

# 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 262

24 JULY 2014

PAGES 32998 TO 33168



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1 [PROCEEDINGS ON 24 JULY 2014]  
 2 [09:18] MR WESLEY: - is the one that we found  
 3 which most closely proximates the date.  
 4 CHAIRPERSON: I think you indicated that  
 5 it was going to be called DDDD4. Is that right?  
 6 MR WESLEY: Yes.  
 7 CHAIRPERSON: So the DDDD4 that was going  
 8 to be an exhibit is not going to be an exhibit anymore,  
 9 it's going to be replaced by the new DDDD4, which is the  
 10 one you've referred us to, but it doesn't affect the  
 11 evidence given because remember I tried to put into words  
 12 what the witness was pointing out, it's exactly what one  
 13 can see on the new -  
 14 MR WESLEY: It's exactly the same, and  
 15 then we'll be following the same process if there's a  
 16 specific zoomed in area that we zoom in we will save that s  
 17 4.1 or 4.2 or 4.3, as the case may be, for the record.  
 18 Thank you, Chair.  
 19 CHAIRPERSON: Thank you, Mr Wesley,  
 20 that's very helpful. You're still busy, Mr Van As, I  
 21 think?  
 22 MR VAN AS: Thank you, Mr Chairperson.  
 23 Mr Louw, we adjourned proceedings yesterday, I was going to  
 24 take you to the photographs which are tabulated part 4 of  
 25 the bundle of documents, in other words exhibit DDDD3.

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1 Please go to those photographs. Can you identify these  
 2 photographs, the six of them?  
 3 MR LOUW: I can, yes, Chairperson.  
 4 MR VAN AS: And what are they photographs  
 5 of?  
 6 MR LOUW: This is the Lonmin vehicle we  
 7 were driving during this incident, Chairperson.  
 8 MR VAN AS: I'd specifically like to take  
 9 you to exhibit DDDD3.2, the second photograph, please. Is  
 10 that the passenger door of the vehicle where you were  
 11 sitting?  
 12 MR LOUW: Correct, Chairperson.  
 13 MR VAN AS: And is that the window  
 14 through which you discharged four rubber rounds of your  
 15 shotgun?  
 16 MR LOUW: Correct, Sir.  
 17 MR VAN AS: Mr Louw, did you know where  
 18 the strikers were going at the time of intercepting them?  
 19 MR LOUW: When we resumed duties the  
 20 morning the information that we received then, Chairperson,  
 21 is that the strikers apparently wanted to go to the NUM  
 22 offices. The purpose of going to the NUM offices was to  
 23 take revenge for the incident of Saturday the 11th which  
 24 allegedly, where it was alleged where they were shot at by  
 25 NUM officials.

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1 CHAIRPERSON: I'm sorry to interrupt you.  
 2 I'm not sure that what I'm now going to ask you is already  
 3 covered by the evidence, but just in case it isn't, did you  
 4 tell us yesterday - anyway, whether you told us yesterday  
 5 or not, tell us again if you told us yesterday - how the  
 6 windows of the vehicle were damaged? Or how all the damage  
 7 was sustained to the vehicles. I take it you don't need  
 8 more than a sentence or two to answer the question.  
 9 MR LOUW: Certainly, Mr Chairperson. The  
 10 damage to the vehicle was caused, Mr Chairperson, by the  
 11 weapons they had, the spears, the pangas and the other  
 12 things they had.  
 13 CHAIRPERSON: Thank you. At what stage  
 14 did that happen? At what stage was the damage done to the  
 15 vehicle?  
 16 MR LOUW: This was during the attack on  
 17 me and Mr Vorster, Chairperson.  
 18 CHAIRPERSON: Yes, thank you very much.  
 19 MR VAN AS: Thank you, Mr Chairperson.  
 20 Mr Louw, were the strikers travelling in the direction of  
 21 the NUM office at the point at which you intercepted them?  
 22 In other words if one had to draw a line from the koppie  
 23 where they were assembled to where the NUM offices were,  
 24 did you intercept them along that line?  
 25 MR LOUW: Correct, Chair.

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1 MR VAN AS: If we could please have the  
 2 Google map that Mr Wesley referred to a bit earlier, Mr  
 3 Bennett? Now you testified yesterday before we adjourned  
 4 that Mr Vorster then drove the vehicle south along the road  
 5 in the middle of the map.  
 6 MR LOUW: Correct, Chairperson.  
 7 MR VAN AS: And where did you go? Where  
 8 did the two of you go?  
 9 MR LOUW: If I could ask that the card be  
 10 zoomed out. Thank you. Just on the west of that island  
 11 where I'm now pointing at, Chairperson, we proceeded  
 12 southwards, as I'm indicating now. First we stopped at  
 13 that point where the pointer is now.  
 14 CHAIRPERSON: How do we describe that  
 15 point, Mr Van As?  
 16 MR VAN AS: Perhaps if Mr Wesley put an  
 17 icon on that point for us?  
 18 CHAIRPERSON: No, that's not going to  
 19 help us when it's -  
 20 MR VAN AS: It's on a field to the south  
 21 of where the motor vehicle -  
 22 CHAIRPERSON: The field to the south of  
 23 where the vehicle was previously stopped, where the attack  
 24 took place, the field being on the eastern side of the  
 25 road.

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1 MR VAN AS: Thank you, Mr Chairperson.  
 2 And what did you do over there, Mr Louw?  
 3 MR LOUW: I went on the radio at that  
 4 stage and contacted the control room to ask for manpower  
 5 assistance. I also requested that they contact Mr Blaauw  
 6 and Botes, and also Callie Miles to inform them that we  
 7 have been attacked and that the damage which we suffered –  
 8 MR MAHLANGU: The crowd? Skade?  
 9 CHAIRPERSON: "Skare" as you may know, as  
 10 you'll remember, Mr Mahlangu, is a crowd. It's not  
 11 "skade," which is damage, it's "skare," which is crowd.  
 12 MR LOUW: The crowd facing us was  
 13 hostile.  
 14 MR VAN AS: Could you see what the  
 15 strikers were doing after you moved to that point? Were  
 16 they still visible to you?  
 17 MR LOUW: Yes, Chairperson, they were.  
 18 They were still moving in a westerly direction along the  
 19 road towards the NUM offices. I also took my phone and  
 20 contacted Mr Miles by phone.  
 21 MR VAN AS: Perhaps you'll tell the  
 22 Commission who is Mr Miles?  
 23 MR LOUW: He is my direct line manager.  
 24 MR VAN AS: Sorry, and what happened  
 25 after that?

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1 MR LOUW: That was when Mr Vorster  
 2 realised that he'd been stabbed on his right-hand side.  
 3 Basically we moved out of the vehicle to remove all the  
 4 pieces of glasses that were lying around in the vehicle and  
 5 on top of us, and also to take stock of what had happened.  
 6 MR VAN AS: Where did you move to from  
 7 there?  
 8 MR LOUW: We were not long there,  
 9 Chairperson, and then, if I could estimate, not more than  
 10 30 seconds there. We moved back to the road in that  
 11 direction as I indicated, if the – out focussed, yes. If  
 12 you could take it a bit up, yes. A bit to the right. Can  
 13 you move the map to the right, please? Zoom it out a bit,  
 14 yes. We went past Rowland Shaft. You'll see that crossing  
 15 where I'm now indicating, we call that the Rowland  
 16 Crossing.  
 17 CHAIRPERSON: It's to the south of the  
 18 field to which we've referred. If one goes down the road  
 19 that runs in a southerly direction from the intersection  
 20 and the traffic island we talked about, if one goes down  
 21 that road in a southerly direction you pass the field we  
 22 spoke about. You then come to another intersection and  
 23 that's described as the Rowland Crossing, and where exactly  
 24 is the Rowland Shaft? Can you show that to us?  
 25 MR LOUW: That's the Rowland Crossing, Mr

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1 Chairperson, where I'm indicating. The Rowland  
 2 Concentration is at that area –  
 3 CHAIRPERSON: [Microphone off, inaudible]  
 4 MR MAHLANGU: Just switch on,  
 5 Chairperson.  
 6 CHAIRPERSON: I'm sorry. One sees the  
 7 Rowland Crossing to which I've been referred and then to  
 8 the south-east of that intersection there is a complex of  
 9 buildings and so on and that is the Rowland Shaft. Is that  
 10 correct?  
 11 MR LOUW: The first one that I indicated  
 12 that is the Rowland Concentrator. Just south to that, in  
 13 that area, that is the Rowland Shaft.  
 14 CHAIRPERSON: So what I referred to as  
 15 the complex is really the Rowland Concentrator, you say.  
 16 MR LOUW: That's correct.  
 17 CHAIRPERSON: And then further south of  
 18 that is a further series of buildings as we see it on the  
 19 Google Earth map, and that includes the shaft itself, the  
 20 Rowland Shaft.  
 21 MR LOUW: That's correct, Sir.  
 22 CHAIRPERSON: You got to the Rowland  
 23 Crossing. What did you do when you got to the Rowland  
 24 Crossing? Did you go on down past the Rowland Shaft or did  
 25 you turn left and go in an easterly direction? What

