
 11 COLONEL SCOTT: Yes, it was on that  
 12 already. It worked in both directions. We needed POPs to  
 13 be with tactical forces and we needed tactical forces to be  
 14 with POPs. We didn't want tactical forces to be without  
 15 POPs in case they may be caught inside Nkaneng Township by  
 16 a group of protesters cut off, and they had no ways of  
 17 actually breaking out with non-lethal application of  
 18 tactics.  
 19 MR SEMENYA SC: Yes. And you say that  
 20 they deployed shortly thereafter and continued to work on –  
 21 and you continued to work on a more permanent operational  
 22 structure there, with the guiding principles and the  
 23 mission, a strategy would provide the foundation for the  
 24 operational concept for deployment and would be approved by  
 25 the senior command in the JOC. Is that right?

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1 COLONEL SCOTT: That's correct.  
 2 MR SEMENYA SC: And throughout that  
 3 morning, you continued to work on a longer term strategy.  
 4 You improved the appreciation of the environment, using the  
 5 Google Earth satellite photos and the orientation that you  
 6 obtained from Mr Sinclair and incorporated the background  
 7 information you had during and over the course of the  
 8 night. Is that right?  
 9 COLONEL SCOTT: That's right.  
 10 MR SEMENYA SC: And you continue and say,  
 11 the synopsis of the strategic guidelines and expectations  
 12 you had appreciated the previous evening, in the meeting  
 13 with the police senior officers was as follows. The SAPS  
 14 will enter dialogue with the protesters, giving an  
 15 opportunity for non-technical resolution. Is that right?  
 16 COLONEL SCOTT: That's right.  
 17 MR SEMENYA SC: Then the SAPS members  
 18 will protect life and property should the need arise by  
 19 responding proportionally to such force.  
 20 COLONEL SCOTT: Correct.  
 21 MR SEMENYA SC: They were to exercise  
 22 caution to protect their members without provoking  
 23 aggression from the protesters.  
 24 COLONEL SCOTT: That's right.  
 25 MR SEMENYA SC: And as a result of this,

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1 the mission for the operation was then tabled to be that a  
 2 combined SAPS force will restore stability to the Lonmin  
 3 Mine area in Marikana from 14 August 2012 by deploying  
 4 proactively with a visible show of force isolating the  
 5 transgressing group and ensuring an orderly processing of  
 6 gatherers to extract weapons and identify suspects involved  
 7 in the unrest.  
 8 COLONEL SCOTT: That's correct.  
 9 MR SEMENYA SC: And we know we have that  
 10 mission as part of exhibit SSS3.  
 11 COLONEL SCOTT: Yes.  
 12 [12:28] MR SEMENYA SC: You continued,  
 13 appreciating the situation with a little time and the  
 14 intelligence that was available to you. Why were there  
 15 limitations in relation to intelligence gathering?  
 16 COLONEL SCOTT: From my understanding,  
 17 and is spoke with Brigadier Engelbrecht that morning, he  
 18 was one of the members who was there at 6 o'clock when I  
 19 was discussing about the positioning of the yellow figures  
 20 on the screen, he mentioned to me that it was close to  
 21 impossible to get his intelligence gatherers to recruit  
 22 informers or to go into the area themselves. Going in  
 23 would mean almost certain vulnerability to themselves and  
 24 the mining community there is a very close-knit group. So  
 25 he, in essence, told me he didn't have people that he could

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1 position in those areas that I was requesting, for  
 2 information. And thus from that we could understand that  
 3 the lack of intelligence coming through was a similar  
 4 reason.  
 5 MR SEMENYA SC: And then you also you  
 6 addressed what are called co-ordinating instructions, the  
 7 operational strategy in its sequence. What do you mean by  
 8 that?  
 9 COLONEL SCOTT: Again the co-ordinating  
 10 instructions, as I said, is just the sequencing of the  
 11 strategy and at that time after – I knew that we'd put  
 12 police members out into the field with the patrol sector  
 13 policing but that was not going to deal with the issue. We  
 14 needed to get there to start dialogue with them and  
 15 obviously dialogue is not a plan on its own. You need  
 16 something in case we arrive and dialogue is unsuccessful or  
 17 they refuse point blank to speak with the police, thus a  
 18 show of force and if a show of force is unsuccessful, to  
 19 prohibit or attacks or aggression towards the police, that  
 20 there would need to be a tactical option and so these  
 21 things flowed logically to me. Thereafter if there's a  
 22 tactical option there would need to be a processing of a  
 23 possible crime scene or evidence or of arrested persons,  
 24 information would be gathered from that, the specialised  
 25 units would go out to follow up on that information, being

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1 a stage 5, and obviously in line with the Provincial  
 2 Commissioner's instructions to disarm the people in this  
 3 area that were walking with these traditional weapons as  
 4 was found in the OB, to go to the hostels thereafter and to  
 5 confiscate as many of the dangerous weapons as we could to  
 6 – and that was the vision to bring back stability to the  
 7 area.  
 8 MR SEMENYA SC: Those six sequential  
 9 phases are the ones that are also depicted or indicated in  
 10 exhibit L, is that right?  
 11 COLONEL SCOTT: That's correct.  
 12 MR SEMENYA SC: Okay. As I say, they  
 13 would follow on chronologically, culminating in the cordon  
 14 and search to retrieve weapons that may be in the places  
 15 where the strikers were resident.  
 16 COLONEL SCOTT: It was envisioned that on  
 17 that Tuesday chronologically and sequentially they would  
 18 follow each other. It made sense in that direction but  
 19 it's not to say that a stage 5 could not be implemented  
 20 earlier or a stage 6 could be implemented earlier, if  
 21 intelligence services come with viable information and  
 22 that's why the NIU and task force were also brought into  
 23 the area because they could go and work on that information  
 24 outside of what was happening at the koppie, to try to  
 25 arrest or gain back stolen items, firearms, and of course

<p style="text-align: right;">Page 13426</p> <p>1 stage 6 was also there and it was always also an option  2 because we didn't know from day-to-day what the strikers  3 would be doing. We didn't know that they would be back at  4 the koppie on the Wednesday. So as I say, those were all  5 sequentially placed but obviously could be, specifically  6 stages 5 and 6, could be utilised at any time as the police  7 would require it to be done.  8 MR SEMENYA SC: And to tell us that  9 General Annandale was there, you were reporting to him and  10 that you were not privy to some of the things because the  11 generals would have their own meetings at times and you  12 would be working separately from them.  13 COLONEL SCOTT: That's correct.  14 MR SEMENYA SC: And this included  15 meetings which the generals attended with mine management  16 to which you were not necessarily a party.  17 COLONEL SCOTT: I think that's more what  18 I'm referring to. I know that they went to a meeting with  19 mine management on the Monday night. I didn't visibly see  20 them go off and have a meeting together but I did  21 understand that because General Naidoo was deployed in the  22 field and General Mpembe would be busy with strategic  23 negotiations with the presidents of the unions, things like  24 that, that General Annandale would sporadically brief them  25 in an informal fashion on one side when he had the ability</p>	<p style="text-align: right;">Page 13428</p> <p>1 MR SEMENYA SC: And as you do on page 42  2 of your statement, you describe what phase 1 would have  3 entailed and the purpose why you would have taken that  4 phase into account, i.e. to seek a peaceful disarmament  5 and dispersion resolution.  6 COLONEL SCOTT: That's correct.  7 MR SEMENYA SC: Correct?  8 COLONEL SCOTT: Yes.  9 MR SEMENYA SC: And you explain exactly  10 how the POP members in the armoured vehicles would have had  11 to respond and how the other TRT members would be  12 positioned approximately 100 metres to the rear east, as  13 you describe it.  14 COLONEL SCOTT: That's correct.  15 MR SEMENYA SC: And the role of the TRT  16 members would be to assist their colleagues should the  17 strikers threaten the lives of the POP members to the point  18 where they could not escape or were forced to exit their  19 armoured vehicles because of, for instance, the vehicles  20 being set alight.  21 COLONEL SCOTT: That's correct, as well  22 as to, so to say, guard the rear flank from any approaches  23 from the eastern side.  24 MR SEMENYA SC: Yes. And you continue to  25 say that you also had a reserve group comprising of</p>
<p style="text-align: right;">Page 13427</p> <p>1 or the chance to.  2 MR SEMENYA SC: And it is around 11  3 o'clock that you would then give General Annandale the  4 briefing of the various phases.  5 COLONEL SCOTT: Yes. I've tried as  6 accurately as possible to put the time frames in. They  7 could be slightly out, I'm unsure but as I say I've tried  8 to sequence it from how I recall it throughout the day.  9 MR SEMENYA SC: But the briefing that you  10 also gave to General Annandale is really in broad terms,  11 there is no particular detail that is given for each phase,  12 am I right?  13 COLONEL SCOTT: You're correct. I  14 basically just told him the strategy as I explained it a  15 moment ago. There was no direct detail as to how.  16 MR SEMENYA SC: And you discussed it with  17 Major-General Annandale, what was his attitude to that as a  18 proposal at that time?  19 COLONEL SCOTT: He was receptive to the  20 strategy and proposed that we called the full JOCCOM  21 meeting together and that we brief the commanders and that  22 we can get the commanders to brief their own members and  23 that we can start moving out to deploy a phase 1, that we  24 can start with the negotiations and the monitoring of the  25 group to see whether we could get a resolution.</p>	<p style="text-align: right;">Page 13429</p> <p>1 additional POP armoured vehicles with barbed wire trailers.  2 COLONEL SCOTT: That's correct.  3 MR SEMENYA SC: Where would the reserve  4 group be positioned in relation to the operation?  5 COLONEL SCOTT: They would be positioned  6 at the forward holding area. As the name stipulates, it is  7 an area for holding your reserves, your contingency forces,  8 et cetera, which is closer to the front but it's not at the  9 front. So that is a forward holding area and our reserve  10 forces, the barbed wire or the razor wire vehicles with  11 their trailers would be positioned there as well.  12 MR SEMENYA SC: And the thinking of  13 placing some of the POP members in the forward holding  14 areas, what was the thinking behind that?  15 COLONEL SCOTT: Well, the forward holding  16 area is also positioned closer because of a response, so if  17 there was an issue with regard to the phase 1 deployment  18 and they moved into place and suddenly they became  19 overwhelmed, obviously the first tactic would be to try to  20 drive away but you would need to call in reserve forces as  21 rapidly as you could to assist.  22 MR SEMENYA SC: And what was going to be  23 the role of the helicopters?  24 COLONEL SCOTT: And of course – sorry,  25 well, if I can also, the reserve forces in your forward</p>

<p style="text-align: right;">Page 13430</p> <p>1 holding area, again we didn't know what the crowd was going  2 to do. We didn't know if they were planning to mobilise as  3 a group, et cetera. Thus the razor wire was placed at  4 forward holding area because I started at the same time  5 exploring further possible targets of infrastructure at the  6 mine so that we could deploy there and put up a barrier of  7 razor wire in case we saw that the crowd was going to  8 mobilise in that direction. Thus those reserve forces as  9 well - or if parts of the crowd moved off again.</p> <p>10 The helicopter of course the same as the strategy  11 I had when I was driving in, to be utilised as a command  12 platform if an operation was going to be launched but in  13 the interim our helicopter would be utilised to provide us  14 with aerial footage and general feedback to give us what we  15 call situation reports from the air, because they would be  16 able to see much more than the ground forces would be able  17 to see.</p> <p>18 MR SEMENYA SC: And as part of the  19 reserve group that was to be positioned at the forward  20 holding area you would have various disciplines, your  21 emergency medical services, your fire brigade, your crime  22 scene and investigation experts, etcetera.</p> <p>23 COLONEL SCOTT: That's correct.</p> <p>24 MR SEMENYA SC: What would be the purpose  25 for that?</p>	<p style="text-align: right;">Page 13432</p> <p>1 tactical forces that were there. And of course the  2 evidence, at the same time the forensic services to deal  3 with any evidence on scene.</p> <p>4 MR SEMENYA SC: And the helicopters would  5 help also to feed in information that is obtained in their  6 aerial overview of the area.</p> <p>7 COLONEL SCOTT: That's correct.</p> <p>8 MR SEMENYA SC: The idea of the plan was  9 also that they would provide you with photos and footages  10 of what was happening below.</p> <p>11 COLONEL SCOTT: As best as possible and  12 Colonel Vermaak used his initiative, he started taking  13 Blackberry photographs and forwarding them back to the JOC  14 for us so that we could get real-time pictures of what was  15 going on.</p> <p>16 MR SEMENYA SC: And in the plan, what was  17 the role for the Oryx?</p> <p>18 COLONEL SCOTT: The Oryx would be  19 utilised, I considered that there could be what I call the  20 wayward incidents where something could be occurring off  21 where the major operation could take place, if there was  22 any form of operation or conflict. So the Oryx was simply  23 there, that we would have a standby team that could be, as  24 we called it, on an aerial platform that could be located  25 to areas where anybody that was in trouble, be it media</p>
<p style="text-align: right;">Page 13431</p> <p>1 COLONEL SCOTT: Well, when I draft plans  2 those are always standard to have there. We know the stun  3 grenades can cause fire and one wouldn't want a veld fire,  4 for that matter, where people become entrapped. We know  5 that if there is conflict of any sort that you need to have  6 medical personnel close at hand so that they can deal with  7 whoever gets injured or wounded. So these are elements  8 which are, as we would say, standard operating procedures  9 to have part of any plan, to be your emergency services but  10 you'd never place them close to where any conflict could  11 be. They are people that we consider soft in the operation  12 and you would want to have them in a protected environment,  13 only to come forward under the, once the operational  14 commander starts declaring certain areas safe and they can  15 be escorted and allowed to work without their own lives  16 being at risk.</p> <p>17 MR SEMENYA SC: And where there are acts,  18 criminal acts happening, those arrested would be processed  19 and evidence would be gathered and you'd be using the  20 detectives to manage the crime scene, as it were.</p> <p>21 COLONEL SCOTT: That's correct. That's  22 why the detectives and the forensic services were also  23 placed at the forward holding area, that we had people on  24 immediate standby to deal with any arrested persons and not  25 have to leave that up to the public order policing or the</p>	<p style="text-align: right;">Page 13433</p> <p>1 personnel, innocent civilians that may be trying to go to  2 work or miners, police officials that were isolated in  3 certain areas – we really didn't know what to expect when  4 we went to the front so that was just a contingency plan  5 that would be directed then by the police helicopter which  6 would have the command on board.</p> <p>7 MR SEMENYA SC: Yes. You also detail  8 what was conceived to be phase 2, i.e. escalating the  9 levels of force by bringing some of those members from the  10 forward holding areas, is that right?</p> <p>11 COLONEL SCOTT: That's correct.</p> <p>12 MR SEMENYA SC: The purpose would be, as  13 you call it, the show of force, an attempt at dissuading  14 the crowds into appreciating that there is more than they  15 can handle.</p> <p>16 COLONEL SCOTT: Yes, that's correct.</p> <p>17 MR SEMENYA SC: And you tell us that  18 phase 2 was only to be initialised or started when the  19 threat level against the police increased or it became  20 evident the strikers would not want to move away from the  21 koppie if you wanted them to.</p> <p>22 COLONEL SCOTT: It was, I anticipated  23 that if the group wanted to – as I say, the closest what I  24 presumed to be targets for the strikers were to the backs  25 of the police to the east, being the Wonderkop hostel and</p>