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1 exactly did you do?  
 2 MR LOUW: I showed that crossing because  
 3 I'll later come back to it, Chairperson. From there we  
 4 still drove in a southerly direction –  
 5 CHAIRPERSON: Now past the Rowland Shaft?  
 6 MR LOUW: That's correct, Chair, up to  
 7 where I am now indicating with the pointer. The road turns  
 8 there automatically southwards. We then drove in a south-  
 9 westerly direction –  
 10 CHAIRPERSON: As one goes past the  
 11 Rowland Shaft one comes to what, I'm not sure whether  
 12 there's a fork, but there's a small fork but the major  
 13 prong as it were of the fork is a section which runs in a  
 14 south-westerly direction, and that's the one that you went  
 15 down.  
 16 MR LOUW: That's correct, Chair. If you  
 17 could get the map as it was before. Sorry, Chair, I'm just  
 18 waiting to focus.  
 19 MR VAN AS: Perhaps we can short-circuit  
 20 things, Mr Louw. Where did you travel to once you were in  
 21 the vehicle? Where did you go?  
 22 MR LOUW: [Inaudible, speaking  
 23 simultaneously with interpreter] there's the reservoir.  
 24 Now we turned there in the direction in which I'm now  
 25 indicating, south-westerly direction as the road shows

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1 there. Up there there's another road going up to the BMR  
 2 Smelters, the main gate of the smelters.  
 3 CHAIRPERSON: What happened was you went  
 4 down the south-westerly prong, as I called it before, past  
 5 the reservoir until you came to a point where there was a  
 6 road going off to your right, proceeding in northerly  
 7 direction and you turned right at that point and went up  
 8 that road towards the – what was the name of the smelter?  
 9 MR?  
 10 MR LOUW: BMR Smelter main gate.  
 11 CHAIRPERSON: PMR Smelter?  
 12 MR LOUW: Bravo –  
 13 CHAIRPERSON: B, oh, B.  
 14 MR VAN AS: Base Metal Refinery Smelter.  
 15 CHAIRPERSON: Thank you very much. And  
 16 you went past Base Metal Refinery. Is that right?  
 17 MR LOUW: That's correct, Chairperson.  
 18 CHAIRPERSON: And what happened then?  
 19 MR LOUW: There's a T-junction there, as  
 20 I indicate, Chairperson. We went up in a northerly  
 21 direction. The security offices are situated there, the  
 22 Security Intervention Unit, SIU, is situated there.  
 23 CHAIRPERSON: Is that where you stopped?  
 24 MR LOUW: That's correct, Chairperson.  
 25 CHAIRPERSON: So to describe that, you

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1 MR LOUW: As I've already explained,  
 2 Chairperson, at that stage this was after the attack on us  
 3 and we had seen the effects of the rubber rounds, it served  
 4 no other purpose to keep on using the ordinary rubber  
 5 rounds. At that stage we had already received information  
 6 that Hassan and Frans were trapped in the hostel –  
 7 CHAIRPERSON: You actually, you say  
 8 hostel but I think you mean the hostel area because the  
 9 hostel presumably is the actual building, but there's a  
 10 hostel area, they were trapped in the hostel area. Is that  
 11 correct? They weren't actually trapped in the building.  
 12 MR LOUW: Correct, Chairperson, we  
 13 normally refer to that area usually as the hostel –  
 14 CHAIRPERSON: Frans is Mr Mabelane –  
 15 MR LOUW: - whereas it's actually the  
 16 hostel area.  
 17 CHAIRPERSON: Sorry, yes, and Frans is Mr  
 18 Mabelane and Hassan is Mr Fundi.  
 19 MR LOUW: Repeat, please Sir.  
 20 CHAIRPERSON: You talk about Hassan and  
 21 Frans. I'm saying Frans is a reference to the late Mr  
 22 Mabelane and Hassan is a reference to the late Mr Fundi.  
 23 MR LOUW: Correct, Chairperson.  
 24 MR VAN AS: Alright, what did you do then  
 25 after you replenished your ammunition, you reloaded with

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1 went up this road in a northerly direction, as I've  
 2 described, and if one looks at this Google Earth map one  
 3 sees on the right-hand side as you're going up there was a  
 4 – no, in fact it's clearer now. As one goes up on the  
 5 left-hand side, so essentially the first building on the  
 6 left as one went up, is that correct?  
 7 MR LOUW: What you say now is correct  
 8 [inaudible, speaking simultaneously with interpreter] our  
 9 office [inaudible] -  
 10 CHAIRPERSON: It's the first – as you're  
 11 proceeding in a northerly direction up that road, the first  
 12 building on your left as you went up was the security  
 13 building to which you – Intervention Unit where you  
 14 stopped. Is that correct?  
 15 MR LOUW: Correct, Chairperson, yes. The  
 16 reception is the first office and ours is the one  
 17 thereafter.  
 18 MR VAN AS: What did you do when you  
 19 arrived there?  
 20 MR LOUW: Myself and Vorster got  
 21 ourselves AAA rounds. I then reloaded my gun with six more  
 22 AAA rounds.  
 23 MR VAN AS: Can you tell the Commission  
 24 why you reloaded your shotgun with AAA ammunition and not  
 25 with rubber rounds?

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1 AAA ammunition? What did you and Vorster do?  
 2 MR LOUW: We then went back the vehicle,  
 3 me and Vorster. We used the same road in which we came in  
 4 driving southwards.  
 5 [09:38] To the T junction. From there proceeded in a  
 6 north easterly direction as I indicate now to that point.  
 7 CHAIRPERSON: In fact what we call the  
 8 Rowland crossing, you went back to the Rowland crossing.  
 9 You went southwards from the security intervention area and  
 10 it didn't look like a T junction to me, there's a road  
 11 going of to your left, that's to the east. There's a road  
 12 that comes down, you proceeded up that road which is  
 13 actually in a north easterly direction and eventually  
 14 effectively retracing your steps from earlier on that day.  
 15 And you got back to the Rowland crossing. Is that right?  
 16 MR LOUW: That's correct, Chairperson.  
 17 What I'm speaking about is where the road crosses the BMR  
 18 one and the one I mentioned. Basically we drove in a north  
 19 easterly direction as I indicate with the pointer, past the  
 20 Rowland crossing up to the road that comes from the island  
 21 where we had been attacked.  
 22 CHAIRPERSON: What happened then?  
 23 MR LOUW: From there Mr Voster went into  
 24 an armoured vehicle, one of the Protea Coin vehicles.  
 25 MR VAN AS: Had Mr Botes or Mr Miles or

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1 Mr Blaauw arrived at that time yet?

2 MR LOUW: In the negative, Chairperson.

3 MR VAN AS: And what did you do?

4 MR LOUW: I went into the vehicle, the

5 vehicle appearing on the exhibit on the photo, I moved back

6 in a southern direction up to the Roland crossing and from

7 there drove in an easterly direction as I indicate up to

8 the crossing just below Saffy, Andrew Saffy hospital.

9 MR VAN AS: Were you on your own when you

10 drove -

11 CHAIRPERSON: No, no we've got to get

12 that on record, Mr Van As. You turned right at the Rowland

13 crossing and you proceeded in an easterly direction to the

14 next intersection. At that point you turned left and went

15 in a northerly direction. You drove past the Andrew Saffy

16 hospital which is misspelt on the Google map, but never

17 mind. That's on your right-hand side as you went up. It

18 looks like the first set of buildings on your right-hand

19 side as you proceeded in a northerly direction. Is that

20 correct?

21 MR LOUW: If I proceeded in a northerly

22 direction, Chairperson, Andrew Saffy would be on my left-

23 hand side.

24 CHAIRPERSON: It's wrongly marked on the

25 - so whoever is responsible for putting it on the Google

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1 map please spell Saffy correctly and move the title

2 indicator to the correct position. Right so what happened

3 at the Andrew Saffy hospital?

4 MR LOUW: Chair, at that stage, as I

5 said, we received a message that Mr Mabulani and Mr Fundi

6 were trapped inside the hostel area, our purpose me and Mr

7 Voster then was to see if we could not get to them to help

8 them get out of the place.

9 MR VAN AS: Were you able to get to them?

10 MR LOUW: No, Chair.

11 MR VAN AS: Why not?

12 MR LOUW: Chair, focusing on that area at

13 which I'm indicating now -

14 CHAIRPERSON: The area north of the

15 hospital.

16 MR LOUW: Yes, Chairperson. Chair, to

17 explain further I moved on this road in a northerly

18 direction just past the gate of the Andrew Saffy hospital

19 as I'm indicating there where the boundary wire of the

20 hostel starts. As I could observe at that stage the crowd

21 were in a crouched position in that whole area up to the

22 NUM offices.

23 CHAIRPERSON: As you proceed up in a

24 northerly direction up that road past the hospital you then

25 come to the hostel itself, the hostel buildings on your

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1 left-hand side. Is that right?