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1 the NUM offices, et cetera. So if the group en masse  
 2 decided to mobilise in that direction, this was one of the  
 3 reasons then to bring forward your reserves and to put up a  
 4 show of force to try to dissuade any mass march action in  
 5 that direction.  
 6 MR SEMENYA SC: Yes. Phase 2 also  
 7 contemplated you prepositioning the various Nyalas with  
 8 barbed wire.  
 9 COLONEL SCOTT: That's correct.  
 10 MR SEMENYA SC: What would be the purpose  
 11 of using that barbed wire in phase 2?  
 12 COLONEL SCOTT: Well, it was a  
 13 contingency plan in essence to form a barrier between the  
 14 police, the neutral area and the strikers. So if it became  
 15 that evident that the operational commander determined that  
 16 he needed something, because either through information  
 17 intelligence, words from the media that there was an  
 18 imminent march about to occur or that they wanted to maybe  
 19 advance on the police, that they could deploy that wire to  
 20 form a barrier. However, that is why phase 2 spoke to only  
 21 pre-positioning and not deploying the wire because it was  
 22 simply a matter of a show of force.  
 23 Thus also the pre-positioning in certain, with a  
 24 certain distance between the Nyalas so that in phase 2 that  
 25 wire could be deployed simultaneously because it would need

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1 to be a rapid deployment of the wire in order to form the  
 2 barrier but we didn't want to deploy the wire unnecessarily  
 3 because if the crowd didn't do anything and maybe marched  
 4 off somewhere, we needed the wire to go and barricade or  
 5 isolate possible targets that they could be marching  
 6 towards, for instance cordoning off the streets with wire  
 7 around the NUM office if the crowd decided to move in that  
 8 direction around the police.  
 9 MR SEMENYA SC: And then you detail  
 10 further what would be the scenario should the strikers get  
 11 violent with the members during phase 2 that it would be  
 12 deployed at the instruction of the operational commander.  
 13 COLONEL SCOTT: That's correct.  
 14 MR SEMENYA SC: You also made provision  
 15 in phase 2 for the air reaction team from the STF, where  
 16 they were positioned in a staging area.  
 17 COLONEL SCOTT: That's correct.  
 18 MR SEMENYA SC: They too would add to the  
 19 show of force to help dissuade any confrontation with the  
 20 strikers.  
 21 COLONEL SCOTT: That's correct.  
 22 MR SEMENYA SC: You also detail what was  
 23 to be phase 3 and you say it was to be a predetermined,  
 24 deliberate tactical option by the police to resolve the  
 25 situation and to be employed where negotiations were deemed

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1 unsuccessful and a show of force had failed to deter  
 2 further lawlessness.  
 3 COLONEL SCOTT: That's correct and I  
 4 think the key words there are the predetermined, deliberate  
 5 tactical action from the police side, and if there was  
 6 action during phase 2 it would have been simply a  
 7 contingency action where the police would have to,  
 8 according to standard operating procedures, respond to what  
 9 is occurring. Stage 3, however, is where the police have  
 10 decided that nothing is working, for instance, and we need  
 11 to employ a tactical option in order to resolve the  
 12 situation.  
 13 MR SEMENYA SC: Yes and you detail at the  
 14 bottom at page 46 of your statement the stage 3 concept  
 15 still of encircling a small group of those who would  
 16 resist, am I correct?  
 17 COLONEL SCOTT: What I've done, due to  
 18 the time restraints and maybe the lack of information at  
 19 the time, is I'd simply taken the initial plan which we've  
 20 discussed on screen and I'd made that the phase 3. As I  
 21 said, it's a deliberate action and I foresaw on the Tuesday  
 22 that if we didn't come right with negotiation, because the  
 23 forces were now there, because there was a structured  
 24 JOCCOM, we could brief properly and carry out the same plan  
 25 on the Wednesday morning just to encircle again the smaller

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1 group. Thus the predetermined, deliberate tactical police  
 2 operation in order to resolve the situation.  
 3 MR SEMENYA SC: And then you describe  
 4 phase 4 at the bottom of your statement, page 47. What do  
 5 you say there?  
 6 COLONEL SCOTT: That was simply the  
 7 processing again, as we know it, with the detectives, the  
 8 crime scene management, et cetera and again there's no plan  
 9 necessary for them, they work according to their standard  
 10 operating procedures in how they know how to process  
 11 arrestees as well as the evidence that they would receive.  
 12 MR SEMENYA SC: So would be the case in  
 13 relation to phase 5 and 6, that required no detail because  
 14 that would be part of what are standard operational  
 15 practices of the police.  
 16 COLONEL SCOTT: That's correct. Many of  
 17 these units would, when receiving the information, they are  
 18 trained to make plans there and then. They're trained even  
 19 to go to certain structures without knowing what it looks  
 20 like, et cetera and it's standard operating procedure for  
 21 them, if they've got the ability and the time to do a  
 22 reconnaissance to gain information they'll do that and make  
 23 a plan, but it's impossible here. That's what we consider  
 24 a tactical level plan, whereas what we were dealing with  
 25 here was more in the strategic environment to the

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1 operational environment.  
 2 [12:48] MR SEMENYA SC: And obviously the later  
 3 phases would be employed with the benefit of information  
 4 obtained from those who were arrested, that would be  
 5 additional intelligence used to successfully plan for the  
 6 later phases.  
 7 COLONEL SCOTT: That's correct.  
 8 MR SEMENYA SC: Of course you deal with  
 9 this in paragraph 7.22, you say, "Due to the lack of time  
 10 available to place a product before the commanders to  
 11 empower them to deploy as a co-ordinated force, the need  
 12 for simplicity to ensure clarity was a major  
 13 consideration." You'd recall that the – maybe before we  
 14 get there, the plans as they appear at that stage, they do  
 15 not have the detail in relation to what would happen,  
 16 correct?  
 17 COLONEL SCOTT: That's correct.  
 18 MR SEMENYA SC: When the briefing gets  
 19 done, though, with the Google map and the PowerPoint  
 20 presentation, how was that briefing done to bring everybody  
 21 on board?  
 22 COLONEL SCOTT: I think maybe this is  
 23 why, or through experience and instruction and speaking to  
 24 groups, I understand that if you've got to do something  
 25 quickly and rapidly you'll best speak through pictures and

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1 people will understand pictures with, as we see on the  
 2 screen, and understand their positions, whereas if I had to  
 3 put up a Word document and try to speak to that, in a short  
 4 period of time that would not be sufficient. You would  
 5 find, due to language issues, et cetera, that people would  
 6 not understand fully and what I was saying there is,  
 7 besides the time constraints, any operational plan where  
 8 you have the time is to be in the verified operational plan  
 9 format which is accepted by the police but in this  
 10 situation there was insufficient time to put that together.  
 11 There was insufficient knowledge of even the resources that  
 12 we had, insufficient intelligence to do that properly. So  
 13 the best to do was to put the strategy down in a PowerPoint  
 14 presentation. The PowerPoint presentation still speaks to  
 15 what we call SMEAC, we still go over the situation, we  
 16 discuss the background and all the relevant information  
 17 there to orientate the audience to what the situation is,  
 18 where they are and then we go into the risks and from there  
 19 we'll move into what our mission is and we give our mission  
 20 to them. So everybody understands the guiding statement  
 21 for this operation is the mission and that's what we aim to  
 22 achieve. The operational concept which I would deal with  
 23 would be similar to what you see on screen now and that's  
 24 where I would speak to them according to the positioning of  
 25 the icons so that the people would understand where public

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1 order policing would be, where the tactical teams would be,  
 2 et cetera. And after that you deal with, as the Commission  
 3 talks about housekeeping, you would deal with more your  
 4 administration, et cetera, your signals, the channels for  
 5 the radios and your command structure. So the Tuesday was  
 6 the only day that I did get to give the full, as we call  
 7 it, the SMEAC briefing.  
 8 MR SEMENYA SC: Yes, and what the plans  
 9 do not show would be the verbal articulation you would give  
 10 during the briefing to the various members.  
 11 COLONEL SCOTT: It's similar to what we  
 12 experienced earlier. What simply would be now, in hard  
 13 evidence would be a picture similar to that and maybe with  
 14 a couple of slides, but the amount of verbal input that  
 15 goes with that whilst briefing your audience is tenfold of  
 16 what you see.  
 17 MR SEMENYA SC: It is at 2 o'clock,  
 18 thereabouts, where you now give the first structured JOCCOM  
 19 this briefing, am I correct?  
 20 COLONEL SCOTT: Yes.  
 21 MR SEMENYA SC: And the POP commanders in  
 22 particular, were they there?  
 23 COLONEL SCOTT: Yes, the POP commanders –  
 24 all commanders were called back from the sector patrol  
 25 plan. We left the forces out with their, obviously you've

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1 got what we would call team leaders or deputy commanders in  
 2 the field, you leave them with the forces and you bring  
 3 back the commanders for briefing. All commanders were  
 4 requested to come in and the JOCCOM was held with all  
 5 commanders present, the commanders that were there on that  
 6 Tuesday.  
 7 MR SEMENYA SC: And all were fully  
 8 briefed.  
 9 COLONEL SCOTT: All were fully briefed  
 10 according to the strategy, according to the PowerPoint  
 11 presentation. What you would see on the screen, the Google  
 12 Earth, is normally a hyperlink to the presentation. I  
 13 would normally put a little Google Earth icon into the  
 14 corner of one of the slides which I would click on and it  
 15 hyperlinks it to this programme, that comes up and I speak  
 16 to this programme and then eventually go back to the  
 17 presentation and continue again.  
 18 MR SEMENYA SC: How long did this  
 19 briefing take place?  
 20 COLONEL SCOTT: I don't recall a precise  
 21 time but it was pretty in depth. It was at least an hour,  
 22 hour and a half.  
 23 MR SEMENYA SC: And at paragraph 7.26,  
 24 page 50, you say "Due to my arrival in an ongoing situation  
 25 and the uncertainty of the strikers' movements and actions

<p style="text-align: right;">Page 13442</p> <p>1 at that time, I had chosen to build a PowerPoint 2 presentation covering the principles expected in a plan.” 3 COLONEL SCOTT: That's correct. 4 MR SEMENYA SC: That deals with you doing 5 the briefing of the various commanders, correct? 6 COLONEL SCOTT: That's correct. 7 MR SEMENYA SC: And this is how most of 8 the briefings would happen? 9 COLONEL SCOTT: As I said, on the Tuesday 10 I briefed the full SMEAC plan. I would still brief in 11 similar fashion on Wednesday and on Thursday but to a 12 lesser degree. I didn't speak to many of the other 13 environments due to members in the JOCCOM themselves 14 speaking to the intelligence, et cetera. 15 MR SEMENYA SC: Yes and you tell us that 16 Major-General Annandale would chair this JOCCOM meeting and 17 you would do the PowerPoint presentations? 18 COLONEL SCOTT: That's correct. 19 MR SEMENYA SC: With regard to phase 1 20 and in contrast with, say, phase 6, which of the two did 21 you give a detailed briefing in relation to the operation? 22 COLONEL SCOTT: Again due to, I didn't 23 want to, what we call fire-hose, the fire-hose effect, the 24 commanders. They had to deploy as quickly as we could to 25 get them back out to effectively deploy on phase 1. If I</p>	<p style="text-align: right;">Page 13444</p> <p>1 MR SEMENYA SC: And that is why your 2 JOCCOM sessions would then become important, to collate the 3 information from various units and integrate whatever 4 information you have for the plan. 5 COLONEL SCOTT: Yes. 6 MR SEMENYA SC: At about 14:30, you tell 7 us, when the briefing meeting with the commanders at the 8 JOCCOM concluded, the members deployed in the field were 9 called back from their sector patrols to be briefed by 10 their respective commanders. The reorganising of the full 11 deployment took place at the rear staging area under the 12 control of Brigadier Calitz. So the sense is that after 13 the commanders had obtained their own briefing, they would 14 then go down to do the briefing of the units to which they 15 were in command. 16 COLONEL SCOTT: That's correct. 17 MR SEMENYA SC: Would this be a 18 convenient stage, Mr Chair? 19 CHAIRPERSON: Very well, we'll take the 20 lunch adjournment now and hope to reassemble at about 21 quarter to two. 22 [COMMISSION ADJOURNS COMMISSION RESUMES] 23 [13:44] CHAIRPERSON: This commission resumes. 24 Colonel, you're still under oath. Mr Semenya, do you want 25 to move onto your next point?</p>
<p style="text-align: right;">Page 13443</p> <p>1 had gone into detail, and I myself at that time had not 2 gone into too much detail on the rest of the phases. I'd 3 also concentrated mainly on phase 1 and I'd named the other 4 phases with a strategy behind them, as I spoke earlier to 5 phase 3 being the initial plan from that morning, but I 6 concentrated with the commanders on phase 1 and what we 7 expected of phase 1 and in essence just named the other 8 phases so that they had the understanding of where the 9 strategy was being driven towards, should phase 1 obviously 10 not succeed, that these were the rest of the sequential 11 steps that we would follow but no detail in any of those 12 steps was given. 13 MR SEMENYA SC: And you say that the 14 operational plan needed to be highly flexible at this time 15 and why was that? 16 COLONEL SCOTT: Well, we were – as I say, 17 we were unsure of the actions of the strikers. We didn't 18 know what their response would be to us on arrival. That's 19 why there was a stage or a phase 2. We didn't know whether 20 they would be there the next day. We didn't know whether 21 they would make plans and mobilise elsewhere or what they 22 would be doing overnight. So it's one thing sitting now 23 with the hindsight of what did occur, but at that time we 24 had no idea what they would be doing from hour to hour or 25 day to day.</p>	<p style="text-align: right;">Page 13445</p> <p>1 MR SEMENYA SC: Thank you, Chair. We had 2 just finished, Colonel, dealing with the 1430 after the 3 JOCCOM concluded, you see there at the top of the page 52 4 paragraph 7.29. Are you there? 5 COLONEL SCOTT: Yes, I'm there. 6 MR SEMENYA SC: You say there that the 7 members deployed in the field were called back from their 8 sector patrols to be briefed by the respective commanders. 9 The reorganising of the full deployment took place at the 10 rear staging area under the control of Brigadier Calitz. 11 COLONEL SCOTT: That's correct. 12 MR SEMENYA SC: You continue to say about 13 16:00 the phase 1 deployment departed from the rear staging 14 area at the JOC and took their positions at the forward 15 holding areas where the monitoring and negotiation group 16 moving forward to occupy the ground to the east of the 17 koppie between the closest target being the NUM offices, 18 police station, Wonderkop hostels, Andrew Saffy Hospital 19 and this area became the neutral area for the police, you 20 say. 21 COLONEL SCOTT: That's correct. 22 MR SEMENYA SC: And then you post the NIU 23 to protect three key points to the east of that strikers, 24 is that right? 25 COLONEL SCOTT: Major-General Annandale</p>

<p style="text-align: right;">Page 13446</p> <p>1 posted them to my knowledge, it wasn't part of the planning  2 I had. But I know that was done. It was an input from  3 somebody else, it wasn't part of what I had suggested.  4 MR SEMENYA SC: And you say the top of  5 page 53, with the knowledge of the destruction of property  6 and through gaining more history of where the attacks which  7 had happened over the weekend you started to map the  8 facilities which had been targeted around the mine.  9 COLONEL SCOTT: That's correct.  10 MR SEMENYA SC: And this means that you  11 had specific points that you thought would be negative  12 attraction points, correct?  13 COLONEL SCOTT: Yes, I first started  14 mapping what had already been attacked and on the Wednesday  15 when Mr Dirk Botes was introduced to us I sat with him and  16 we mapped what were possible points that could be  17 considered targets if destruction of property was to  18 continue.  19 MR SEMENYA SC: And it was around that  20 time that you are now told or information is placed before  21 you that there is a smaller militant group who were tightly  22 packed together and marching up and down in front of the  23 police monitoring line chanting and waving weapons.  24 COLONEL SCOTT: Yes, that was after the  25 phase 1 deployment was in place and that was the feedback</p>	<p style="text-align: right;">Page 13448</p> <p>1 MR SEMENYA SC: Yes.  2 COLONEL SCOTT: It was also to say one of  3 the last acts of the day, if I could put it that way,  4 that's was being talked about over the radio.  5 MR SEMENYA SC: Yes, and until the 16th  6 there were no incidents of violence reported to the JOC  7 until the events of the 16th, this was the last known  8 violence –  9 COLONEL SCOTT: To my knowledge that was  10 the last violence that I was aware of, yes until the 16th.  11 MR SEMENYA SC: And you deal of course  12 with the fact that there was various shifts that were  13 intended to make sure that the entire area is under  14 observation 24/7.  15 COLONEL SCOTT: Yes, there was obviously  16 the dayshift which was working according to the strategy  17 and then there was the nightshift who had their own  18 strategy that they were providing a police presence in the  19 area through the normal patrols.  20 MR SEMENYA SC: And also feeding in  21 information which they thought relevant in relation to the  22 happenings of the day?  23 COLONEL SCOTT: That's correct.  24 MR SEMENYA SC: It is at that point that  25 you are advised about a group of people performing what</p>
<p style="text-align: right;">Page 13447</p> <p>1 that was coming through on the radio into the JOC.  2 CHAIRPERSON: You've gone onto talk about  3 something that happened on the Wednesday but what you're  4 now describing took place on the Tuesday afternoon?  5 COLONEL SCOTT: Yes.  6 MR SEMENYA SC: It is on that Tuesday  7 when you get information regarding a worker who has been  8 fatally wounded?  9 COLONEL SCOTT: Yes, initially the media  10 were reporting and as far as I know to our media liaison  11 officer that a body had been discovered and we heard that  12 the media had found the location but the police were still  13 trying to find the location and the police helicopter  14 started the search and as far as I know the body was  15 located somewhere mid afternoon to the south of koppie 1,  16 about a 100 metres to the south of koppie 1.  17 MR SEMENYA SC: And it was your  18 information that the police took care of that problem and  19 addressed that crime scene, is that right?  20 COLONEL SCOTT: Yes. To my understanding  21 and listening to the radio in the JOC the police units  22 deployed actually moved out and went to deal with that  23 crime scene. After the initial information coming through  24 about them attempting a dialogue with the strikers at that  25 time.</p>	<p style="text-align: right;">Page 13449</p> <p>1 appeared to be rituals of some kind?  2 COLONEL SCOTT: Ja, that information came  3 through on the radio when the police deployed into the  4 phase 1, on arrival you could hear that they were talking  5 about men that were unclothed and seemed to be rushing to  6 get dressed.  7 MR SEMENYA SC: Yes.  8 COLONEL SCOTT: But if I'm, no it may be  9 hindsight so I don't want to maybe, but I know that the  10 helicopter had also picked up these things were going on.  11 MR SEMENYA SC: The information coming  12 through as well was that the negotiations with the strikers  13 are going well, that's what you received from the JOC where  14 you were?  15 COLONEL SCOTT: When the people, the  16 police members returned for the evening debrief I recall  17 Colonel Macintosh in, being allowed to give what he had  18 been doing, etcetera, saying that they had made contact and  19 they had undertaken to meet the next morning and he said  20 that it seemed to have gone well and that they were looking  21 forward to meeting the next morning with the strikers to  22 continue with dialogue.  23 MR SEMENYA SC: Yes, and we know that the  24 idea of encircling a small group was aborted once you  25 didn't have enough resources, correct?</p>



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1 COLONEL SCOTT: Yes, well if it's the  
 2 initial plan –  
 3 MR SEMENYA SC: That's the Tuesday  
 4 morning.  
 5 COLONEL SCOTT: Ja, the Tuesday morning  
 6 plan which I had reserved for a possible tactical option  
 7 for Wednesday morning, in light of the negotiators coming  
 8 back and saying that it is going well and it seems that  
 9 there is a possibility to resolve this through dialogue  
 10 obviously I didn't at that stage want to interfere with  
 11 saying we need to go to the tactical option now, knowing  
 12 that the next morning the dialogue would continue again  
 13 between the police and the strikers.  
 14 MR SEMENYA SC: So the idea was not to  
 15 proceed with that plan either on the Wednesday?  
 16 COLONEL SCOTT: No, the decision was  
 17 taken that they'd continue with the phase 1.  
 18 MR SEMENYA SC: Yes, and to say against  
 19 paragraph 7.37 after the evening JOCCOM meeting Major-  
 20 General Annandale asked you to have the planning  
 21 presentation ready to peruse the next morning before the 6  
 22 o'clock JOCCOM meeting.  
 23 COLONEL SCOTT: Yes, in essence it was  
 24 just be ready to brief again. We were aware that forces  
 25 from around the country may still be incoming and we'd

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1 still need to be briefed on what the operational strategy  
 2 was.  
 3 MR SEMENYA SC: And before that JOCCOM  
 4 now this is the Wednesday or the 15th of August you recall  
 5 considering the tactical options in more detail after  
 6 understanding the situation better from the information  
 7 gained through the police deployment on Tuesday.  
 8 COLONEL SCOTT: Yes.  
 9 MR SEMENYA SC: You are now aware of a  
 10 smaller militant group of strikers and that the  
 11 negotiations were going to continue, meaning the strikers  
 12 would be present in a larger group as witnessed during the  
 13 phase 1 deployment the previous day.  
 14 COLONEL SCOTT: Yes.  
 15 MR SEMENYA SC: Your analysis therefore  
 16 you realised the need for a second forward holding area and  
 17 why was that?  
 18 COLONEL SCOTT: It made, as for the same  
 19 reasoning we had forward holding area 1, which became  
 20 forward holding area 1, the initial only one was to have a  
 21 reserve force there in case of the mobilisation of the  
 22 group. During the course of the Tuesday in mapping where  
 23 the incidents had happened and I had seen that some of  
 24 those things that's gone on towards the western side of  
 25 Marikana and we didn't have any show of force or reserve

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1 force towards the west and my concern was that if a group  
 2 of 3 000 stood up to march that they could in essence move  
 3 to the road and block the police and we would have a very  
 4 far distance to have to get around them to move to beat  
 5 them to any mine infrastructure. Thus the suggestion that  
 6 we create a second forward holding area to the west for  
 7 that very reason.  
 8 MR SEMENYA SC: And you describe that in  
 9 paragraph 8.2 with one correction though the third sentence  
 10 should read while seeking more information on the situation  
 11 you had during the Tuesday.  
 12 COLONEL SCOTT: That's correct.  
 13 MR SEMENYA SC: As opposed to during the  
 14 day.  
 15 COLONEL SCOTT: Ja.  
 16 MR SEMENYA SC: Been made aware of an  
 17 event at the K4 shaft on the previous Sunday night and the  
 18 location of a shaft to the west of the koppie. Is that  
 19 right?  
 20 COLONEL SCOTT: That's correct.  
 21 MR SEMENYA SC: You then continue to say  
 22 at around 5:45 you met with Major-General Annandale and  
 23 brought him up to speed about the need to create another  
 24 forward area.  
 25 COLONEL SCOTT: That's correct.

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1 MR SEMENYA SC: To which he agreed?  
 2 COLONEL SCOTT: That's right.  
 3 MR SEMENYA SC: It is at 6 o'clock at the  
 4 JOCCOM when General Annandale again as routine would have  
 5 it, presided over the proceedings there.  
 6 COLONEL SCOTT: That's correct.  
 7 MR SEMENYA SC: And you say that the, you  
 8 remember being present in those meetings, various  
 9 disciplines, there will be the Major-Generals Mpmembe,  
 10 Naidoo, Brigadier Calitz and Pretorius from the Northwest,  
 11 visible policing cluster commander, crime intelligence,  
 12 detective, police negotiators, POP, various senior  
 13 commanders, TRT commanders and commanders TF commander, K9  
 14 commanders, LCRC commander, mobile operations commander,  
 15 mounted unit commander, air wing, various support  
 16 commanders for radio technical, finance and supply, finance  
 17 supply chain management and other ad hoc support personnel,  
 18 there was also the SAA representative and so to a  
 19 representative from the Lonmin mine security.  
 20 COLONEL SCOTT: Yes, I thinks, most were  
 21 present from the beginning of the JOCCOM, certain role-  
 22 players arrived late due to, the Air wing for instance due  
 23 to only being able to fly once the, it was light enough to  
 24 fly. So Colonel Vermaak would come in a little later. The  
 25 dog unit would have to go and fetch their dogs first and

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1 the mounted unit would have to for matter fetch their  
 2 horses first and they would receive permission to attend or  
 3 to arrive a little late.

4 MR SEMENYA SC: And you say on the  
 5 morning of Wednesday you did not give the full presentation  
 6 starting with the situation, etcetera.

7 COLONEL SCOTT: No, it was no longer with  
 8 the JOCCOM running, the basic layout would be to assess who  
 9 had arrived and General Annandale would basically do a roll  
 10 call and every commander present would explain who he was,  
 11 what unit he represented and how many assets he had brought  
 12 with him and this would be tabulated for the day on a  
 13 flipchart and after that it would generally move to has  
 14 anything happened over night. What is the intelligence, is  
 15 there any intelligence where the intelligence community was  
 16 given the opportunity to give their briefing. So many of  
 17 what I would normally have presented in a plan was now  
 18 being presented through the roll players of the JOC sitting  
 19 there and my role became simply that of show the strategy  
 20 again, phase 1 strategy. So I was limited to just those  
 21 slides which I was dealing with now.

22 MR SEMENYA SC: Okay and as you tell us  
 23 Major-General Annandale would reflect on what has happened  
 24 in the past days and bringing everybody up to speed and  
 25 Lieutenant Colonel Macintosh and Brigadier Calitz spoke to

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1 the meeting to provide background on the events of the  
 2 previous day?

3 COLONEL SCOTT: Ja.

4 MR SEMENYA SC: Brigadier Engelbrecht  
 5 covered the intelligence threat analysis, is that right?

6 COLONEL SCOTT: That's right.

7 MR SEMENYA SC: And there was feedback  
 8 from the crime scene of the murdered male Mr Twala which  
 9 was given by the LCRC representative and the detective.  
 10 Correct?

11 COLONEL SCOTT: That's right.

12 MR SEMENYA SC: With that update Major-  
 13 General Annandale requested you to show him the deployment  
 14 strategy, am I right?

15 COLONEL SCOTT: That's correct.

16 MR SEMENYA SC: And then you used the  
 17 Google Earth map satellite to explain the phase 1  
 18 deployment in a much more detail.

19 COLONEL SCOTT: Ja, I can recall on  
 20 Wednesday I would still go back to the mission and  
 21 literally start from the mission, just to, because I know  
 22 there were new people there, just to orientate them and  
 23 then run through the next couple of slides which dealt with  
 24 the operational concepts, going to the Google maps that  
 25 they could understand better in that way. But after the

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1 operational strategy that's where it ended. Of course the,  
 2 sorry but part of that is also coordinating structures and  
 3 I don't recall what the slide was called but it was  
 4 basically the sequence of movement, who would be going to  
 5 what area as well.

6 MR SEMENYA SC: And you say with this  
 7 presentation the difference was the inclusion now of  
 8 forward holding area 2?

9 COLONEL SCOTT: Yes, now it included  
 10 forward holding area 2.

11 MR SEMENYA SC: And you say there were  
 12 senior POP commanders there?

13 COLONEL SCOTT: Yes, there were two new  
 14 arrivals that I've had dealing with before. So I know them  
 15 and I was aware that they had arrived and one of them was  
 16 given the command of forward holding area 2.

17 MR SEMENYA SC: That is now Brigadier  
 18 Woodman?

19 COLONEL SCOTT: That's correct but at  
 20 this time he was representing the same post as Brigadier  
 21 Calitz, he was the Gauteng head of operational response  
 22 services.

23 MR SEMENYA SC: And you point out that  
 24 the Brigadier though, Brigadier Woodman was not present on  
 25 the 16th?

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1 COLONEL SCOTT: No.

2 MR SEMENYA SC: In there you also allude  
 3 to the deployment of phase 2 to provide more clarity and  
 4 then briefly cover the rest of the phases in the  
 5 coordinating instructions?

6 COLONEL SCOTT: This is so, obviously now  
 7 with more time on hand I had more time to look a little  
 8 deeper into the actual sequence phases and therefore be  
 9 able to brief just a little bit better on a phase 2 in case  
 10 it was necessary to be implemented.

11 MR SEMENYA SC: You do tell us that after  
 12 you explained the operational concept Major-General  
 13 Annandale assigned the available resources to their  
 14 respective roles and functions.

15 COLONEL SCOTT: Yes, I didn't do the  
 16 actual allocating of roles and functions.

17 MR SEMENYA SC: Major-General Annandale?

18 COLONEL SCOTT: Yes, I just simply spoke  
 19 to the units and where they would go but the locating of  
 20 the personnel to the positions and so on was done through  
 21 General Annandale.