2 MR LOUW: Correct, Chair.

3 CHAIRPERSON: There's a road that goes

4 off to the left that's in a westerly direction and what you

5 indicated I understood it was from that road around into

6 the road that you've been travelling up which is travelling

7 in a northerly direction and then stretching up that road

8 as well, that was where the crowd was.

9 MR LOUW: Correct, Chairperson.

10 CHAIRPERSON: And as a result of the

11 crowd being there was it possible for you to get into the

12 hostel area to where you had been informed Mr Mabulani and

13 Mr Fundi were?

14 MR LOUW: They had already gone past the

15 place where these two, Mabulani and Fundi were attacked.

16 CHAIRPERSON: Can I just ask you were you

17 able to get to that place?

18 MR LOUW: No, Chair.

19 CHAIRPERSON: Why was that?

20 MR LOUW: Chair, the road was blocked by

21 the crowd that had attacked.

22 CHAIRPERSON: Can you perhaps indicate

23 where that was?

24 MR LOUW: If we focus on that area there,

25 Chairperson. Thank you. The road I came in that goes past

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1 the Andrew Saffy hospital, that's the entrance there I'm

2 indicating which gets into the hostel area. That is the

3 road in which the crowd was walking in the north easterly

4 direction, in an eastern direction. Then we turned north

5 on this corner here up to the NUM offices. What I

6 basically want to explain is that I was coming along that

7 road, Chairperson. I could see that that whole area was

8 occupied by the crowd.

9 CHAIRPERSON: As you went up the road, as

10 you indicate to us, in a northerly direction you came to a

11 position where a road was going off in a north westerly

12 direction like a slip away road on your left-hand side. As

13 you proceeded further up the road you were travelling in,

14 in a northerly direction you had come to a road going off

15 to your left to the west which eventually joined up with

16 that slip away road that I referred to. And you said that

17 the crowd was stretched from a point where those two roads

18 came together to the intersection and then up further in a

19 northerly direction. Is that it?

20 MR LOUW: Correct, Chair.

21 CHAIRPERSON: Is the NUM visible on this

22 part of the Google Earth map we can see at the moment? As

23 one proceeded up beyond that section where these two roads

24 turned off to the west and proceeded up the northerly road

25 one would see on the right-hand side two buildings, one

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1 which has a red roof and the red roof building was the NUM  
2 office. I think we were told earlier that the other  
3 building was a sub-station of the police which was not  
4 always staffed. Is that right?  
5 MR LOUW: Correct, Chair.  
6 CHAIRPERSON: So you say the crowd  
7 stretched then from the NUM office effectively in a  
8 southerly direction down that road we've been talking about  
9 and then went off to the west at that intersection –  
10 MR LOUW: Correct, Chair.  
11 MR WESLEY: Sorry, Chair, if I can  
12 interrupt. If Mr Bennett can just zoom out a little bit  
13 like we had the picture – in a bit more. We need to save  
14 the image, Chair. Stop there, out, out, out. Stop there.  
15 If we could save this image, Mr Bennett, please. 4.3 it's  
16 the eastern entrance to the Wonderkop hostel area.  
17 COMMISSIONER HEMRAJ: Mr Louw, are you  
18 able to point out the area where Mr Mabulani and Fundi were  
19 being attacked?  
20 MR MAHLANGU: If you could just repeat,  
21 Commissioner, please.  
22 MR LOUW: I got the question, yes. I'll  
23 just wait until they are through with that – what is now  
24 being done on the Google map.  
25 CHAIRPERSON: We can leave the thing on,

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1 but according to the statement that you made that you  
2 confirm it was just after the point that you've told us  
3 about that you met up with Mr Masebe and you had a  
4 conversation with him, is that right? All right, sorry,  
5 disregard my question for the moment. Let's go back to the  
6 point you were busy with a second ago. Can we please see  
7 on the map where Mabulani and Fundi were?  
8 MR LOUW: If we can focus on that area  
9 there.  
10 CHAIRPERSON: You actually describe the  
11 intersection and the road that went off, the two roads  
12 eventually came together on the western side of the  
13 intersection. As one proceeds in a westerly direction down  
14 that road you come to a section where there's, what looks  
15 like a turning area. Is this for buses and taxis and so  
16 on?  
17 MR LOUW: Mostly that's where the buses  
18 turn, Chairperson.  
19 CHAIRPERSON: Mr Tip described it very  
20 happily as a loop when he was leading evidence and then am  
21 I correct in thinking that you point out a spot on the  
22 western side of the loop where the attack on Mr Fundi and  
23 Mabulani took place. Is that correct?  
24 MR LOUW: No, Chair.  
25 CHAIRPERSON: Show us on this map where

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1 they were.  
2 MR LOUW: I just wanted to orientate  
3 myself when I asked for a focus on that area where the bus  
4 stop was, I wanted to see that area.  
5 CHAIRPERSON: Oh I see. So it's really  
6 at the eastern end of that loop where the loop starts  
7 really. As one proceeds westerly down the road we're  
8 talking about the loop begins on one's left-hand side and  
9 it's at that point roughly where the bus stop is. Is that  
10 correct?  
11 MR LOUW: If we could just focus out, Mr  
12 Chairperson, a bit yes. We can focus on that area there.  
13 CHAIRPERSON: The point you're focusing  
14 on is the one that I referred to. As you proceed towards  
15 the west you come to the beginning of the loop and at the  
16 beginning of the loop that's the area that you're focusing  
17 on. As one looks at the photograph there's a motor car  
18 actually parked just in the westerly road, just beyond the  
19 beginning of the loop and the area you indicate is more or  
20 less to the south of that motor car that one can see there.  
21 MR LOUW: That's correct, Chairperson. I  
22 think the trees disturbed me about my focus.  
23 CHAIRPERSON: You don't have to apologise  
24 we understand that. Mr Wesley will get him to put an icon  
25 there. You spoke to Mr Masebe as I understand it.

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1 MR LOUW: Correct, Chairperson, yes.  
2 CHAIRPERSON: You don't have to tell us  
3 what he told you, but you spoke to him and while you were  
4 talking to him did you see the members of the crowd in the  
5 road, in the position which you mentioned to us earlier?  
6 MR LOUW: Correct, Chairperson, they were  
7 all in a crouching position.  
8 CHAIRPERSON: Did you notice anything  
9 particular about their posture?  
10 MR LOUW: I could only have said - at the  
11 time they attacked us could only describe it as threatening  
12 to us.  
13 CHAIRPERSON: Can you describe their  
14 posture, how exactly were they standing? Were they  
15 standing straight up or –  
16 MR LOUW: They were all in a crouched  
17 position.  
18 CHAIRPERSON: Thank you.  
19 MR WESLEY: Sorry can I interject? The  
20 witness referred to a bus stop, can you please indicate  
21 where it's supposed to be so that an icon can be placed  
22 there?  
23 MR LOUW: That's where I'm now indicating  
24 with the pointer.  
25 CHAIRPERSON: The bus stop is on the

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1 eastern side of the loop, at the beginning of the loop that  
 2 we talked about on the southern side of the road.  
 3 MR LOUW: Correct, Chairperson.  
 4 MR VAN AS: All right, where did you go,  
 5 when you realised you couldn't get in from the eastern side  
 6 what did you do, Mr Louw?  
 7 MR LOUW: I realised it would not be  
 8 possible for me to move in. All the others then decided to  
 9 go back to the island, at the Rowland crossing where we  
 10 then waited for the other security officers to join us.  
 11 Amongst others Mr Botes and Mr Miles.  
 12 MR VAN AS: All right if we can just zoom  
 13 back to the Rowland shaft crossing, the Rowland crossing.  
 14 I see, so you waited at the Rowland crossing and you were  
 15 joined by the security officers.  
 16 MR LOUW: That's correct, Chairperson.  
 17 MR VAN AS: And where did you go then?  
 18 MR LOUW: At that stage no-one was  
 19 certain about the whereabouts of Mr Fundi and Mr Mabulani,  
 20 we then again proceeded in a northerly direction, as I  
 21 indicate, past the island where we had been attacked. We  
 22 took the road in an easterly direction back to the hostel  
 23 area.  
 24 MR VAN AS: What could you observe?  
 25 MR LOUW: There were a number of people

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1 who were moving in that area back in the direction of the  
 2 koppie.  
 3 MR VAN AS: And insofar as Mr Fundi and  
 4 Mr Mabelane were concerned what did you see?  
 5 [09:58] MR LOUW: At that stage the smoke of  
 6 something that was burning, I did not know whether it was a  
 7 building or tyres, I did not know what the damage was at  
 8 that time.  
 9 MR VAN AS: And then?  
 10 MR LOUW: We moved in. As we moved in  
 11 the crowd made it difficult for us until we came up to Mr  
 12 Fundi and Mabelane.  
 13 MR VAN AS: Did you believe they were  
 14 still alive at this stage, or were you hoping they were  
 15 still alive at this stage?  
 16 MR LOUW: At that stage yes, we hoped  
 17 they were still alive, Chairperson.  
 18 MR VAN AS: I see Mrs Fundi is in the  
 19 crowd. This is fairly graphic evidence. I don't intend  
 20 referring to any of the photograph, but Mr Louw did see  
 21 certain things. I don't know if you want to give a warning  
 22 in relation to that, Mr Chairperson.  
 23 CHAIRPERSON: Very well. I believe we're  
 24 now going to get some rather graphic evidence about what Mr  
 25 Louw saw in relation to the dead body of Mr Fundi and Mrs