22 MR SEMENYA SC: And what do you say in  
 23 paragraph 8.22 relevant to Lieutenant Colonel Merafe?

24 COLONEL SCOTT: I know when the JOCCOM as  
 25 it was, at all the JOCCOMs, General Annandale would give

<p style="text-align: right;">Page 13458</p> <p>1 the opportunity and literally by pointing out of each  2 person to any input or any objections, etcetera, Colonel  3 Merafe raised an objection that he was unsure of what he  4 was to brief his members on and General Annandale cleared  5 that, he said well at this stage there is, because a POPs  6 commander in essence would want to know which one of the  7 tactical options is he to prepare his people for reply and  8 General Annandale put in a piece with we're on a standby at  9 this stage, it's monitoring and negotiation so you need to  10 just be in a standby at this stage and if necessary and if  11 we do escalate at any stage you'll be informed thereafter.  12 MR SEMENYA SC: So there were  13 opportunities for commanders to interrogate the plan as the  14 briefing went on?  15 COLONEL SCOTT: Yes, there were.  16 MR SEMENYA SC: And those of the new  17 arrivals would also be given their call signs, you say?  18 COLONEL SCOTT: That's correct. All new  19 arrivals that held command positions were allocated a call  20 sign.  21 MR SEMENYA SC: Regarding communication,  22 you had what on plan in relation to that?  23 COLONEL SCOTT: Regarding communication,  24 I had set up the communication on, and the command and  25 control for that matter on the Tuesday already and briefed</p>	<p style="text-align: right;">Page 13460</p> <p>1 away and brief their sections before Brigadier Calitz would  2 take over to take them to the front.  3 [14:04] MR SEMENYA SC: And you say you recall it  4 being mentioned that morning just at the JOCCOM before the  5 main force deployment, that there were cattle moving around  6 in the vicinity of the koppie?  7 COLONEL SCOTT: Yes, that was something  8 that triggered a memory not too long ago that somebody  9 mentioned and in just trying to clarify that it was  10 mentioned to me by another colleague that they think it was  11 the observation post. But we definitely heard inside the  12 JOC that there are cattle around the koppies and that tied  13 in with something the helicopter was reporting at the time  14 that the people seem to be more spread out than normal.  15 They weren't just on the koppies, they were around the  16 grass areas as well, and they were seated. And we actually  17 wondered at that time whether wasn't a leak in our  18 intelligence or our information inside the JOC that was  19 getting back out to the miners and that they knew that  20 there was a possible strategy of encirclement at some  21 stage. And I remember this pertinently, because we thought  22 that they would use the cattle to rush them maybe at the  23 barbed wire or the razor wire and then follow out  24 afterwards, or just sitting so broadened that we wouldn't  25 be able to actually encircle them for that matter.</p>
<p style="text-align: right;">Page 13459</p> <p>1 it initially as it was but thereafter the radio technical  2 person from the province was now available at the JOC so I  3 didn't speak to that any longer. It was now a matter of  4 there were issues raised about the lack of communication  5 from the forward area on the Tuesday that they were  6 struggling and obviously the availability of radios was now  7 also sorted out. There was a little radio shack if one  8 could, it was like a caravan that was established just  9 outside the JOC and all commanders had to go past there and  10 sign out a radio. So that radio checks could be done when  11 they went to their vehicles before departing from the rear  12 staging area and that was actually part of the coordinating  13 instructions was to do radio checks first, ensure everybody  14 had radios per vehicle, per commander before deploying.  15 MR SEMENYA SC: And at the end of the  16 JOCCOM meeting the commanders returned to their members who  17 had formed the parade there.  18 COLONEL SCOTT: Yes, there was a parade  19 that was set up during the JOCCOM meeting and they would  20 actually wait and when the commanders came out one of the  21 generals, I think it was General Mpenbe, I wasn't actually  22 at those, I would remain in the JOC, but I did go out to  23 glance at just the set up and so on, but not attend, would  24 take the parade and they would do the normal parade as the  25 police would then the commanders would take their sections</p>	<p style="text-align: right;">Page 13461</p> <p>1 But at that stage, stage 3 or phase 3 was not in  2 consideration even, it was still just the initial plan  3 although it had the naming of encirclement, but it was  4 never intended anyway to try to encircle 3,000 people.  5 MR SEMENYA SC: Yes. And you say after  6 the benefit of that information you began to consider an  7 alternative plan to the current opportunistic unsettling  8 concept?  9 COLONEL SCOTT: Yes, in the discussions  10 which arose from the – General Annandale actually called a  11 small little informal meeting around the JOCCOM table and  12 amongst other things that were raised there it was said but  13 if we try to encircle a group at the koppie during daylight  14 hours like this now it's possible they could simply just  15 stand up and move away and the police will have encircled a  16 rock and they would be standing 400 meters to the side, and  17 then that led to further discussions on the human rights  18 issues with regard to if we did encircle then and they  19 remained put and refused to come out, they could end up  20 there in the night in the cold. There was no food and  21 water and the police would have to provide a security  22 presence and it would become a nightmare, and due to these  23 issues and others it was decided we need an alternative  24 phase 3 if we're going to deal with a larger grouping  25 that's there.</p>

<p style="text-align: right;">Page 13462</p> <p>1 And it was discussed there already that obviously  2 knowing now that there's a smaller more militant group than  3 others that we're going to need to look at some strategy  4 where we give the opportunity for those to go that don't  5 want to be part of this, if the police goes to a tactical  6 option, which means you give the opportunity instead of  7 just encircling everybody, we would allow a dispersion type  8 action, which led to disperse - rather go to smaller  9 disorganised groups to try and encircle those with the  10 police and disarm them.  11 MR SEMENYA SC: But you say at this stage  12 there was still hope that the dialogue might just resolve  13 the impasse?  14 COLONEL SCOTT: Yes, there was. At this  15 stage and even till Thursday morning, I was still  16 optimistic that dialogue was going to win the day. That's  17 why phase 3 was not really discussed any more in depth  18 thereafter once that basic concept had been seen that what  19 we had in place wasn't going to work and that we did need  20 another one and again it was just laid out a strategic  21 level that we would need to, as I say, disperse first,  22 giving verbal and those that don't want to be part of it  23 would leave to the smaller disorganised groups to approach  24 only those.  25 MR SEMENYA SC: And when you considered</p>	<p style="text-align: right;">Page 13464</p> <p>1 same group that was now showing militant behaviour in front  2 of the larger crowd at the koppie and with all my rationale  3 up till that point, I knew that this group could pose a  4 problem if they need to be approached again after what  5 happened on Monday we could possibly expect a similar  6 result. So obviously I had to keep that in mind.  7 CHAIRPERSON: We'll take a short  8 adjournment at this stage for five minutes.  9 [COMMISSION ADJOURNS COMMISSION RESUMES]  10 [14:13] CHAIRPERSON: The commission resumes.  11 Colonel, you're still under oath. Mr Semenya, I take you  12 it you want to now move onto your next point.  13 MR SEMENYA SC: Thank you, Chair, and,  14 Colonel, according to plan the consideration was that once  15 the strikers who rejected the verbal instruction to  16 disperse were physically dispersed by the POP members the  17 belligerent ones would be disorganised and the police would  18 be able to identify smaller manageable groups to disarm and  19 arrest the person who would be having the dangerous  20 weapons.  21 COLONEL SCOTT: This was the ideal  22 scenario, this is what we hoped for, yes.  23 MR SEMENYA SC: And how were these to be  24 disorganised as you put it in your statement.  25 COLONEL SCOTT: Well with –</p>
<p style="text-align: right;">Page 13463</p> <p>1 how to now plan to disarm the strikers who had dangerous  2 weapons, you then went to introduce in the plan a filtering  3 process that you deal with at paragraph 8.1.7?  4 COLONEL SCOTT: Yes, that's what I was  5 speaking about. That's in essence not trying to take a  6 tactical option against a full group of 3,000, because, as  7 I said, after the Tuesday when the police arrived and we  8 could see that there was a more militant grouping and that  9 there were the others, it's not to say that we didn't  10 consider. Any tactical option had to be planned for  11 whoever was there, but one has to consider that the first  12 part of a tactical option is a warning and in warning you  13 are already allowing those that don't want to be part of a  14 police response toward them to leave, and that was kind of  15 the filtering that I'm speaking about there, is to give the  16 opportunity before any police action takes place to allow  17 those to go that don't want to be part.  18 MR SEMENYA SC: And you say you were  19 still wary about this militant smaller group even in your  20 strategy to deal with the bigger group?  21 COLONEL SCOTT: I was. One can't hide  22 the incident that happened on Monday and it was – maybe  23 it's just, it's my view, but it became clearer to me – I'm  24 not sure if I'm right or not, but that possibly was on  25 Monday involved with the police in that conflict was the</p>	<p style="text-align: right;">Page 13465</p> <p>1 MR SEMENYA SC: The belligerent group.  2 COLONEL SCOTT: The belligerent group,  3 for that matter whoever did remain would face a POPs  4 dispersion action. With the force continuum verbally being  5 warned and obviously starting then as we see later with  6 water cannons and progressively with the POPs moving closer  7 towards them.  8 MR SEMENYA SC: And you say this prompted  9 Major-General Annandale to engage in a discussion on phase  10 3 with the other JOCCOM role-players being present there?  11 COLONEL SCOTT: Yes, I can't recall,  12 there were JOC, yes, it was a, it wasn't a formalised  13 meeting but the JOCCOM role-players that needed to be  14 present in any way in the JOC were also present during  15 that.  16 MR SEMENYA SC: And you say you clarified  17 certain finer points concerning the deployment of phase 2?  18 COLONEL SCOTT: At the same time  19 obviously as was my task, I'm there to strategise to  20 continually assess and to see how we can better as we go  21 along. I looked at bringing in what we call immediate  22 reaction areas for the specialised forces to move towards,  23 during a phase 2 now, so that they could again be closer to  24 the front line in case their expertise were needed.  25 MR SEMENYA SC: And this is the STF as</p>

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1 well as the NIU?

2 COLONEL SCOTT: That's correct.

3 MR SEMENYA SC: You wanted them to be

4 able to respond as speedily as circumstances required?

5 COLONEL SCOTT: That's correct.

6 MR SEMENYA SC: And the helicopter, the

7 Oryx, what was the plan there?

8 COLONEL SCOTT: Well during phase 2,

9 during phase 1 the Oryx was predominantly static on the

10 ground but in phase 2, being a show of force it was ideal

11 to have it airborne so that with the Oryx seen in the air

12 it again gives a show of force and dissuasion towards the

13 strikers for any violent action.

14 MR SEMENYA SC: Yes, and you tell us that

15 your discussion with General Annandale this time has

16 resulted in you abandoning entirely the encirclement

17 strategy?

18 COLONEL SCOTT: It was at this time

19 because as we moved on, part of the success, key points for

20 success for the early morning encirclement was the element

21 of surprise and as the police were deploying longer and

22 being there on more consecutive days so the element of

23 surprise was obviously diminishing because they were aware

24 of by this time of what assets we had.

25 MR SEMENYA SC: And it dawned on you that

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1 the strategy might be frustrated by various conduct of the

2 protesters in the circles.

3 COLONEL SCOTT: Again as I mentioned

4 earlier that the fact that they were sitting wider,

5 etcetera made us wonder whether we didn't have a leak of

6 our own information and strategies from the JOC towards

7 them and we needed to, we thought that possibly they had

8 reasoned or found out that we had envisioned an

9 encirclement.

10 MR SEMENYA SC: Yes, and you say for good

11 reasons that strategy could only be feasible, that is of an

12 encircling the people at the koppie for an early morning

13 deployment only and not for a group as large as they were

14 around the 3 000 mark.

15 COLONEL SCOTT: That's correct. We were

16 also, I recall it, one, at one of the JOCCOM meetings its

17 either the Wednesday or it could have been mentioned, ja I

18 think it was the Wednesday that there was in any case

19 insufficient razor wire at that time and I do know that the

20 Lonmin mine representative offered to assist but I wasn't

21 party to any of those discussions.

22 MR SEMENYA SC: Okay. Then an

23 alternative suggestion was considered namely to use a POP

24 action to disperse the strikers into smaller disorganised

25 groups. How was this to happen?

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1 COLONEL SCOTT: Again it was to, well the

2 detail of that was discussed on the Thursday but it was, it

3 was just envisioned that we would close off the police

4 area, the neutral area, make it a safe area so that any

5 action would not result in people fleeing in all directions

6 and coming between the police lines and possibly where the

7 media were or if we had chosen to move any of the emergency

8 services into the now safe area or neutral area to become a

9 safe area. So closing it off with razor wire, although it

10 was envisioned as well not just to close it off for the

11 police, it was also envisioned initially to close it off to

12 prevent any movement into the Nkaneng settlement for

13 various reasons there as well. The police having to move

14 in between the shacks was not ideal with, you know

15 belligerent militant strikers now utilising innocent people

16 inside there as collateral or you know, it just becomes

17 more difficult for the police to have to operate in those

18 circumstances and we were also worried about groups like

19 this moving into those settlements with the knowledge of

20 what happens with xenophobia and if there were any spaza

21 shops and the like that possibly the actions of the police

22 could cause emotions to rise and anybody that was not part

23 of the striking group could become targeted as was

24 knowledgeable now from the Monday with seemingly somebody

25 that had been attacked going through one of those

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1 settlements and as I say again these spaza shops, etcetera

2 become targeted by emotional or angry strikers because of

3 police action.

4 MR SEMENYA SC: And this made the

5 settlement a negative attraction area, did it not?

6 COLONEL SCOTT: Yes it did.

7 MR SEMENYA SC: And it was also

8 considered, you tell us that the strikers could scatter in

9 that area and it would make the police operations very

10 complicated both for the resistance as well as for the

11 police?

12 COLONEL SCOTT: It's one of the, the

13 public order policing in their tactical options is very

14 structured. Working in sections and so on and the moment

15 you start moving between informal settlements like that

16 where the roads, etcetera, the infrastructure is not as

17 prominent as you would find in a normal urbanised area it

18 becomes very difficult for them to have to operate in those

19 conditions.

20 MR SEMENYA SC: Yes, and as you tell us

21 the dispersal action needed to be away from the police line

22 which would be protected by the razor wire, that's how the

23 plan had contemplated it to unfold, is that right?

24 COLONEL SCOTT: Yes, because if one would

25 want to, those - again I say those that want to leave after

<p style="text-align: right;">Page 13470</p> <p>1 the warning could leave. Those that remained would need to  2 be dispersed and part of the dispersion was therefore then  3 to push them into an open area where was no infrastructure  4 so that in line with what our strategic guidelines were to  5 disarm we would be able to approach groups that were maybe  6 trying to regroup and go up to those, isolate them and  7 disarm the belligerent protestors within that group,  8 smaller groups.</p> <p>9 MR SEMENYA SC: And within the plan was  10 factored how the strikers could move so that they get  11 channelled in a way that does not cause a stampede,  12 etcetera?</p> <p>13 COLONEL SCOTT: That was also considered.  14 Again that towards the west it was a large open area and  15 thus the POP dispersion action was going to be a driving  16 action coming from the north and swinging and pushing  17 towards the west, to the open ground.</p> <p>18 MR SEMENYA SC: And that driving would  19 also be done sensitive to the, sensitive to the property of  20 the mine, strategic property assets of the mine?</p> <p>21 COLONEL SCOTT: Well this is why we also  22 didn't want the protestors going towards the east because  23 of that would be the closer mine infrastructure that again,  24 and in reflecting on the same thing we experienced that on  25 the 16th, on that evening, that after the police action,</p>	<p style="text-align: right;">Page 13472</p> <p>1 the strategy.</p> <p>2 MR SEMENYA SC: And the dispersion  3 strategy would enable the police to deal with more  4 manageable disorganised groups?</p> <p>5 COLONEL SCOTT: That was the envisioned  6 end state yes.</p> <p>7 MR SEMENYA SC: And how was the group, I  8 asked earlier to be disorganised as you use the word?</p> <p>9 COLONEL SCOTT: Well even if you stand  10 together, it's difficult to do so when you've got a water  11 cannon spraying down on you, it's difficult to remain in a  12 group because people will start scattering, the force of  13 the water will assist in the scattering of people although  14 it doesn't cause serious damage or harm to the human being,  15 to my knowledge so with that happening that was why it was  16 envisioned that the water cannons would play a big role.</p> <p>17 MR SEMENYA SC: Yes, and then you again  18 reiterate how the stages would unfold. At paragraph 8.29  19 you say after discussion on phase 2 and 3 as was your role  20 you started to reason the finer points of the phases. You  21 consider the risk and the risk mitigating options with your  22 force continuum inasmuch as should a POP tactical action be  23 necessary it would need to include the tactical units in a  24 secondary phase. What do you mean by secondary phase?</p> <p>25 COLONEL SCOTT: Obviously in a dispersal</p>
<p style="text-align: right;">Page 13471</p> <p>1 mine infrastructure was targeted. So analysis or our  2 assessment was correct that that's what we wanted to  3 prohibit.</p> <p>4 MR SEMENYA SC: So what was then  5 considered to constitute a positive attraction point would  6 be to drive the strikers to the west of the koppie?</p> <p>7 COLONEL SCOTT: That's correct.</p> <p>8 MR SEMENYA SC: Away from Nkaneng, as  9 well as away from the strategic mine assets?</p> <p>10 COLONEL SCOTT: That's correct and if one  11 understands our logic and our thinking at that stage may  12 not have covered all bases but what we did was that again a  13 dispersion starts with a verbal warning and that those that  14 wanted to leave we anticipated would leave and would not be  15 part of it. So it's only those that would remain and we  16 anticipated that the militant group would possibly be those  17 that would be remaining, would be the ones that we need to  18 deal with, possibly with others that had - maybe in support  19 of them.</p> <p>20 MR SEMENYA SC: Although phase 3 was not  21 discussed in detail the plan envisaged to arrest  22 perpetrators who refused to disarm by dispersing them into  23 smaller groups, isolating individuals or group and  24 disarming them.</p> <p>25 COLONEL SCOTT: That's correct, that was</p>	<p style="text-align: right;">Page 13473</p> <p>1 action I had to anticipate again what the militant group  2 may do and there were three options in my view. One, they  3 may start approaching the public order policing line once  4 the public order policing line tried the dispersal action.</p> <p>5 Two, that they were going to possibly move up onto the  6 koppie which I thought was what was more than likely going  7 to happen, they would hide between the rocks of koppies 2  8 and 1 so that the water cannons or the POP dispersal line  9 had no effect on them and three, that they would be moved  10 to the open areas where they would have been dispersed into  11 smaller groups where hopefully we would be able to deal  12 with them. But to deal with the second issue where they  13 went to the higher ground that was where the tactical  14 forces would be lined up behind the public order dispersion  15 line and obviously because it's a close quarter  16 environment, its moving on rocks, between rocks, on trees,  17 it's not somewhere where the POPs can operate optimally and  18 the POPs members are lesser trained in this type of high  19 risk arrest to have these tactical units therefore going  20 forward to do the high risk arrests of belligerent  21 strikers.</p> <p>22 MR SEMENYA SC: Yes, and during the  23 course of the day you had assistance of Mr Dirk Botes.</p> <p>24 COLONEL SCOTT: That's correct.</p> <p>25 MR SEMENYA SC: And you say you expanded</p>

<p style="text-align: right;">Page 13474</p> <p>1 the Google map to reflect the mine infrastructure which 2 could become targets of the unrest, is that right? 3 COLONEL SCOTT: That's right. 4 MR SEMENYA SC: It was late Wednesday 5 afternoon when Major-General Annandale asked you to arrange 6 a security detail with transport for the NUM and the AMCU 7 presidents who would be going to the koppie to address the 8 strikers. 9 COLONEL SCOTT: That's correct, I was 10 asked to put together a small strategy just to get them 11 there and to keep them safe which entailed the special task 12 force escorting them in separate vehicles. Having a Nyala 13 from the front return to where the TRT were positioned and 14 then take the groupings forward one at a time to address 15 the strikers inside the Nyala. 16 MR SEMENYA SC: That is the plan that you 17 put in place for the interface with the strikers? 18 COLONEL SCOTT: Yes. 19 MR SEMENYA SC: And the presidents of 20 both NUM and AMCU, correct? 21 COLONEL SCOTT: Correct. 22 MR SEMENYA SC: You got a later feedback 23 that evening was that the strikers had shunned the 24 president of NUM and more accepted the AMCU president in 25 their encounters?</p>	<p style="text-align: right;">Page 13476</p> <p>1 the strikers would want to be left alone on the koppie 2 overnight, is that correct? 3 COLONEL SCOTT: Yes, we were asked to 4 leave them alone, that they wanted to consult amongst each 5 other to determine their way forward. 6 MR SEMENYA SC: And of course the 7 arrangement was that nothing would be done that evening to 8 them? 9 COLONEL SCOTT: Yes, that, the closest 10 that the police would come to the koppie would be to 11 forward holding area 1. 12 MR SEMENYA SC: The idea was to give that 13 conflict 3 resolution of the problem a chance? 14 COLONEL SCOTT: Yes. 15 MR SEMENYA SC: But you still felt that 16 you needed to be vigilant regarding a possibility that the 17 miners do not, I mean the strikers do not disarm as was 18 promised? 19 COLONEL SCOTT: Yes. One has to cover 20 all options and that is the optimistic side as well as the 21 pessimistic side of what could occur. 22 MR SEMENYA SC: And then on Thursday 23 morning at 6 o'clock JOCCOM reconvened you say on page 73, 24 is that right? 25 COLONEL SCOTT: Yes.</p>
<p style="text-align: right;">Page 13475</p> <p>1 COLONEL SCOTT: Yes, that was the 2 feedback in the JOC that evening. 3 MR SEMENYA SC: And that night there was, 4 as you tell us discussion of the way forward and that there 5 had been a commitment, so to speak about the laying down of 6 the weapons? 7 COLONEL SCOTT: I was, in the JOCCOM it 8 was said that by 9 o'clock the next day that the strikers 9 had undertaken to lay down their weapons. 10 MR SEMENYA SC: You say though that that 11 struck you as a little strange and why that? 12 COLONEL SCOTT: I've had dealings before 13 where we've had to operate in areas which are extremely 14 rural and I know where, and not just in those environments 15 but others to, but I know that normally traditional weapons 16 are very personalised towards the men with their culture 17 and to attempt to take them away, etcetera can excite or 18 promote emotional responses which are uncalled for and to 19 me it didn't sound right that they would undertake to come 20 to the koppie to lay down their weapons, if they were going 21 to come to the koppie they would come unarmed and rather 22 leave the weapons at their place of residence for that 23 matter. So I was suspicious about what I was hearing. 24 MR SEMENYA SC: Okay and in that 25 debriefing of that evening there was also information that</p>	<p style="text-align: right;">Page 13477</p> <p>1 MR SEMENYA SC: How would, how long would 2 JOCCOM meetings last more or less? 3 COLONEL SCOTT: Some mornings, I think 4 the average would be about almost two hours, some morning I 5 think we sat for two and a half hours. 6 MR SEMENYA SC: You say as usual Major- 7 General Annandale opened to the JOCCOM meeting conduct the 8 roll call to ascertain what resources were available, a 9 situation report was given, is that right? 10 COLONEL SCOTT: That's correct. 11 MR SEMENYA SC: The crime intelligence 12 representative reported that the situation was tense and 13 that some strikers had already arrived at the koppie with 14 arms, is that right? 15 COLONEL SCOTT: That's correct. 16 MR SEMENYA SC: General Annandale then 17 spoke to phase 2 and 3 deployment concepts briefly before 18 requesting you to give a deployment overview? 19 COLONEL SCOTT: That's correct. 20 MR SEMENYA SC: Did you give the 21 overview? 22 COLONEL SCOTT: Yes, I did. What I had 23 learnt from the Wednesday was that speaking to slides that 24 had a lot of writing on them was not fulfilling the role, 25 watching the body language of the audience and so on</p>

<p style="text-align: right;">Page 13478</p> <p>1 Thursday I chose to speak more directly to the pictorial 2 slides which is specifically the layout on the Google 3 Earth. 4 MR SEMENYA SC: And this was also given 5 to the commanders that were there. 6 COLONEL SCOTT: There was handouts given 7 on each day to the commanders of the aerial photography 8 with the grids on it, yes, or the satellite pictures with 9 grids on it. 10 MR SEMENYA SC: Yes, you also again deal 11 with, during that JOCCOM meeting with greater detail in 12 relation to phase 2? 13 [14:33] COLONEL SCOTT: Yes. Again it was 14 expanded on because it was the, phase 1 in essence now 15 ceased, although to deploy into phase 2 you needed to 16 deploy phase 1 essentially and all we did was we lay it on 17 top of phase 1 the phase 2 which was the inclusion of the 18 razor wire and essentially if a phase 2 was called for in 19 the duration of the day because of threat, we would bring 20 forward a lot of reserve forces. It was, however, decided 21 still on that Thursday morning o go forward with the phase 22 2, place the razor wire, but some of the reserve forces 23 were still remaining at forward holding areas 1 and 2. 24 Again we were uncertain of the plans or the mobility of 25 what the strikers would do –</p>	<p style="text-align: right;">Page 13480</p> <p>1 MR SEMENYA SC: That is now the cordon 2 and search one. 3 COLONEL SCOTT: That's correct. 4 MR SEMENYA SC: Why was it done at that 5 time? 6 COLONEL SCOTT: Well, again, normally 7 it's a detailed plan that needs to be drafted if you're 8 going to do a cordon and search operation of a hostel. A 9 cordon and search operation would be dictated, time and 10 place, by SAPS, so we should have the ability then to put a 11 more detailed plan in place. So even if the plan was going 12 to be executed at a later time, it still needed to have 13 something that could be accepted and approved before being 14 implemented. And this of course is not as easy as it 15 sounds because one needs to draw in those with the 16 knowledge from the mine and get the plans of the layouts of 17 the hostels and to understand who is staying where, et 18 cetera. So there's a lot of intelligence and information 19 that needs to go into that planning process as well. 20 MR SEMENYA SC: But in the interim that 21 was arranged and, as you call it, the section 13(7) search 22 warrant was prepared for signing off by the Provincial 23 Commissioner. 24 COLONEL SCOTT: That's correct. I 25 created a basic slide show to show the concept of that</p>
<p style="text-align: right;">Page 13479</p> <p>1 MR SEMENYA SC: Movements, yes. 2 COLONEL SCOTT: The movements, yes. 3 MR SEMENYA SC: Okay, but as you told us 4 earlier, phase 2 also just contemplated the Nyalas with the 5 razor wire being prepositioned but not deployed. 6 COLONEL SCOTT: That's right. 7 MR SEMENYA SC: You then cleared with 8 Major-General Annandale, that is now when the deployment of 9 the STF, the NIU from the forward holding area 1 to the 10 newly created immediate reaction area that lay south to the 11 power station. 12 COLONEL SCOTT: Yes, sir. I considered 13 the concept on the Wednesday. I suggested and got the 14 approval for the implementation thereof on the Thursday and 15 the forces were then tasked accordingly to go to those 16 positions. 17 MR SEMENYA SC: Okay. Now, of course we 18 have touched on this about how the plan was contemplated, 19 how the plan was to be implemented, and I now wish to draw 20 your attention to what we have against paragraph 9.5 on 21 page 77. You say after the JOCCOM you assisted Brigadier 22 Fritz and Brigadier Silwane who had been tasked by General 23 Annandale on the Wednesday to start a planning process with 24 regard to phase 6. 25 COLONEL SCOTT: That's correct.</p>	<p style="text-align: right;">Page 13481</p> <p>1 operation which would suffice for the Provincial 2 Commissioner therefore to give the approval for the section 3 13(7). 4 MR SEMENYA SC: In paragraph 10 you then 5 deal with the AMCU president's transportation, do you see 6 that? 7 COLONEL SCOTT: Yes. 8 MR SEMENYA SC: At the bottom of page 77. 9 You say around 12 o'clock you were requested by Major- 10 General Annandale to look for a vehicle which could 11 transport AMCU president and his delegation to the koppie. 12 COLONEL SCOTT: That's correct. 13 MR SEMENYA SC: That you did. 14 COLONEL SCOTT: I looked for a vehicle 15 and there were vehicles standing there but they were the 16 special task force vehicles which were utilised on the 17 Wednesday. However, at this stage the special task force 18 members had all deployed forward. On the Wednesday we 19 actually had a task force team on standby with the military 20 Oryx helicopter, so the keys for the vehicles were there. 21 On the Thursday the NIU members that stayed back for the 22 Oryx helicopter, should it arrive, and we'd sent the task 23 force forward so I didn't have access to their keys and by 24 the time I could try and find a vehicle Mr Mathunjwa had 25 already left on his own.</p>



<p style="text-align: right;">Page 13482</p> <p>1 MR SEMENYA SC: And you also deal with 2 the report made to you by Captain – well, to the JOC, by 3 Captain Adriaio. 4 COLONEL SCOTT: Yes. Captain Adriaio 5 reported to the JOC that the attitude of the strikers had 6 changed and that members of the media, it was said to him 7 that they were now starting to fear, they could feel there 8 was a different atmosphere and they were actually fearing 9 for their safety and had started moving backwards towards 10 the police line. 11 MR SEMENYA SC: Was the information 12 around this time there at the JOC that the undertaking, 13 promise by the strikers to disarm had or had not 14 materialised? 15 COLONEL SCOTT: Are we talking about the 16 time – 17 MR SEMENYA SC: When you get this 18 information from – 19 MR SEMENYA SC: Well, by the time Captain 20 Adriaio gave his information, the 9 o'clock time period had 21 come and gone and it was evident now, I think this was late 22 morning, that the koppie was full again and those that were 23 there had come with either traditional weapons or with 24 dangerous weapons, sharp edged dangerous weapons. 25 MR SEMENYA SC: Okay. And that</p>	<p style="text-align: right;">Page 13484</p> <p>1 expecting and hoping for a resolution simply through 2 dialogue. 3 MR SEMENYA SC: And with that reality in 4 your mind, what did you do? 5 COLONEL SCOTT: At some stage we were 6 asked how we were going to go about this and I asked them 7 if I could make a recommendation just to show more in 8 detail what was considered for phase 3, to which I was 9 given the floor and I explained on a Google map again - it 10 was the Google map that was used for the phase 2 in the 11 morning, I put that up – how I thought it should take place 12 with the POP's dispersion action, et cetera. Well, 13 starting off obviously with the razor wire being pulled and 14 then the POP's dispersion action, et cetera. It was asked 15 in the JOCCOM at that stage whether that was acceptable, 16 there was no objection to it and I was asked them to go and 17 brief the forces out at forward holding area 1, that it 18 shouldn't be done over the radio because we were aware that 19 a police radio had been stolen and somewhere on the Tuesday 20 or the Wednesday there was reports that somebody was using 21 the police radio, which was clearly not police language or 22 radio speech procedures - so to go to forward holding area 23 1. I think Brigadier Pretorius assisted me there with 24 getting all the commanders to understand they needed to 25 report to forward holding area, over the radio, and then I</p>
<p style="text-align: right;">Page 13483</p> <p>1 disarmament did not happen. 2 COLONEL SCOTT: No. 3 MR SEMENYA SC: And around 13:30 there is 4 another JOCCOM meeting which was called, correct? 5 COLONEL SCOTT: Correct? 6 MR SEMENYA SC: What happened there? 7 COLONEL SCOTT: I was called by General 8 Annandale. I remember I was just outside the JOCCOM at 9 that time and told that we need to come in, that there's a 10 special JOCCOM meeting going to take place. It was mainly 11 brigadiers, generals, the JOCCOM members that would be 12 there throughout the day and we were told inside the JOC 13 that the decision had been taken to go towards the phase 3, 14 that we needed to use the police tactical option to resolve 15 the situation because dialogue had failed and that the 16 threat had been escalated from the strikers. 17 MR SEMENYA SC: Do you recall who would 18 have conveyed the message that a decision had been taken? 19 COLONEL SCOTT: I don't, I can only 20 recall General Annandale chaired the meeting. I'm not too 21 certain about the other persons who spoke or who said what 22 but I knew quite soon after being seated, I'm not sure if 23 it was him or if someone else, but I know we were said we 24 need to go to phase 3 and obviously that triggered me into, 25 you know, a new state of mind because I was really still</p>	<p style="text-align: right;">Page 13485</p> <p>1 started working on the Google picture which I had displayed 2 as the stage 2, just to move the icons on it to now show 3 better what was meant by the stage 3 because during the 4 course of the morning one of the Nyalas, Nyala 6 with this 5 razor wire, had moved position. So I tried to just realign 6 everything before going out to show the commanders what was 7 going on, and then we left, Brigadier Pretorius and myself. 8 I do remember that after that stage where I was working on 9 my computer, that General Annandale and a couple of others 10 had started a checklist on a flip chart, white board, they 11 were writing down what should be remembered and what needs 12 to be considered before any tactical action gets taken 13 place, but I don't recall, I didn't have input into that 14 and when I was finished with my fixing up of the Google map 15 we literally got into the vehicle and went because time was 16 pressing at that stage. 17 MR SEMENYA SC: Was it then known when 18 the stage 3 operation would commence? 19 COLONEL SCOTT: Yes. General Annandale 20 did say he wanted it to commence by 15:30. 21 MR SEMENYA SC: Yes. And when you 22 arrived at forward holding area 1, that's around 14:30 you 23 say? 24 COLONEL SCOTT: On my watch it was 25 exactly 14:30 that we got there.</p>