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1 Fundi and any other people she has with her who are friends  
 2 or relations of the late Mr Fundi may find it very  
 3 unpleasant and painful to hear this evidence, so I suggest  
 4 we allow half a minute to elapse to enable them to leave  
 5 the chamber if they wish, but obviously if they want to  
 6 stay they're free to do so.  
 7 MR LOUW: If I could also make just a  
 8 little request, if I could, Sir?  
 9 CHAIRPERSON: [Microphone off, inaudible]  
 10 MR LOUW: If I just give a brief  
 11 description of what I see, because I also don't feel –  
 12 CHAIRPERSON: I understand. Sorry to  
 13 interrupt. Carry on.  
 14 MR LOUW: I also, I don't feel like, I  
 15 don't feel good in looking at the – I don't want to see  
 16 the –  
 17 CHAIRPERSON: I understand Mr Van As  
 18 wasn't intending that we should look at the pictures, but  
 19 he was afraid that even the verbal description might be  
 20 painful to Mrs Fundi and others.  
 21 MR LOUW: I understand.  
 22 CHAIRPERSON: But so you'll be spared –  
 23 we've looked at the photograph often before –  
 24 MR LOUW: Yes, Sir.  
 25 CHAIRPERSON: - and we know what's on it.

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1 It's not necessary for us to see it again, but we can just  
 2 have a short verbal description.  
 3 MR VAN AS: You say there were people  
 4 preventing you from getting close, strikers preventing you  
 5 from getting closer to where Mr Fundi and Mr Mabelane were.  
 6 What did you do at that stage?  
 7 MR LOUW: At that stage the ambulance was  
 8 just slightly behind us, Mr Chairperson. Because we were  
 9 still hoping that Mr Fundi and Mabelane were still alive we  
 10 moved in and amongst others I then used one of my AAA  
 11 rounds, which I shot at the crowd at that stage.  
 12 MR VAN AS: Were you able to get to where  
 13 Mr Fundi and Mr Mabelane had been attacked?  
 14 MR LOUW: Yes, Chairperson.  
 15 MR VAN AS: And again I don't want to go  
 16 into any detail. Were they dead when you arrived there?  
 17 MR LOUW: Correct, Chairperson.  
 18 MR VAN AS: And what did you do once you  
 19 arrived on the scene?  
 20 MR LOUW: To be honest, Chairperson, I  
 21 still do remember I have never seen such a thing in my  
 22 whole life. I must say I feel ashamed that I broke down at  
 23 that stage. Mr Dirk Botes came to me and tried to comfort  
 24 me to say these are your colleagues and my friends and that  
 25 I was right in having this kind of a feeling.

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1 MR VAN AS: And if I may just short-

2 circuit the process, were Lonmin security able to safeguard

3 the area until the police arrived at that stage?

4 MR LOUW: Correct, Chairperson. We made

5 sure that nobody comes there. We cordoned off the place

6 and waited for the police to come up.

7 CHAIRPERSON: We've seen photographs of

8 what was found there and the body of Mr Mabelane being set

9 alight. Is that correct?

10 MR LOUW: Correct, Chairperson.

11 CHAIRPERSON: And we've also had

12 descriptions of how the body of Mr Fundi was mutilated.

13 You don't have to repeat that unless –

14 MR LOUW: Correct, Chairperson.

15 CHAIRPERSON: - some of the things are

16 necessary. I think, Mr Van As, your time has more or less

17 run out, but the material in his statement which was handed

18 in which he confirmed, it's in fact already an exhibit

19 AAAA36, I imagine he can simply confirm, what he'd already

20 done, the description he gives of what happened on the 13th

21 of August. It's on record.

22 MR VAN AS: There's one further issue, if

23 I may just deal with the photographs on exhibit JJJ27.9472

24 and JJJ29.265, perhaps if I can just ask Mr Louw to explain

25 the circumstances in which he found himself on the third

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1 koppie on the 16th, please, Mr Chairperson. If you go to

2 tabulated number 5 –

3 CHAIRPERSON: There are photographs taken

4 on the 16th, so they're not covered in the statement anyway.

5 I was simply saying you don't have to lead the rest of the

6 material on the statement, which is exhibit AAAA36, because

7 it's before us and –

8 MR VAN AS: Thank you, Mr Chairperson.

9 CHAIRPERSON: Do you want to put on the

10 screen the first photograph, it's exhibit JJJ27.9472.

11 That's now on the screen.

12 MR VAN AS: Do you have that photograph

13 in front of you, Mr Louw?

14 MR LOUW: Correct, Chair.

15 MR VAN AS: Are you on this photograph?

16 MR LOUW: Correct, Chairperson.

17 MR VAN AS: Can you perhaps just identify

18 yourself on the photograph, please?

19 MR LOUW: That's me standing over there,

20 Chair.

21 CHAIRPERSON: There is a body on the,

22 towards the left-hand side of the photograph, someone with

23 a red top – oh, whether it's the body of a dead person or a

24 live person I don't know, but anyway, there's someone lying

25 down there with a red top, bright red top, and immediately,

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1 someone is leaning over either that person or the person

2 next to him, a person in uniform, and to the right of that

3 person as we look at the photograph is I think the witness

4 as he's pointed himself out to us.

5 MR LOUW: That's correct, Chair.

6 MR VAN AS: The person who's standing, to

7 use the Chairperson's words, immediately above, bending

8 down over the individual with the red top, who is that

9 person? Perhaps if I can just show you –

10 MR LOUW: Fellow security officer, Chris

11 Matthee.

12 MR VAN AS: The crouching person, I've

13 put the strobe light on the person, who is that person?

14 MR LOUW: One of the medical people for

15 Netcare –

16 CHAIRPERSON: That's the person who's

17 bending over either the person lying with the bright red

18 top or possibly the person next to him. That's one of the

19 Netcare people, you say?

20 MR LOUW: That's correct, Chairperson.

21 MR VAN AS: And what were the Netcare

22 personnel doing over there, Mr Louw?

23 MR LOUW: They went in to assist with the

24 injured during the incident of the 16th.

25 MR VAN AS: And what were you and other

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1 members of Lonmin security doing over there?

2 MR LOUW: We only went in there because

3 of the fact that the medical personnel were scared of

4 proceeding, to move in there alone. We were then requested

5 by our security manager to go in, basically to escort the

6 medical staff.

7 MR VAN AS: If you go to the second

8 photograph, please, exhibit JJJ29.265, perhaps if we can go

9 to the second one, please, on the screen.

10 CHAIRPERSON: We haven't got that on the

11 screen yet. We want the second exhibit which is JJJ29.265.

12 Have we got it now?

13 MR VAN AS: Can you identify yourself in

14 that photograph as well, please?

15 MR LOUW: Yes, I can, Chairperson. I am

16 the person on the left-hand side of the photo –

17 MR VAN AS: And I just –

18 CHAIRPERSON: It looks like a shotgun in

19 your right hand which is pointing to the ground. Is that

20 right?

21 MR LOUW: That's correct, Mr Chairperson.

22 MR VAN AS: Is that the –

23 CHAIRPERSON: With a cigarette in your

24 left hand?

25 MR MAHLANGU: Cigarette in his left hand?



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1 CHAIRPERSON: Is that right?  
 2 MR LOUW: That's also correct,  
 3 Chairperson.  
 4 MR VAN AS: I see you're wearing rubber  
 5 gloves. Can you explain to the Chairperson why you had  
 6 rubber gloves on?  
 7 MR LOUW: If you could compare it with  
 8 the other photo that we had seen on JJJ27.9472 you'll see  
 9 that the hand gloves are different. The gloves we were  
 10 wearing tear easily and we had to wear gloves because we  
 11 were helping with the picking up of the injured and the  
 12 deceased.  
 13 MR VAN AS: So the photograph of you  
 14 wearing blue gloves would have been taken after the  
 15 photograph of you wearing the white gloves?  
 16 MR LOUW: That's correct, Chairperson.  
 17 MR VAN AS: Thank you, Mr Chairperson,  
 18 those are my questions.  
 19 CHAIRPERSON: Thank you, Mr Van As. Mr  
 20 Wesley, how long have you given yourself? Or how long did  
 21 I give you?  
 22 MR WESLEY: Chair, 60 minutes and I'll be  
 23 the strictest person in enforcing –  
 24 CHAIRPERSON: Alright, I think we can ask  
 25 Mr Chaskalson to be the timekeeper, to be keep an eye –

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1 he's a senior, or Mr Mpofo wants to do it?  
 2 MR MPOFU: No, I wanted to know if Mr  
 3 Wesley's 60 minutes will be counted in the same way as the  
 4 previous one, which went over by half an hour –  
 5 CHAIRPERSON: Yes –  
 6 MR MPOFU: - without even an application  
 7 for an extension.  
 8 CHAIRPERSON: Yes, Mr Mpofo, I hear what  
 9 you say. We will enforce this 60 minutes strictly and  
 10 we'll ask Mr Chaskalson and the two of you together to keep  
 11 an eye on it.  
 12 CROSS-EXAMINATION BY MR WESLEY: Thank  
 13 you, Chair. Mr Louw, we've got quite a bit to get through,  
 14 so I'm going to try and hurry it along, but I want to just  
 15 for the sake of good order, if you can just remember,  
 16 please, what you testify about is being translated. Can  
 17 you please wait before proceeding with an answer for the  
 18 translation to finish before you carry on talking?  
 19 Otherwise you end up talking over the translator.  
 20 MR LOUW: I'm sorry, Chairperson. I'll  
 21 do that.  
 22 MR WESLEY: And although we're going to  
 23 hurry up I'd like you to talk a little bit slower so that  
 24 it's easier to follow. Will you do that?  
 25 MR LOUW: Mr Chairperson, could I be

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1 given some time just to talk to Mr Van As? What I want to  
 2 do is to speed up the proceedings by –  
 3 CHAIRPERSON: I was going on till quarter  
 4 past 11 – sorry, quarter past 10. It feels like quarter  
 5 past 11. Quarter past 10. We'll take the first comfort  
 6 break now. We'll start again, I hope, at half past 10, if  
 7 everybody can try very hard to be back, and then whatever  
 8 Mr Louw wants to do in conversation with Mr Van As can be  
 9 done during that break.  
 10 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 11 [10:40] CHAIRPERSON: The Commission resumes a  
 12 bit later than we thought, but we had some housekeeping  
 13 matters to consider in relation to the meeting that was  
 14 held yesterday afternoon. Mr Louw, you're still under  
 15 oath.  
 16 DEWALD LOUW: [s.u.o.]  
 17 CHAIRPERSON: Mr Wesley.  
 18 MR WESLEY: Thank you, Chair. Chair,  
 19 might I just report; Mr Louw is going to give his evidence  
 20 from now on in English to try and speed things up. If he  
 21 has a difficulty with a word I've given him an undertaking  
 22 that yourself and myself would assist him with whatever  
 23 translations he may need –  
 24 CHAIRPERSON: I appreciate the gesture  
 25 that he's prepared to make. It will certainly help us.

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1 And of course his evidence-in-chief was longer than we  
 2 thought, but that was because this process of explaining  
 3 what was on the photographs –  
 4 MR WESLEY: That's correct, Chair.  
 5 CHAIRPERSON: - that took up a lot of  
 6 time and incurred the irritation of Mr Mpofo, which is  
 7 unfortunate. I understand, also one of the matters we  
 8 discussed during the break was as far as future witnesses  
 9 are concerned, what we suggest is that a Google map if  
 10 necessary be printed, the necessary points be indicated on  
 11 that already with possibly a key if the text on the  
 12 photograph, full text on the photograph can't do justice to  
 13 what's been indicated. Those can then be handed in as  
 14 exhibits and that will also speed things up, so we won't  
 15 have the problem we had earlier.  
 16 MR WESLEY: Yes, Chair. Thank you very  
 17 much, Chair. Mr Louw, just to clarify then what the Chair  
 18 means is what we're going to in fact do with you is we'll  
 19 sit with you with the Google map and you will point out  
 20 places. You mention in your statement for instance EPL,  
 21 you'll point out where EPL is and we'll hand that in. Is  
 22 that in order with you?  
 23 MR LOUW: That's correct, Mr Chair.  
 24 CROSS-EXAMINATION BY MR WESLEY (CONTD.):  
 25 Now Mr Louw, if I can begin, one of the documents that we

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1 handed to you for reading was what is called the "ICAM  
 2 report (Final)." Do you have it with you?  
 3 MR LOUW: Yes, I do, Mr Chairman.  
 4 MR WESLEY: Now you mentioned there was  
 5 an investigation –  
 6 CHAIRPERSON: I'm sorry, Mr Wesley, just  
 7 housekeeping; if some of the documents you want to refer to  
 8 will have to go in as exhibits, may I suggest we do that  
 9 now and get it over with?  
 10 MR WESLEY: Yes, Chair, the next number  
 11 should be DDDD5, if I'm not mistaken.  
 12 CHAIRPERSON: Yes, Mr Wesley, what's  
 13 that?  
 14 MR WESLEY: That is the "ICAM report" –  
 15 I-C-A-M report – "(Final)."  
 16 CHAIRPERSON: [Microphone off, inaudible]  
 17 MR WESLEY: No, Chair, there is then –  
 18 CHAIRPERSON: Sorry?  
 19 MR WESLEY: - a document called –  
 20 CHAIRPERSON: Well, DDDD6 will be what?  
 21 MR WESLEY: Chair, I'm told that the ICAM  
 22 report (Final) is in fact already in as DDDD2.  
 23 CHAIRPERSON: Alright.  
 24 MR WESLEY: My apologies for that.  
 25 CHAIRPERSON: So what will then be DDDD5?

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1 MR WESLEY: ICAM report file 1, tab 14 –  
 2 CHAIRPERSON: Sorry, ICAM report?  
 3 MR WESLEY: File 1 –  
 4 CHAIRPERSON: File 1?  
 5 MR WESLEY: No, sorry, file 2 –  
 6 CHAIRPERSON: File 1, tab 14?  
 7 MR WESLEY: - sorry, file 2, tab 3. File  
 8 2, tab 3.  
 9 CHAIRPERSON: So ICAM report file 2, tab  
 10 3.  
 11 MR WESLEY: "(Lonmin Security  
 12 organogram)."  
 13 CHAIRPERSON: Yes.  
 14 MR WESLEY: And that's it, Chair.  
 15 CHAIRPERSON: One of the documents you  
 16 referred to is ICAM report file 1, tab 14, I take it that's  
 17 already in as one of the documents –  
 18 MR WESLEY: Those are the –  
 19 CHAIRPERSON: - one of the photographs  
 20 that Mr Van As handed in?  
 21 MR WESLEY: The same photographs that Mr  
 22 Van As already referred to, so we don't need to give that  
 23 another number.  
 24 CHAIRPERSON: Right, so you're only  
 25 essentially handing in one new exhibit. Is that right?

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1 MR WESLEY: Yes, ICAM report –  
 2 CHAIRPERSON: DDDD5, ICAM report file 2,  
 3 tab 3, which is a Lonmin Security Organogram.  
 4 MR WESLEY: That's so, Chair.  
 5 CHAIRPERSON: Alright.  
 6 MR WESLEY: Mr Louw, in respect of the  
 7 ICAM report you mentioned there was an investigation. You  
 8 were interviewed during that investigation.  
 9 MR LOUW: That's correct, Mr Chairman.  
 10 MR WESLEY: And that resulted in the  
 11 statement that you have given, which was handed in.  
 12 MR LOUW: That's correct, Mr Chairman.  
 13 MR WESLEY: Which is AAAA36. Who  
 14 interviewed you? Can you remember?  
 15 MR LOUW: Excuse me, Mr Chair, I can't  
 16 remember the names now offhand, sorry.  
 17 MR WESLEY: Okay, if you have a look at  
 18 the ICAM report itself, which is DDDD2, if you go to the  
 19 final page thereof, do you have it? Do you have it with  
 20 you?  
 21 MR LOUW: I only have my statement which  
 22 I gave during the ICAM. Is that the document you're  
 23 referring to?  
 24 MR WESLEY: Okay, look on the screen.  
 25 This is the final page of the ICAM report that we're

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1 referring to. You'll see that there's a bunch of names  
 2 mentioned there under paragraph 9, Investigation Team.  
 3 MR LOUW: Yes, Sir.  
 4 MR WESLEY: Philip Scholtz.  
 5 MR LOUW: That's correct.  
 6 MR WESLEY: Jacques Erasmus.  
 7 MR LOUW: That's correct.  
 8 MR WESLEY: Obed Maku.  
 9 MR LOUW: That's correct.  
 10 MR WESLEY: Chris Tembe.  
 11 MR LOUW: That's correct.  
 12 MR WESLEY: Jakes Kruger.  
 13 MR LOUW: That's correct.  
 14 MR WESLEY: Chris Nel.  
 15 MR LOUW: That's correct.  
 16 MR WESLEY: Can you remember if you were  
 17 interviewed by anyone of those gentlemen?  
 18 MR LOUW: Yes, Philip Scholtz and Jakes  
 19 Kruger comes to mind, Sir.  
 20 MR WESLEY: Jakes Kruger. To your  
 21 knowledge are those the people that conducted the  
 22 investigation?  
 23 MR LOUW: That's correct, Mr Chairman.  
 24 MR WESLEY: Now if you could go then to  
 25 the –