<p style="text-align: right;">Page 13486</p> <p>1 MR SEMENYA SC: Yes and how long did that 2 briefing last?</p> <p>3 COLONEL SCOTT: It's difficult to say but 4 it was at least half an hour, possibly a little more 5 because I know we reported back to the JOC sometime after 3 6 o'clock and the drive to forward holding area is possibly 7 only about five, seven minutes.</p> <p>8 MR SEMENYA SC: And please tell us what 9 you say as the second sentence of paragraph 13.1, page 81?</p> <p>10 COLONEL SCOTT: Well, I can recall on the 11 way thinking that I've got very little time and just 12 contemplating how I was going to deliver what I needed to 13 do and I brought myself back to how we would normally do 14 this and that was just to follow the SMEAC concept and just 15 to tell them the situation. So when all were gathered I 16 climbed into one of the Mercedes Vito vehicles just to get 17 a little bit of shade so that I could put the computer up 18 and all the commanders stood around and I explained to them 19 the situation, which was that we've been told to go to a 20 phase 3, that the threat has elevated and that the 21 resolution through dialogue seems to have failed. And then 22 I went on to just give the basic outline of who had to do 23 what now and what I had done is, this is where the phases 24 became stages because en route there I was working through 25 my mind how better to carry it over and I knew I had to</p>	<p style="text-align: right;">Page 13488</p> <p>1 between the police and the strikers – in other words, to 2 use water cannons first if those had hadn't dispersed by 3 verbal warning are still there, to utilise that first to 4 try to get them to move, so we didn't have to have people 5 on people situations.</p> <p>6 The public order policing personnel would be 7 outside of their vehicles, they would be positioned between 8 their vehicles and I mentioned that their vehicles would 9 now be their safe havens, they would retreat into them if 10 they were approached by the militant group but otherwise 11 they would be out. And with water cannons, if that wasn't 12 creating the desired effect one would go over to teargas 13 which would be next far-reaching, less than lethal choice 14 to cause discomfort, to get the strikers to move. 15 Obviously moving closer with the dispersion line and 16 something that does create a bit of a shock factor is your 17 stun grenades, so when you get closer and within throwing 18 distance, stun grenades could be thrown. And then last 19 resort would have been the rubber, the use of rubber to try 20 to get the strikers to move.</p> <p>21 Knowing that the police dispersion line could 22 then swing through, if there were strikers that ran onto 23 the high areas or hid between the rocks, that was the 24 tactical response team who would be positioned 100 metres 25 back and that distance was also important because I didn't</p>
<p style="text-align: right;">Page 13487</p> <p>1 break it down into steps for the members and when you work 2 with phases and you need to elevate, you elevate to stages 3 which means your old phases for now become stages and you 4 now have a phase within a stage and that's where initially 5 the first mentioning of stages came into play. So it 6 became stage 3 and I said to them phase 1 would be the 7 department of the razor wire as we know it and after the 8 department of the razor wire – I didn't tell Brigadier 9 Calitz specifically, I mean he's a brigadier, he's a well- 10 experienced POPS man, it wasn't my place to tell him when 11 to give the warning but I told him that we needed to go 12 over to the dispersion action and the way that it would 13 happen was that we would take out the POPS members to the 14 northern side of the razor wire and that they would have to 15 form three channels, in essence, and the far left flank 16 would move around, down the razor wire and then swing to 17 the right and around the bottom of koppie 1. The middle 18 flank would move in the same direction to the south and 19 swing between the two koppies and then the right flank 20 would swing towards the right side of koppie 2 and that 21 would be the dispersion action by POPS. When they had to 22 physically move obviously there would be the force 23 continuum which I also covered just in principle with them 24 because it had slightly changed from what one would be used 25 to because I wanted to keep the difference, the distance</p>	<p style="text-align: right;">Page 13489</p> <p>1 want them so close to the public order policing line so 2 that the strikers, if they did approach the public order 3 policing, would be immediately upon a TRT line, in essence. 4 It would give the TRT time to consider response, to give 5 verbal warning, to utilise stun grenades, to go through 6 their own force continuum before having to deal with 7 whatever was approaching them. But in essence their job 8 was to sweep through koppie 2 so that they would go between 9 the rocks and find people that were hiding or people that 10 were waiting in possible ambush and make the necessary 11 arrests or apprehend those people.</p> <p>12 Similarly, the special task force and the NIU had 13 the same role but they would be going to the larger koppie 14 1 where I mostly anticipated that the belligerent group was 15 going to go to. I thought that they would go there, they 16 would go onto the top of that where they would be out of 17 the public order.</p> <p>18 And then as I say, one of the issues I raised 19 there was, there's a dry river bed and through other 20 operations that I've participated in, we always try to 21 reorganise as quickly as possible after we've done 22 something tactical because forces, actions become dictated 23 by your opponent and if he moves left, some of your forces 24 go left. So I created the river bed as a reorganise line 25 where SAPS forces had to stop, reorganise their own forces</p>

<p style="text-align: right;">Page 13490</p> <p>1 and now assess what the strikers were doing that had been 2 dispersed out into the field and then from there, the 3 operational commander with other commanders would make 4 judgment calls to say there's a group there and again go 5 out as a structured smaller operation towards that group to 6 go and encircle and disarm smaller groups like that, but 7 that's where the, that's in essence where – and I spoke 8 there now to the razor wire being phase 1 of stage 3, the 9 dispersal action being phase 2 of stage 3 and after the 10 reorganise, the follow-up action of the encircling of 11 smaller disorganised groups and disarming and arresting 12 being phase 3 of stage 3, to them.</p> <p>13 MR SEMENYA SC: Can I ask you to look at 14 slide 81 of exhibit L?</p> <p>15 COLONEL SCOTT: Slide 81?</p> <p>16 MR SEMENYA SC: Yes, 8-1, 81. Are you 17 able to speak relative to what we have at slide 81 there?</p> <p>18 COLONEL SCOTT: This slide was created at 19 Roots though, this is not the slide that I briefed them on 20 but for the sake of the Commission to better orientate them 21 to –</p> <p>22 MR SEMENYA SC: We say that later when we 23 deal with exhibit L and the statement of Colonel Visser. I 24 just want us to understand what you had in mind would, in 25 terms of your plan –</p>	<p style="text-align: right;">Page 13492</p> <p>1 horses who would simply maintain the order behind what had 2 been taken by the police on horseback, also being able to 3 mobilise quickly via horse to certain environments if there 4 were certain acts of violence going on, that the helicopter 5 possibly got diverted elsewhere, that they could get there 6 rapidly with horseback. Again, not to be utilised in the 7 POP action however.</p> <p>8 [14:53] We see to the left is a small settlement which is 9 ringed with a red square, I was concerned about that and 10 the police assets that were positioned at forward holding 11 area 2 were tasked to go to that environment and to perform 12 a filtering line in the direction of where the dispersed 13 strikers may be, for the same reason for Nkaneng 14 settlement, we were worried about that settlement that 15 highly emotional or angered strikers may end up running 16 through that for that matter and causing destruction as 17 they went through.</p> <p>18 So forward holding area 2's members were 19 positioned to protect that little settlement and then, I'm 20 not necessarily going according to sequence now, I'm just 21 discussing the slide and then we can obviously see the 22 razor wire which is shown there in the yellow, it still 23 seems to be on the, this one still seems to be on the page 24 2 line however. But we can see the blue line of police 25 vehicles and on this slide I actually took the time to find</p>
<p style="text-align: right;">Page 13491</p> <p>1 COLONEL SCOTT: Ja.</p> <p>2 MR SEMENYA SC: - be the case.</p> <p>3 COLONEL SCOTT: If we start at forward 4 holding area 1, those forces that were there initially were 5 to move to immediate reaction area 1 and that was General 6 Naidoo and with him we kept back the canines, the dog 7 handlers, we kept back the mounted unit personnel with him, 8 the emergency services, the medical, the fire, etcetera. 9 And there was dual planning, in essence, for dog handlers 10 for instance. Their primary role was going to be to search 11 the rocks in the area for possibly hidden firearms that had 12 been put into the crevices or hidden under bushes, et 13 cetera, after the whole POPS action had swept through. 14 Canine was never to be part of the POPS action with their 15 dogs but they could still be utilised in an environment in 16 a high risk arrest where we had a standoff with tactical 17 forces and a belligerent protester who didn't want to 18 submit, to send – there's other tactics as well which I 19 don't particularly want to speak to through the media 20 exposing it and they would become null and void thereafter 21 but it's well known that a K9 or a dog can be utilised to 22 tackle somebody that's posing a threat to, of that 23 magnitude. So that was their role.</p> <p>24 The mounted unit that was going to forward 25 holding area as well would be a group of persons riding</p>	<p style="text-align: right;">Page 13493</p> <p>1 out who was where and try to as accurately as I could, put 2 in who the proper call sign was with what.</p> <p>3 There was only one water cannon at the time when 4 I left to brief, when I arrived at forward holding area 2 a 5 second water cannon arrived and I had only planned one 6 water cannon into the actual fast dispersion line and that 7 was to be in the middle of the group, and when the second 8 one arrived I didn't know where else, I thought we would 9 keep it behind in the police safe area so that they could 10 essentially spray from the razor wire line onto the 11 militant group which was on the other side of the fence, 12 and keep them from trying to break through on the razor 13 wire. Because we know that there are weak points between 14 the vehicle itself and the gap that the trailer has got, 15 that people can come flooding through there. So 16 essentially I wanted that water cannon to stay there, to 17 spray back anybody that tried to come through those gaps in 18 the razor wire line.</p> <p>19 And then we have got the orange, which shows the 20 TRT line behind POP's and then of course the NIU and the 21 special task force line behind that. That's on, that's 22 that slide as we see it there.</p> <p>23 MR SEMENYA SC: Chair, may we, would it 24 be a convenient time, we just want to put up a slide there 25 -</p>

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1 CHAIRPERSON: Yes certainly, we will take  
 2 the tea adjournment at this stage.  
 3 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 4 [15:16] CHAIRPERSON: The commission resumes.  
 5 When we were about to recommence, we received a message  
 6 asking us to wait for a while until the relevant video or  
 7 slide had been found. I take it, the slide now being  
 8 exhibited, is this what was being looked for Mr Semenya?  
 9 MR SEMENYA SC: Indeed, Chair.  
 10 CHAIRPERSON: You are still under oath,  
 11 Colonel. Mr Semenya?  
 12 MR SEMENYA SC: Colonel, we have up in  
 13 the screen there slide 181, what message does that convey?  
 14 COLONEL SCOTT: What you see on screen  
 15 is, to the best of my recollection I must state as well,  
 16 because as I say that day was, but it's what I have shown  
 17 to the people at forward holding area 1, and to the best of  
 18 my recollection, it's the same slide as well or the same  
 19 Google picture that was then put into a slide. I may be  
 20 incorrect in that but this is what I could find, and I know  
 21 that this comes from that time period. But I know that I  
 22 did work on the forward holding area 2 slide to better  
 23 tweak it for the presentation at the front. The inserts  
 24 that you see in the white blocks and the blue arrows, were  
 25 what I inserted afterwards after briefing the members at

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1 the front, to more accurately depict the briefing that was  
 2 given to them, and what you can see there is the red icon  
 3 vehicles along the orange line, and those are Nyalas 1 to 6  
 4 and those Nyalas are the razor wire Nyalas.  
 5 Now their duty was to deploy the phase 1 of stage  
 6 3 and that was to put the razor wire in place which would  
 7 create the safe zone and would assist with channelling the  
 8 strikers towards the west to the open fields.  
 9 We used the power station as a natural barrier,  
 10 the fence line was the power station to start the razor  
 11 wire deployment there so as to, again cause the strikers to  
 12 move towards the open fields to the west. You can see the  
 13 blue line of vehicles towards the north and we have got an  
 14 arrow which has got first line POP pointing towards that  
 15 and then we have got a, the green vehicles with the red  
 16 sort of police icons, and that is showing the TRT, NIU and  
 17 STF line initially. Although those were briefed to be  
 18 separate, it's difficult to make all of that happen in a  
 19 short time period. Google Earth has its own challenges  
 20 about how together you can put icons, etcetera before they  
 21 really overlapping. So it's not in proportion to obviously  
 22 what has to be shown, but it was the best that could be  
 23 done, and phase 2 was then to regroup and push forward to  
 24 employ POP's dispersion strategy, to in other words go  
 25 outside of the safe area, form up in the dispersion

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1 strategy with POP's in the front and your TRT and your NIU,  
 2 STF behind and then to move forward on that after the  
 3 verbal warnings had expired, and they would swing on the  
 4 blue arrows as you can see them.  
 5 There was a left, middle and a right flank and as  
 6 you can see the flanks had to push through with that motion  
 7 in order to get the strikers to move towards the west.  
 8 Then we have got, what's not too visible now, I'm not sure  
 9 how to show it to you, but there is a small blue arrow  
 10 which is on the right flank. The tip of the arrow is  
 11 almost on a very faint indentation line which is actually a  
 12 dry riverbed, and it's on that line that I explained was  
 13 the - that's where more or less where all the arrows are  
 14 pointing towards, that is where the reorganisation, stop  
 15 and reorganise line would be, reassess your situation, look  
 16 at what your opponents have done and then reorganise and  
 17 push forward with phase 3, which was then to encircle your  
 18 smaller disorganised groups, disarm, arrest and the  
 19 processing would then start thereafter, and then you can  
 20 just see the icons showing the forward holding area 2  
 21 personnel down to the bottom on that side which I had moved  
 22 there as well, it's the informal settlement.  
 23 MR SEMENYA SC: And if we show slide 229,  
 24 that would give us more or less an idea of what you say is  
 25 the indentation of the riverbed.