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1 CHAIRPERSON: I'm sorry to interrupt you.  
 2 It looks as if Jacques Erasmus also must have been involved  
 3 because he signed the document as part of the investigation  
 4 team, if I read correctly, so he must have been involved in  
 5 investigating it also, but did he not speak to you?  
 6 MR LOUW: He might be part of the  
 7 investigation but he wasn't one of the members that  
 8 interviewed me, Mr Chairman.  
 9 CHAIRPERSON: Thank you.  
 10 MR WESLEY: If we could then have DDDD5,  
 11 which is the ICAM report file 2, tab 3, the Lonmin Security  
 12 Organogram. Now this organogram, the way it was given to  
 13 us it actually comprises two pages. That's the first page.  
 14 The second page you'll see is slightly cut off. You'll see  
 15 there's some blocks on the right-hand side of this page cut  
 16 off. It should in fact sit there. You see that?  
 17 MR LOUW: Yes –  
 18 MR WESLEY: How they go together?  
 19 MR LOUW: Yes, Mr Chairman.  
 20 MR WESLEY: Now if you go back to the  
 21 previous page, I doubt it's going to be legible here, but  
 22 if you have a look on the left-hand side, the number of  
 23 blocks, the top blue block on the left-hand side, that has  
 24 the name Kevin van Zyl. Underneath that there's one, two,  
 25 three, four –

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1 CHAIRPERSON: I think that we need a bit  
 2 of zooming or magnification. That's better, because I'm  
 3 afraid I couldn't read what we had on the screen before.  
 4 MR WESLEY: You see there's Kevin van  
 5 Zyl –  
 6 CHAIRPERSON: Now we can, and the  
 7 document we got, the hardcopy, we weren't provided with a  
 8 magnifying glass, but anyway, it's much better now.  
 9 MR WESLEY: Kevin van Zyl at the top  
 10 there, Senior Manager Security, you see that?  
 11 MR LOUW: That's correct, Mr Chairman.  
 12 MR WESLEY: Then underneath there's a  
 13 number of blocks, Callie Miles, the first name in the first  
 14 block is Callie Miles, then Dirk Botes, Teddie Rifles, it  
 15 looks like it.  
 16 MR LOUW: Yes, Sir.  
 17 MR WESLEY: Judy Alexander, and Claus  
 18 Mogeare.  
 19 MR LOUW: Claus Mogoera.  
 20 MR WESLEY: Mogoera, I beg your pardon.  
 21 That's correct. Now underneath Callie Miles there's an  
 22 arrow leading to another block and there's your name,  
 23 Dewald Louw.  
 24 MR LOUW: That's correct, Sir.  
 25 MR WESLEY: So if I'm correct in this

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1 then you report to Callie Miles and he in turn reports to  
 2 Kevin van Zyl according to this organogram.  
 3 MR LOUW: That's correct, Mr Chairman.  
 4 MR WESLEY: Now this is called a Lonmin  
 5 Security Organogram, but there's two separate parts to it.  
 6 Craig, if you could zoom out.  
 7 CHAIRPERSON: But before you do that, can  
 8 I just get something else? After the names of each of the  
 9 persons on the organogram appear the letters P-S-I-R-A and  
 10 a number, including in the case of the witness. Now what –  
 11 I think I know what it is, but let's get it on record.  
 12 What exactly does that stand for?  
 13 MR LOUW: Mr Chairman, that is the  
 14 security regulating board. That's the number allocated to  
 15 your registration with the security board, so –  
 16 CHAIRPERSON: Yes, what do the letter P-  
 17 S-I-R-A stand for?  
 18 MR LOUW: PSIRA, it's basically referring  
 19 to Private Security Industry Regulating Authority number  
 20 9328 –  
 21 CHAIRPERSON: Yes, I understand.  
 22 MR LOUW: Yes, Sir.  
 23 CHAIRPERSON: You all have to be  
 24 registered with that authority –  
 25 MR LOUW: That's correct, Sir.

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1 CHAIRPERSON: - to perform the work that  
 2 you do as security –  
 3 MR LOUW: That's correct, Sir.  
 4 CHAIRPERSON: - officials for various  
 5 firms.  
 6 MR LOUW: That's correct, Sir.  
 7 CHAIRPERSON: In the private sector.  
 8 MR LOUW: That's correct, Mr Chairman.  
 9 CHAIRPERSON: Thank you.  
 10 MR WESLEY: Now if we can zoom out here  
 11 you'll see there, there's two distinct parts to the Lonmin  
 12 Security organogram. There's the part on the left, you've  
 13 already said that falls under the, the top block is Kevin  
 14 van Zyl. On the right-hand side, that pink block, could we  
 15 zoom in on that, Craig? That's got the name of Graeme  
 16 Sinclair. Do you see that?  
 17 MR LOUW: That's correct, Mr Chairman.  
 18 MR WESLEY: Could you explain the  
 19 difference between these two parts of the security  
 20 apparatus, or security organisation at Lonmin?  
 21 MR LOUW: Certainly, Sir. Mr Graeme  
 22 Sinclair is basically in charge of the security department  
 23 with regards to all the mining operations. That includes,  
 24 but is not limited to all the shafts, the opencast mining,  
 25 whereby Mr Van Zyl is basically responsible for the process

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1 division operations, which means that will include PMR, our  
 2 "aanleg" –  
 3 CHAIRPERSON: Was it the Basic Metals  
 4 Refinery, I think? Isn't that BMR –  
 5 MR LOUW: Ja, Basic Metals Refinery, Sir,  
 6 is the second-last stage in our product finalisation, so  
 7 you have the PMR, which is the large, the last stage of our  
 8 refinery. So you get your BMR, which is the Base Metal  
 9 Refinery, and then the PMR which is situated in  
 10 Johannesburg, which is the Precious Metal Refinery. Mr Van  
 11 Zyl is basically in charge of all the process division  
 12 security members, which include the PMR, the BMR, the  
 13 smelter and all the concentrators.  
 14 MR WESLEY: And you normally – that's the  
 15 part that you work under. That's the division you're in?  
 16 MR LOUW: That's correct, Sir.  
 17 MR WESLEY: Is normal security patrolling  
 18 for things like strikes and marches, is that part of your  
 19 daily, your usual daily tasks, or not?  
 20 MR LOUW: No, it's not part of our usual  
 21 daily task, but we are being used with regards to that task  
 22 when needed, Sir.  
 23 MR WESLEY: So if there's an incident and  
 24 you're needed then being Lonmin Security you go in any  
 25 event, you go where you're told?

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1 MR LOUW: That's correct, Sir.  
 2 MR WESLEY: Now one of the documents that  
 3 was handed in was a shooting report. That's DDDD2. You've  
 4 gone through it already. Am I correct in understanding  
 5 there should be such a shooting report for every occasion  
 6 that a Lonmin Security personnel fired his or her weapon?  
 7 MR LOUW: That's correct, Sir.  
 8 MR WESLEY: Chair, if I can make a formal  
 9 request to Lonmin at this stage for all shooting reports  
 10 for the period 10 to 16 August 2012 – 9 to 16 August 2012.  
 11 CHAIRPERSON: I don't know what shooting  
 12 happened on the 9th, but anyway, it's better to be  
 13 inclusive, I suppose. Mr Burger, you heard that request.  
 14 I take it there shouldn't be a problem with that.  
 15 MR BURGER SC: No, it won't be a problem.  
 16 Yes, no, we will respond to that, Chair.  
 17 CHAIRPERSON: Thank you very much.  
 18 MR WESLEY: You've mentioned as well two  
 19 types of ammunition that you did fire. You mentioned  
 20 rubber rounds. You also mentioned AAA ammunition.  
 21 MR LOUW: That's correct, Mr Chairman.  
 22 MR WESLEY: Is Lonmin in possession –  
 23 Lonmin, I'm talking about the organisation, the security  
 24 part: do you use SSG ammunition?  
 25 MR LOUW: No, Sir.

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1 MR WESLEY: Not? You don't have a store  
 2 or stock of SSG ammunition that you know of?  
 3 MR LOUW: SSG, the 12 gauge rounds?  
 4 MR WESLEY: That's correct.  
 5 MR LOUW: Yes, we do have, ja. We do  
 6 have.  
 7 MR WESLEY: You do have SSG ammunition?  
 8 MR LOUW: Yes, Sir.  
 9 MR WESLEY: Do you use it?  
 10 MR LOUW: No, Sir. We only use it on the  
 11 shooting range when we've got shooting exercises.  
 12 MR WESLEY: Where's the store or stock of  
 13 ammunition kept where this SSG would be?  
 14 MR LOUW: That is kept in, at our Karee  
 15 vault in the Karee Mine vicinity at the general offices.  
 16 MR WESLEY: Under whose charge is that  
 17 ammunition?  
 18 MR LOUW: That will be under the charge  
 19 and coordination of Mr Callie Miles.  
 20 MR WESLEY: Callie Miles?  
 21 MR LOUW: That's correct, Chair. Just  
 22 for the record I can also add that Mr Callie Miles is the  
 23 designated firearm control officer of Lonmin.  
 24 MR WESLEY: Okay, could you explain what  
 25 that means?

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1 MR LOUW: That means he is basically  
 2 responsible for all the weapon or ammunition related issues  
 3 at Lonmin. That will include legislation and obviously  
 4 safekeeping and the regulation of firearms.  
 5 MR WESLEY: One of the things he'll keep  
 6 is a register of issuing for –  
 7 MR LOUW: That's correct, Sir.  
 8 MR WESLEY: - of all ammunition where  
 9 record is kept then of what is issued, what's used, what's  
 10 returned, things like that?  
 11 MR LOUW: That's correct, Sir.  
 12 MR WESLEY: Now I had intended to take  
 13 you through my means of Google, but I don't want to do that  
 14 - your movements, to trace your movements on each day, but  
 15 I'm not going to do that. We're going to do that process  
 16 as I explained at the in another way to save time. If I  
 17 can then take you, use your statement that you gave,  
 18 AAAA36, have you got that?  
 19 MR LOUW: Yes, I do, Sir.  
 20 MR WESLEY: So we'll use that as the  
 21 basic. Now let's go to 10 August. You were informed that  
 22 the RDOs wanted to march to the LPD and then you set out  
 23 what happened during the march. I want to ask you, the  
 24 crowd that marched that day, you observed them.  
 25 MR LOUW: That's correct, Sir.

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1 MR WESLEY: Approximately what percentage  
 2 of that crowd was armed with sharp weapons such as pangas  
 3 and spears, as opposed to knobkieries and sticks, which  
 4 I'll call blunt instruments?  
 5 MR LOUW: Ja.  
 6 MR WESLEY: I'm talking about sharp  
 7 weapons.  
 8 MR LOUW: Sir, at that stage you could  
 9 only identify maybe one or two in the crowd, so percentage  
 10 wise I would say it's less than 1%, to be quite honest.  
 11 MR WESLEY: Now how would you describe  
 12 the mood of the crowd? If I can throw some words out,  
 13 peaceful, aggressive, threatening, tense?  
 14 MR LOUW: At that stage I would say  
 15 peaceful, not really aggressive, but peaceful in the sense  
 16 that they obviously had an aim which they wanted to reach  
 17 for that day and that was to speak to management and they  
 18 weren't going to stop until they spoke to management, so,  
 19 but I would say for that day I would describe it mostly  
 20 peaceful, Sir.  
 21 MR WESLEY: Mostly peaceful, to the LPD  
 22 and from the LPD? Remember there were –  
 23 MR LOUW: That is correct.  
 24 MR WESLEY: - two-way –  
 25 MR LOUW: That is correct, Mr Chairman.

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1 MR WESLEY: Now you say that "During the  
 2 interaction between the mediator and the RDO  
 3 representatives I realised that there were individuals in  
 4 the crowd who seemed to be taking a lead regarding the way  
 5 the crowd behaved and these individuals (leaders) were all  
 6 wearing striped shirts."  
 7 MR LOUW: That's correct, Mr Chairman.  
 8 MR WESLEY: Can you explain what you mean  
 9 by that?  
 10 MR LOUW: With that I mean by, when,  
 11 whenever the crowd was either chanting or the crowd started  
 12 singing or when they needed the crowd to keep quiet these  
 13 were the individuals, there were, if I can remember  
 14 correctly, maybe four or five or six of them that would  
 15 tell the crowd, or indicate to the crowd that they must now  
 16 either keep quiet or start singing. So I described it in  
 17 my ICAM statement as leaders just for the sake of basically  
 18 getting the crowd to coerce in whatever the aim of the  
 19 bigger crowd's objective were.  
 20 MR WESLEY: So these people controlled  
 21 the crowd and the crowd listened to their instructions?  
 22 MR LOUW: Basically yes, Sir.  
 23 MR WESLEY: Now during that day – or let  
 24 me ask you this then about the movement of the crowd;  
 25 there's an element then of people controlling the crowd.

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1 The movements of the crowd themselves, was it coordinated  
 2 or chaotic and random?  
 3 MR LOUW: No, it wasn't chaotic at all.  
 4 It was coordinated, but it wasn't coordinated as to – it  
 5 was, if I might elaborate on –  
 6 MR WESLEY: Please do.  
 7 MR LOUW: What I'm trying to say is  
 8 coordinated, if you have a crowd let's say of 100 people  
 9 which all move together then I would describe that as  
 10 coordinated. When you have a crowd where let's say 60% of  
 11 the crowd moved together and the others just stroll along,  
 12 I would say that was the manner in which they marched to  
 13 the LPD offices on that day. So it was coordinated in the  
 14 sense that they knew that, they knew where they were going,  
 15 but they weren't together as a group. They were stretched  
 16 out. Some of the guys were sitting next to the field and  
 17 then catch up later. So no, it wasn't, it wasn't very,  
 18 very coordinated in the formal sense of the word.  
 19 MR WESLEY: Now the police presence  
 20 during the day, can you recall, what police presence did  
 21 you see during this march to the LPD and from the LPD?  
 22 MR LOUW: There were a few vehicles. I  
 23 can't recall exactly how much vehicles there were, but  
 24 there were. I know that Marikana SAPS were involved during  
 25 that day, Sir.

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1 MR WESLEY: And what did they do? What  
 2 was their involvement?  
 3 MR LOUW: Say again, Sir. Excuse me.  
 4 MR WESLEY: What was their involvement?  
 5 What did they do?  
 6 MR LOUW: Their involvement, basically  
 7 they were just there to observe and make sure that nothing  
 8 gets out of control.  
 9 MR WESLEY: Did they intervene in the  
 10 march at any stage, do anything in that regard?  
 11 MR LOUW: No, Sir, like I said they were  
 12 basically just there observing and playing a supportive  
 13 role basically.  
 14 MR WESLEY: Okay, now if we can then go  
 15 to the next day, now we're on the 11th August. It's  
 16 Saturday.  
 17 MR LOUW: That's correct, Sir.  
 18 MR WESLEY: Alright, you start, you  
 19 explained that you relieved PW Botha and Geon Kellerman.  
 20 Yourself and Martin Vorster went to Karee where you did  
 21 certain patrols. You then received a radio report there  
 22 were shots fired at Wonderkop Hostel which needed to be  
 23 investigated.  
 24 [11:00] You then went to Wonderkop hostel.  
 25 MR LOUW: That's correct, Mr Chairman.

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1 MR WESLEY: You say you saw people  
 2 running around, dispersing in all directions, away from  
 3 this carbon workshop which we will then indicate on the  
 4 map. You then say you went to the northern perimeter. Now  
 5 you describe finding the small group of people walking  
 6 around and "We observed a group of three persons of which  
 7 two were standing and was sitting." Then you say "He was  
 8 obviously in discomfort." You describe this person as  
 9 having telling he was shot. Do you recall that?  
 10 MR LOUW: Yes I do, Sir.  
 11 MR WESLEY: Did he explain what the  
 12 circumstances were in which he had been shot?  
 13 MR LOUW: No he didn't Sir.  
 14 MR WESLEY: Did he identify himself to  
 15 you?  
 16 MR LOUW: Yes he did, Sir.  
 17 MR WESLEY: Can you recall what his name  
 18 was?  
 19 MR LOUW: No I can't, Sir.  
 20 MR WESLEY: Okay. Now –  
 21 CHAIRPERSON: Where exactly did you find  
 22 him?  
 23 MR LOUW: Mr Chairman, this was after the  
 24 incident took place. Myself and Mr Voster decided to just  
 25 patrol the northern perimeter to see if everything was

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1 still order and to see if we can maybe find other people  
 2 that was hurt or that was injured and we stumbled upon  
 3 those three guys that was standing next to one of the  
 4 buildings. And the one guy was sitting and we basically  
 5 got out of the vehicle and upon our arrival I saw that this  
 6 guy has been shot at the back. I immediately then used my  
 7 cell phone and I called the ambulance and I informed our  
 8 emergency ops that this person was shot.  
 9 CHAIRPERSON: What I needed to know is  
 10 where exactly was he found. You see we know that two  
 11 people were injured, were taken to the hospital and we know  
 12 where they were found. So if you can tell us where you  
 13 found this person we will then be able to identify him.  
 14 MR LOUW: Sir, he was found, if I'm not  
 15 mistaken and I'm speaking under correction here, I think at  
 16 block H of the hostel. I'm not quite sure, I know that on  
 17 that day and excuse me for a lack of knowledge at this  
 18 stage, but while I got out of the vehicle I was more  
 19 focused on attending to the injured person and I gave him  
 20 water. And I gave all the stuff through to central ops and  
 21 I didn't really take notes and all the information was  
 22 given through to our emergency ops. And I think if that  
 23 information is needed I think they –  
 24 CHAIRPERSON: Yes I understand. Perhaps  
 25 you can help me with this. You see one of the persons who

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1 was found and taken to the hospital, injured and taken to  
 2 the hospital was a person who was found inside the hospital  
 3 next to the, sorry next to the hostel, next to the Shargin  
 4 offices. Is that the person you're talking about are you  
 5 talking about –  
 6 MR LOUW: No the person that was found in  
 7 the Shargin office is another person.  
 8 CHAIRPERSON: So your one with the other  
 9 one.  
 10 MR LOUW: That's correct, Chair.  
 11 CHAIRPERSON: Thank you.  
 12 MR WESLEY: Okay thank you for that. Now  
 13 if I can just back earlier, sorry, you described earlier in  
 14 the morning, after relieving PW Botha and Jean Kellerman  
 15 the following, you say "We saw a group of people armed with  
 16 knobkerries and pangas escorting employees from the hostel  
 17 towards Rowland shaft. Upon questioning my night shift  
 18 colleagues who were told that this was a group of NUM  
 19 members acting like security officers escorting people to  
 20 work. We then monitored them, but there were no security  
 21 incidents." Now about that, had you ever seen that sort of  
 22 behaviour before?  
 23 MR LOUW: No we didn't, Sir.  
 24 MR WESLEY: Was it the first time you've  
 25 seen that?