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1 COLONEL SCOTT: Slide 229?  
 2 MR SEMENYA SC: 229, yes. Is that the  
 3 one on the screen?  
 4 COLONEL SCOTT: That's correct, yes  
 5 that's correct. That's maybe a little bit to the left but  
 6 you can see just in front of the white vehicles that have  
 7 stopped there, there's a natural feature in the terrain  
 8 which causes the armoured vehicles to have to slow down, to  
 9 come almost to, well it has to come to a halt and negotiate  
 10 the river bed, and that was seen as the stop and reorganise  
 11 line, yes.  
 12 MR SEMENYA SC: Yes, you call it that  
 13 reorganisation point, what was to be reorganised there  
 14 according to plan?  
 15 COLONEL SCOTT: Again after the  
 16 dispersion has taken place, it's difficult to say what the  
 17 actions of the strikers would have been, understanding and  
 18 hoping that many of them would have moved towards the west.  
 19 That the public order policing forces that have pushed  
 20 through to stop at that point, would now have the tactical  
 21 forces behind them clearing koppies 2 that we can see there  
 22 and koppie 1, and at that time the operational commander  
 23 would then take decisions on how further to continue with  
 24 the operation, assessing the movements of where the  
 25 strikers have gone and what they have done.

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1 MR SEMENYA SC: So beginning -  
 2 CHAIRPERSON: He was supposed to?  
 3 COLONEL SCOTT: That's the briefing.  
 4 CHAIRPERSON: He was supposed to do that?  
 5 COLONEL SCOTT: Yes.  
 6 MR SEMENYA SC: That's how the plan  
 7 contemplated to unfold, is that right?  
 8 COLONEL SCOTT: That is how I  
 9 contemplated the plan to unfold, yes.  
 10 MR SEMENYA SC: Yes, and you articulate  
 11 that beginning paragraph 13.8, "and this is now according  
 12 to plan, there would have been the warning", correct?  
 13 COLONEL SCOTT: 13.8?  
 14 MR SEMENYA SC: On page 83, yes.  
 15 COLONEL SCOTT: Yes, there would have,  
 16 yes.  
 17 MR SEMENYA SC: And that would be after  
 18 the deployment of the wire, the warning that is?  
 19 COLONEL SCOTT: Yes, it would be given  
 20 after the deployment of the wire. At what time after I  
 21 left that to the commander.  
 22 MR SEMENYA SC: And there would be a time  
 23 by the commander given to the protestors to disperse?  
 24 COLONEL SCOTT: Yes, that's standard  
 25 operating procedure, according to the size of the crowd,

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1 etcetera, there would be a reasonable time given for them  
 2 to able to move off.  
 3 MR SEMENYA SC: The plan contemplated the  
 4 majority of the strikers to disperse on their own?  
 5 COLONEL SCOTT: Yes.  
 6 MR SEMENYA SC: It did also contemplate a  
 7 small militant group refusing to do so?  
 8 COLONEL SCOTT: Yes.  
 9 MR SEMENYA SC: And you did in the  
 10 briefing mention the question about where the POP line  
 11 should be?  
 12 COLONEL SCOTT: Yes.  
 13 MR SEMENYA SC: And what should happen to  
 14 those take refuge on the higher ground and between the  
 15 rocks and crevices?  
 16 COLONEL SCOTT: That's right.  
 17 MR SEMENYA SC: And how those groups were  
 18 to be disorganised as you earlier used the term?  
 19 COLONEL SCOTT: That's right.  
 20 MR SEMENYA SC: And in paragraph 13 you  
 21 continued to give us an account of what you were telling  
 22 the commanders there. You showed them a geographical  
 23 picture of the area.  
 24 COLONEL SCOTT: That's right.  
 25 MR SEMENYA SC: And what that one water

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1 cannon would do?  
 2 COLONEL SCOTT: That's correct.  
 3 MR SEMENYA SC: And what the POP members  
 4 should do once they are threatened in terms of going into  
 5 their Nyalas if they must?  
 6 COLONEL SCOTT: That's right.  
 7 MR SEMENYA SC: As their safe havens, and  
 8 how the TRT would then form behind that POP dispersal  
 9 group.  
 10 COLONEL SCOTT: That's correct.  
 11 MR SEMENYA SC: And you explained what  
 12 was to be the case in relation to forward holding area 2?  
 13 COLONEL SCOTT: That's right.  
 14 MR SEMENYA SC: You had in mind what the  
 15 assets were you as you described them in paragraph 13.16,  
 16 page 88?  
 17 COLONEL SCOTT: Yes, that's correct.  
 18 MR SEMENYA SC: What the K9's and their  
 19 role and their responsibilities would be?  
 20 COLONEL SCOTT: That's right.  
 21 MR SEMENYA SC: And so are the other  
 22 elements to which you referred earlier.  
 23 COLONEL SCOTT: That's right.  
 24 MR SEMENYA SC: You also explained the  
 25 force continuum?

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1 COLONEL SCOTT: That's correct.  
 2 MR SEMENYA SC: The rules of engagement?  
 3 COLONEL SCOTT: That's right.  
 4 MR SEMENYA SC: And you then summarised  
 5 what the whole briefing is to the entire commanders there?  
 6 COLONEL SCOTT: Yes.  
 7 MR SEMENYA SC: It was around 15:15 when  
 8 you then go back to the JOC, am I right?  
 9 COLONEL SCOTT: That's right.  
 10 MR SEMENYA SC: And you now tried to deal  
 11 with what you experienced in the JOC between that time and  
 12 the events that followed subsequently. Correct? At 15:15  
 13 you started updating the slide in the presentation, is that  
 14 right?  
 15 COLONEL SCOTT: To the best of my  
 16 recollection yes, coming back to reflect what I had shown  
 17 better, what I had just briefed.  
 18 MR SEMENYA SC: And the information that  
 19 you were getting from the radio, correct?  
 20 COLONEL SCOTT: Updating the slide and  
 21 the information?  
 22 MR SEMENYA SC: Paragraph 18, you  
 23 mentioned the radio communication there.  
 24 COLONEL SCOTT: Ja, I was listening to  
 25 the radio communications in the JOC.

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1 MR SEMENYA SC: That's right, in the JOC.  
 2 COLONEL SCOTT: Yes.  
 3 MR SEMENYA SC: Yes, and you mentioned  
 4 the fact that the CCTV monitors of Lonmin was not giving  
 5 you quite clear pictures given the distance.  
 6 COLONEL SCOTT: No, there was an issue  
 7 with the sun which was shining into the lenses. It could  
 8 be seen very vaguely and was also quite a distance off, so  
 9 I chose not to actually try to watch there because we stood  
 10 next to the radio to listen.  
 11 MR SEMENYA SC: And for that you  
 12 stationed yourself, you positioned yourself next to the  
 13 police radio based in the JOC and to try and piece together  
 14 information as it was coming through?  
 15 COLONEL SCOTT: Yes.  
 16 MR SEMENYA SC: And at paragraph 19 you  
 17 say "after Brigadier Calitz had initiated the operation,  
 18 some minutes later you heard the intensity increase in the  
 19 radio communication between Brigadier Calitz calling from  
 20 Papa1, is that right?  
 21 COLONEL SCOTT: Yes, that is correct.  
 22 MR SEMENYA SC: And that he was  
 23 repeatedly calling the water cannons to come forward and  
 24 engage?  
 25 COLONEL SCOTT: Yes.

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1 MR SEMENYA SC: And after the action  
 2 which was mainly coordinated by the voice of Brigadier  
 3 Calitz, Vermaak started providing situational awareness  
 4 from the police helicopter as well?  
 5 COLONEL SCOTT: That's correct.  
 6 MR SEMENYA SC: And that's the  
 7 information coming from chopper 1?  
 8 COLONEL SCOTT: Yes.  
 9 MR SEMENYA SC: And Lieutenant-Colonel  
 10 Vermaak reports over the radio that he could see persons  
 11 lying down and counted up to around 20, which you could see  
 12 from the air?  
 13 COLONEL SCOTT: That's correct.  
 14 MR SEMENYA SC: This is the information  
 15 you received whilst you were at the JOC?  
 16 COLONEL SCOTT: That's what I heard, yes.  
 17 MR SEMENYA SC: And you continued to hear  
 18 as you tell us of reorganisation which you presumed was in  
 19 line with the briefing you had given earlier?  
 20 COLONEL SCOTT: Yes.  
 21 MR SEMENYA SC: And there is a point at  
 22 which you hear a voice saying there was a person with a  
 23 long rifle standing on top of the high rock?  
 24 COLONEL SCOTT: That is correct.  
 25 MR SEMENYA SC: And you say it sounded

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1 like the scenario, the scenario you had forecast with the  
 2 protestors taking up position to shoot at the police line?  
 3 COLONEL SCOTT: Yes, I anticipated that  
 4 could be a possibility.  
 5 MR SEMENYA SC: That was the mental  
 6 picture that was created in your mind.  
 7 COLONEL SCOTT: Yes.  
 8 MR SEMENYA SC: And you heard a broadcast  
 9 on the Protea Coin helicopter video footage, which was the  
 10 coordination from Lieutenant-Colonel Vermaak and Brigadier  
 11 Calitz also giving instruction over the radio?  
 12 COLONEL SCOTT: Yes, and I referred to it  
 13 here because it similar to what one would hear on that  
 14 Protea Coin helicopter what we have heard there, is what I  
 15 was hearing in the JOC at the same time.  
 16 MR SEMENYA SC: And you say that there  
 17 was about four minutes where the radio systems appeared  
 18 jammed, why do you say that, that they were jammed?  
 19 COLONEL SCOTT: I remember being  
 20 frustrated, sometimes it happens in police communications  
 21 that somebody pushed their talk button by mistake and maybe  
 22 sits on a radio or something and nobody can speak. But  
 23 there was a time period for at least four minutes during  
 24 the operation where no one, you could hear somebody was  
 25 keying a radio and there was no communication, nobody could

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1 talk at all.  
 2 MR SEMENYA SC: And then you recall late  
 3 in the operation, hearing Lieutenant-Colonel Guthrie  
 4 calling on the radio and saying cease fire, at least twice  
 5 you say?  
 6 COLONEL SCOTT: That's correct.  
 7 MR SEMENYA SC: Again paragraph 19.8, you  
 8 say you heard "Lieutenant-Colonel Vermaak count the amount  
 9 of persons lying down", as he put it, you did not consider  
 10 that these may be injured persons, you did consider that it  
 11 may be reference to injured persons from what sounded like  
 12 a POP action, is that right?  
 13 COLONEL SCOTT: That's correct.  
 14 MR SEMENYA SC: But then later you heard  
 15 about the situation, the shooting incidents?  
 16 COLONEL SCOTT: Yes.  
 17 MR SEMENYA SC: You did not observe any  
 18 of those?  
 19 COLONEL SCOTT: No, I did not observe it,  
 20 no.  
 21 MR SEMENYA SC: Now of course now you are  
 22 familiar with the evidence of about what actually  
 23 transpired there, correct?  
 24 COLONEL SCOTT: Yes.  
 25 MR SEMENYA SC: You have heard the

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1 evidence that the group of strikers, the militant group of  
 2 strikers approached the police line just when the first  
 3 barbed wire was being unfurled?  
 4 COLONEL SCOTT: Yes, these are, this is  
 5 information that came through later when the commanders  
 6 came back to the JOC.  
 7 MR SEMENYA SC: That's right, and you  
 8 have also been exposed to the information subsequently with  
 9 you being at being at Roots about what transpired?  
 10 COLONEL SCOTT: Say that again, I'm  
 11 sorry.  
 12 MR SEMENYA SC: With information later.  
 13 COLONEL SCOTT: Yes?  
 14 MR SEMENYA SC: You now know or what is  
 15 being told happened immediately that happened.  
 16 COLONEL SCOTT: Yes.  
 17 MR SEMENYA SC: The strikers are said to  
 18 have approached the police line.  
 19 COLONEL SCOTT: I now know that, yes.  
 20 MR SEMENYA SC: And you now know with the  
 21 information given to us what is alleged what is happening  
 22 at various stages?  
 23 COLONEL SCOTT: Yes.  
 24 MR SEMENYA SC: Were those things  
 25 happening in line with how you had planned the operation as

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1 you had being giving it to us now?  
 2 COLONEL SCOTT: No.  
 3 MR SEMENYA SC: Around you able to speak  
 4 around those matters, which you did not witness?  
 5 COLONEL SCOTT: Only through hindsight,  
 6 which I don't think is right, so no I wouldn't be able to,  
 7 no.  
 8 MR SEMENYA SC: Would you or wouldn't  
 9 you, no let me put that off. Can I invite you then to look  
 10 at the events post the 16th of August? You have it at page  
 11 96. Are you there?  
 12 COLONEL SCOTT: I'm there.  
 13 MR SEMENYA SC: Okay, there you deal  
 14 firstly with the information note that was to be prepared  
 15 for the President.  
 16 COLONEL SCOTT: That's correct.  
 17 MR SEMENYA SC: You describe the events  
 18 of the evening of Thursday the 16th where you assisted in  
 19 gathering the information and helping to scribe a letter to  
 20 the President, regarding the events.  
 21 COLONEL SCOTT: That's correct.  
 22 MR SEMENYA SC: To do that you received  
 23 inputs from many sources, including Brigadier Pretorius,  
 24 regarding the history and the steps of the violence and  
 25 from Captain Abreu who was monitoring the media footage?

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1 COLONEL SCOTT: That's correct.  
 2 MR SEMENYA SC: And you used other  
 3 sources of information as well, as well as photographs that  
 4 were handed in by Lieutenant-Colonel Vermaak?  
 5 COLONEL SCOTT: Yes.  
 6 MR SEMENYA SC: And after the standard  
 7 review, and the approval by the National Commissioner, the  
 8 brief information note was mailed to the police  
 9 communication centre at around 2am on the Friday now?  
 10 COLONEL SCOTT: That's correct.  
 11 MR SEMENYA SC: You then also deal with  
 12 the media presentation that was made by the National  
 13 Commissioner.  
 14 COLONEL SCOTT: That's correct.  
 15 MR SEMENYA SC: And you tell us that  
 16 during the night of the 16th and 17th of August you were  
 17 tasked by Major-General Annandale to create a presentation  
 18 for the National Commissioner to brief the media during the  
 19 morning of August the 17th, correct?  
 20 COLONEL SCOTT: That's correct.  
 21 [15:35] MR SEMENYA SC: And as you tell us at  
 22 about 8 o'clock that Friday morning, you provided a  
 23 presentation which was comprised of mainly photographs,  
 24 video clips regarding the events and the build-up to the  
 25 incident of the 16th.

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1 COLONEL SCOTT: That's correct.  
 2 MR SEMENYA SC: The National Commissioner  
 3 requested that presentation be run for the media later that  
 4 morning, is that right?  
 5 COLONEL SCOTT: That's correct.  
 6 MR SEMENYA SC: And Major-General Mpembe  
 7 would then be speaking on the role of the events of the 13th  
 8 with the video footage as well.  
 9 COLONEL SCOTT: That's correct.  
 10 MR SEMENYA SC: With the help of an IT  
 11 specialist that presentation was put together.  
 12 COLONEL SCOTT: That's right.  
 13 MR SEMENYA SC: And you tell us that  
 14 Major-General Mpembe provided the input on the sections of  
 15 the video to be included in the clip and that was done.  
 16 COLONEL SCOTT: That's right, to do with  
 17 the 13th.  
 18 MR SEMENYA SC: Yes and it was the first  
 19 time you tell us that you were seeing videos when they were  
 20 made available on the 17th of August for inclusion in the  
 21 media briefing.  
 22 COLONEL SCOTT: That's correct.  
 23 MR SEMENYA SC: And it was about 10 or 11  
 24 there that morning when you assisted with the presentation  
 25 where the National Commissioner was giving the media

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1 briefing.

2 COLONEL SCOTT: That's correct.

3 MR SEMENYA SC: Regarding the

4 presentation to the President, it was the date of the 18th

5 and 19th, you were requested to give separate presentations

6 to the President, the visiting appointed inter-ministerial

7 committee, is that right?

8 COLONEL SCOTT: That's correct.

9 MR SEMENYA SC: And the North-West

10 Provincial Government portfolio committee on the events in

11 Marikana.

12 COLONEL SCOTT: That's correct.

13 MR SEMENYA SC: The presentation you gave

14 included what you had shown to the media but included more

15 input with slides representing oral information now, is

16 that right?

17 COLONEL SCOTT: That's correct.

18 MR SEMENYA SC: But before the Commission

19 was announced you started updating the planning slide show

20 for inclusion in these presentations to better reflect what

21 was said on the days before and on the 16th of August, you

22 tell us.

23 COLONEL SCOTT: That's correct.

24 MR SEMENYA SC: And you deal then later

25 with the visit to Marikana by Mr Malema.

Page 13511

1 COLONEL SCOTT: That's right.

2 MR SEMENYA SC: And what arrangements

3 were done in relation to that visit, correct?

4 COLONEL SCOTT: That's correct.

5 MR SEMENYA SC: But beyond that period,

6 around the 18th and onwards, what was happening in Marikana

7 really was an attempt at maintaining stability and putting

8 police presence there, correct?

9 COLONEL SCOTT: Yes.

10 MR SEMENYA SC: And it was more sector

11 policing strategy and make sure that the situation is kept

12 under control.

13 COLONEL SCOTT: That's right, visible

14 policing.

15 MR SEMENYA SC: Yes. You deal with that

16 against paragraph 30 and the activity the week after the

17 Marikana incident.

18 COLONEL SCOTT: That's correct.

19 MR SEMENYA SC: You were part of what

20 happened at Roots.

21 COLONEL SCOTT: I was, yes.

22 MR SEMENYA SC: And you say that after

23 demobilising from the Marikana on the 24th, you were called

24 to report to Roots and you were there on 27th August 2012

25 until the 7th of September?

Page 13512

1 COLONEL SCOTT: That's correct.

2 MR SEMENYA SC: Your account of events at

3 Roots was that you were tasked by General Annandale to

4 prepare a presentation on the events at Marikana for the

5 Commission of Inquiry, this is the Commission, correct?

6 COLONEL SCOTT: That's correct.

7 MR SEMENYA SC: You also recall there

8 were work sessions, being about reconstructing the

9 incidents with different commanders and key role players

10 grouped per geographical incident.

11 COLONEL SCOTT: That's right.

12 MR SEMENYA SC: And you also say that

13 there were members who were sent to different breakaway

14 areas to compile their version, they would then report back

15 to Colonel Visser of the North-West Province for

16 assimilation.

17 COLONEL SCOTT: That's correct.

18 MR SEMENYA SC: And you were also

19 assisting in the compilation of that presentation for the

20 Commission.

21 COLONEL SCOTT: yes.

22 MR SEMENYA SC: You say you worked in

23 unison with Colonel Visser and you assisted him in

24 gathering much of the historic information and

25 consolidating the information from the breakaway groups.

Page 13513

1 COLONEL SCOTT: That's correct.

2 MR SEMENYA SC: You say the reason for

3 being involved in compiling the presentation for the

4 Commission was because you had started drafting a

5 presentation on the Friday, 17th, with the first audience

6 being the media at the Lonmin Game Farm auditorium.

7 COLONEL SCOTT: That's correct.

8 MR SEMENYA SC: On 6 September you tell

9 us, Colonel, that you and Colonel Visser presented the

10 police presentation to the National Commissioner.

11 COLONEL SCOTT: That's correct.

12 MR SEMENYA SC: You had presented it a

13 day before to members who were at Roots for their comments

14 and inputs.

15 COLONEL SCOTT: That's correct.

16 MR SEMENYA SC: And that became, as you

17 call it, the first official draft of the events at Marikana

18 as the police would represent them.

19 COLONEL SCOTT: Yes. There were, I

20 think, more than one working documents in getting to this

21 end of Roots National Commissioner briefing. They could

22 also possibly have been so but this was the accepted one at

23 the end of Roots.

24 MR SEMENYA SC: But there was an enormous

25 amount of material that you were working with, correct?



<p style="text-align: right;">Page 13514</p> <p>1 COLONEL SCOTT: That's correct.</p> <p>2 MR SEMENYA SC: And you say due to the</p> <p>3 volume of information that was available, the photographs,</p> <p>4 the open source media video clips, et cetera, you and</p> <p>5 Colonel Visser had to look at all those and to upgrade the</p> <p>6 presentation as and when this information came to hand.</p> <p>7 COLONEL SCOTT: That's correct, there was</p> <p>8 still information that was coming in after Roots, thus we</p> <p>9 had to continue looking and assessing that information on</p> <p>10 whether or not it could assist in the presentation to the</p> <p>11 Commission to better colour in the picture of what happened</p> <p>12 that day.</p> <p>13 MR SEMENYA SC: So there was much of the</p> <p>14 discretion that you and Colonel Visser used to compile the</p> <p>15 presentation with a view to best capture what would have</p> <p>16 transpired.</p> <p>17 COLONEL SCOTT: Yes.</p> <p>18 MR SEMENYA SC: There is material now</p> <p>19 given to the Commission but which was not part of a video</p> <p>20 exhibit L.</p> <p>21 COLONEL SCOTT: That's right.</p> <p>22 MR SEMENYA SC: But all of that</p> <p>23 information was kept, the video clips were also kept, is</p> <p>24 that correct?</p> <p>25 COLONEL SCOTT: That's correct.</p>	<p style="text-align: right;">Page 13516</p> <p>1 correct?</p> <p>2 COLONEL SCOTT: Yes.</p> <p>3 MR SEMENYA SC: And you describe in</p> <p>4 paragraph 33 the discrepancies that you noticed in relation</p> <p>5 to where the weapons were and where those weapons appear</p> <p>6 different on other photographs, is that correct?</p> <p>7 COLONEL SCOTT: Yes.</p> <p>8 MR SEMENYA SC: What did you do in</p> <p>9 relation to that matter?</p> <p>10 COLONEL SCOTT: We were at Rustenburg,</p> <p>11 sitting working at the Commission there and I noticed two</p> <p>12 sets of photographs that were of the same bodies but one</p> <p>13 had weapons and one didn't, and called Colonel Visser over</p> <p>14 to come and view it and we decided we had to go to make</p> <p>15 this aware to the senior police management of what we'd</p> <p>16 found, which we did.</p> <p>17 MR SEMENYA SC: And that was raised, as</p> <p>18 you say, with the legal team representing the SAPS in this</p> <p>19 Commission.</p> <p>20 COLONEL SCOTT: That's right.</p> <p>21 MR SEMENYA SC: Of course we know and the</p> <p>22 evidence later about what would have happened in relation</p> <p>23 to that matter by Regardia Munis, Munu.</p> <p>24 COLONEL SCOTT: That's General Munu.</p> <p>25 MR SEMENYA SC: Yes.</p>
<p style="text-align: right;">Page 13515</p> <p>1 MR SEMENYA SC: To this point you are not</p> <p>2 aware of any video material that you would have seen that</p> <p>3 has not been presented to the Commission.</p> <p>4 COLONEL SCOTT: I'm not sure of what all</p> <p>5 has been presented to the Commission. I think there is</p> <p>6 video material outside of what exists in exhibit L.</p> <p>7 MR SEMENYA SC: No – no, I'm not talking</p> <p>8 about exhibit L, I'm talking the hard drive of the SAPS.</p> <p>9 COLONEL SCOTT: Ja, the hard drive that</p> <p>10 we have of the SAPS, that was purchased at Roots and at</p> <p>11 Roots everything was transferred onto the hard drive at</p> <p>12 that time and then thereafter, anything that was again</p> <p>13 gathered or brought in was then put onto that as well as</p> <p>14 far as – to my knowledge, although it was not in my control</p> <p>15 any longer.</p> <p>16 CHAIRPERSON: In whose control was it?</p> <p>17 COLONEL SCOTT: It was Colonel Visser and</p> <p>18 Brigadier Pretorius, were made the nodal points because I'm</p> <p>19 not from the province and I was initially sent back to</p> <p>20 unit. So the continuation of the preparation of the</p> <p>21 presentation initially continued underway without some of</p> <p>22 my inputs and later I was brought back in to assist again.</p> <p>23 MR SEMENYA SC: And Colonel, it was you</p> <p>24 who kept on working on the presentation of the SAPS even up</p> <p>25 to the point of the commencement of the Commission, am I</p>	<p style="text-align: right;">Page 13517</p> <p>1 COLONEL SCOTT: Yes.</p> <p>2 MR SEMENYA SC: Under section 4 you deal</p> <p>3 with the rationale behind planning and suggestions,</p> <p>4 correct?</p> <p>5 COLONEL SCOTT: Correct.</p> <p>6 MR SEMENYA SC: But there were also some</p> <p>7 concerns raised during the hearing of, in this Commission</p> <p>8 relating to the appropriateness or otherwise of having, as</p> <p>9 it was said, an STF trained person being the one leading</p> <p>10 the drawing of the plan. You heard that evidence.</p> <p>11 COLONEL SCOTT: I've heard that, yes.</p> <p>12 MR SEMENYA SC: What do you say was your</p> <p>13 role in relation to that planning, though?</p> <p>14 COLONEL SCOTT: I was not functioning as</p> <p>15 a trained STF member there. The skills which I've obtained</p> <p>16 over years in multi-disciplinary operations was what was</p> <p>17 required, as well as being a strategist to analyse</p> <p>18 situations and then to best apply or to suggest strategies</p> <p>19 for a way forward to resolve the situation. And this also</p> <p>20 being important because the role of the tactical units</p> <p>21 which were brought in, in essence again needed somebody</p> <p>22 that understood their capacity or their capability in order</p> <p>23 to place them into correct environments and into correct</p> <p>24 roles that they would be responsible for.</p> <p>25 MR SEMENYA SC: The plan, as you</p>

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1 conceived it and as it was communicated throughout the  
 2 various briefings, did it have any use of sharp point  
 3 ammunition?  
 4 COLONEL SCOTT: No. It was the skills of  
 5 the tactical members. At no time do we plan to use sharp  
 6 point ammunition. It was the skills of those members to  
 7 deal with threatening persons in high risk arrests that was  
 8 required and that goes beyond simply the protesters at the  
 9 koppie. We're looking towards the arrests made at houses  
 10 thereafter, et cetera, on intelligence-driven information  
 11 as well.  
 12 MR SEMENYA SC: That plan, how much of  
 13 input was made by persons with public order policing  
 14 experience?  
 15 COLONEL SCOTT: I had Colonel Merafi and  
 16 two others with me on the Tuesday night and thereafter in  
 17 the briefings and the JOCCOMs, as I said, General Annandale  
 18 gave all personnel an opportunity to comment and  
 19 realistically –  
 20 CHAIRPERSON: Sorry to interrupt, wasn't  
 21 Merafi with you on the Monday night/Tuesday morning?  
 22 COLONEL SCOTT: Yes.  
 23 CHAIRPERSON: You said Tuesday night.  
 24 COLONEL SCOTT: Sorry, yes. Tuesday  
 25 early morning –

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1 morning that you thought you would need a day and a bit.  
 2 MR SEMENYA SC: Yes, Chair.  
 3 CHAIRPERSON: And you've made a lot of  
 4 progress, so it seems appropriate for us to take the  
 5 adjournment at this stage. We're not sitting to hear your  
 6 evidence tomorrow, we're going to have the postponement  
 7 application, as you've probably heard. So your evidence  
 8 will stand down while we consider the postponement  
 9 application.  
 10 COLONEL SCOTT: Okay.  
 11 CHAIRPERSON: We will now adjourn until 9  
 12 o'clock tomorrow morning.  
 13 [COMMISSION ADJOURNED]  
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1 CHAIRPERSON: Monday night into Tuesday  
 2 early morning.  
 3 COLONEL SCOTT: That's right, yes. So in  
 4 essence – and I took, I was not proposing what we would  
 5 call standard operating procedures, I was simply proposing  
 6 strategy when I was proposing, that was the weight that I  
 7 felt it should be dealt with and the principles, in  
 8 essence, that it should be dealt with.  
 9 MR SEMENYA SC: What weight in the  
 10 strategy to resolve the impasse in Marikana was placed on  
 11 negotiations?  
 12 COLONEL SCOTT: It was, most of our hope  
 13 to resolve the situation was placed in the dialogue – to,  
 14 through dialogue, bring about resolution. That's why we  
 15 had so much emphasis on that and the degree that even  
 16 senior police officers went to, to bring in outside parties  
 17 to negotiate, direct negotiations with Lieutenant-Colonel  
 18 McIntosh, strategic negotiations with General Mpembe, it  
 19 was really centred to resolve this through the dialogue and  
 20 not have to go near a tactical option, considering what had  
 21 happened on the Monday.  
 22 MR SEMENYA SC: Chair, can I propose we  
 23 break here? I would be now tidying up what remains.  
 24 CHAIRPERSON: If it's a convenient stage  
 25 for you. You did indicate to me before we started this

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1 morning that you thought you would need a day and a bit.  
 2 MR SEMENYA SC: Yes, Chair.  
 3 CHAIRPERSON: And you've made a lot of  
 4 progress, so it seems appropriate for us to take the  
 5 adjournment at this stage. We're not sitting to hear your  
 6 evidence tomorrow, we're going to have the postponement  
 7 application, as you've probably heard. So your evidence  
 8 will stand down while we consider the postponement  
 9 application.  
 10 COLONEL SCOTT: Okay.  
 11 CHAIRPERSON: We will now adjourn until 9  
 12 o'clock tomorrow morning.  
 13 [COMMISSION ADJOURNED]  
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