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1 MR LOUW: Yes we did, Sir.  
 2 MR WESLEY: Did you make any inquiries  
 3 with this group why they were behaving in that manner?  
 4 MR LOUW: No I didn't, Sir, I only  
 5 questioned my colleagues as to why they were doing that  
 6 MR WESLEY: Okay you didn't make a  
 7 personal investigation -  
 8 MR LOUW: No I didn't, Sir.  
 9 MR WESLEY: - to talk to them?  
 10 MR LOUW: No, Sir.  
 11 CHAIRPERSON: Yesterday Mr Mpofu  
 12 suggested that there was intimidation that day and he  
 13 suggested that there was intimidation. This is in respect  
 14 of the workers, intimidation by NUM people. Now escorting  
 15 that you saw could it have been described as people being  
 16 forced to go to work by NUM officials who were intimidating  
 17 them, to ensure that they went to work and didn't comply  
 18 with the unprotected strike which had been called?  
 19 MR LOUW: Mr Chairman, in my personal  
 20 opinion upon questioning I would rather say that the NUM  
 21 officials or the NUM people that were escorting the guys in  
 22 the morning they were basically making sure that the guys  
 23 arrived at work safely. I think that was more their –  
 24 CHAIRPERSON: I didn't want to put a  
 25 leading question to you, but what you say sounds as if they

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1 were protecting –

2 MR LOUW: That's correct, Sir.

3 CHAIRPERSON: - rather than forcing them

4 to go to work against their will.

5 MR LOUW: That's correct, Sir.

6 CHAIRPERSON: But what did you base that

7 opinion on?

8 MR LOUW: The opinion was based on, like

9 I said, information that was shared by my colleagues.

10 CHAIRPERSON: Oh I see, a bit of hearsay

11 information you received.

12 MR LOUW: Yes.

13 CHAIRPERSON: But from what you saw did

14 you observe anything in relation to this so-called

15 escorting which enables you to say it appeared to be

16 voluntary action on the part of the workers going to work

17 under protection, rather than involuntary action of the

18 workers going to work having being forced to do so or

19 intimidated to do so by NUM? Do you understand the choice?

20 MR LOUW: I understand the question and

21 if I might answer in this manner is that from I observed is

22 that the guys that were escorting the personnel going to

23 work they were not aggressive. Although they had spears

24 and some of them had knobkerries with them, they were

25 dancing and they were – from the mood which I could have

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1 gathered from my own observation I would say that they were

2 happy to escort these guys to –

3 CHAIRPERSON: I understand they were

4 happy to escort the workers, but were the workers happy to

5 be escorted?

6 MR LOUW: That I cannot say, Sir and I

7 cannot make a statement on that.

8 MR WESLEY: Remember we're dealing with

9 the Saturday, compared to Friday in the area and during

10 your patrols what was the atmosphere like, compared to

11 Friday?

12 MR LOUW: Compared to the Friday I would

13 say the atmosphere became more tense especially on the

14 Saturday morning. From what Mr Chairman just asked me now

15 with regards to the escorting if that was voluntary or not

16 I do not know and I cannot make a statement on that. But

17 you could sense that there's more going on than just guys

18 going to work and people not wanting to go to work.

19 MR WESLEY: In the normal course, let me

20 ask you this, in the normal course of a Saturday morning

21 you'll see people walking around, there might be vendors

22 next to the road. Was the situation as it was like any

23 other Saturday on this particular Saturday?

24 MR LOUW: On that particular Saturday

25 yes, Sir. There wasn't really a big change. As I said the

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1 only thing we could sense was, like I said, the escorting

2 of the personnel, but to me – I can't make an observation

3 saying that the guys were forced or they weren't forced or

4 I cannot make a formal statement saying that this was their

5 MO with regards to what their intentions was, but –

6 MR WESLEY: No sorry, I'm talking about

7 the general atmosphere.

8 MR LOUW: General, yes I want to come to

9 that, but the general atmosphere at this stage is that yes

10 there's a bit of tension, but everything is still going to

11 be fine.

12 MR WESLEY: Now the police during the

13 day, did you happen to see them in the mining area at any

14 time?

15 MR LOUW: Yes there were police vehicles

16 patrolling the mining areas.

17 MR WESLEY: How many vehicles, how many

18 can you remember?

19 MR LOUW: I cannot remember, Sir.

20 MR WESLEY: Did they just do patrols?

21 MR LOUW: That's correct, Sir.

22 MR WESLEY: All right let's go to

23 Saturday then, I beg your pardon, Sunday. Now 12 August,

24 Sunday the 12th of August. You begin by describing an

25 incident that you attended to at the EPL hostel. As I

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1 stated, we'll show on the Google map where that is. You

2 attended the EPL hostel, you found a crowd there. What was

3 the mood of this crowd like?

4 MR LOUW: When we arrived at the EPL

5 hostel there was crowd basically forming in a circle type

6 formation in front of the bank and surrounding areas and we

7 were the second vehicle that stopped next Julius Motlogelwa

8 and the partner that assisted him that morning. And as

9 soon as we stopped at that stage we were travelling with

10 vehicle HDK354 which we were attacked in and when we

11 stopped the crowd seems to be dispersing, but they weren't

12 dispersing, they were lining up next to the walls of the

13 perimeter buildings. And they all turned around and they

14 faced us and I remember Sydney Mogolo making – is that all

15 you want to know, must I elaborate?

16 MR WESLEY: No carry on.

17 MR LOUW: Okay and I can remember Sydney

18 Mogolo making the observation by stating that this is a

19 decoy and that's when myself, Vorster and Mr Mogolo decided

20 to proceed back to Wonderkop to see what's going on with

21 the amount of people gathering at the koppie.

22 MR WESLEY: Now did you agree this was a

23 decoy?

24 MR LOUW: Yes we did, Sir.

25 MR WESLEY: You state - in your statement

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1 you say they were standing there and the way that they were  
 2 just standing there and the body language made you realise  
 3 they had an ulterior motive. Do you know what that  
 4 ulterior motive would have been?  
 5 MR LOUW: Like I said, with ulterior  
 6 motive I would refer that as a decoy for something else to  
 7 happen.  
 8 MR WESLEY: Now the movement of this  
 9 crowd at the EPL hostel, again I want to ask you the mood  
 10 first of all, were they peaceful, aggressive, threatening,  
 11 tense, calm?  
 12 MR LOUW: Calm, Sir.  
 13 MR WESLEY: Were they armed?  
 14 MR LOUW: Not from what I can see no,  
 15 Sir.  
 16 MR WESLEY: What armaments did you have  
 17 with you?  
 18 MR LOUW: At that stage I only had my 12  
 19 gauge shotgun with 24 rubber rounds.  
 20 MR WESLEY: Did you have any other  
 21 weapons with you?  
 22 MR LOUW: No, Sir.  
 23 MR WESLEY: You then went to the  
 24 Wonderkop stadium. You've described what happened there.  
 25 When you were at the island and the crowd first approached

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1 you, you know the time that I'm talking about, before you  
 2 were attacked.  
 3 MR LOUW: Yes, Sir.  
 4 MR WESLEY: Describe the mood of the  
 5 crowd then.  
 6 MR LOUW: I would definitely say – I  
 7 think the first word that comes to my own mind is  
 8 militaristic. They definitely moved with a more clear  
 9 objective, with a more clear objective in mind. Their body  
 10 language was definitely attacking, the way that they  
 11 approached us was attacking. They seemed organised,  
 12 disciplined, well behaved in terms of what they want to do  
 13 and where they want to go.  
 14 MR WESLEY: The movements of that crowd,  
 15 you previously described on the Friday that there were  
 16 people who were orchestrating the movements or directing  
 17 the movements. Was that the same position here?  
 18 MR LOUW: No, no definitely, no that was  
 19 not. It's like the movements of the crowd on the Friday  
 20 it's what basically – they only indicated for the guys when  
 21 to keep quiet or when to stop.  
 22 MR WESLEY: And this crowd on Sunday?  
 23 MR LOUW: The crowd on Sunday was  
 24 different. Like I said, especially with regards to the  
 25 amount of weapons they carried with them, their whole body

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1 language just was different. If I could read into body  
 2 language I would definitely say attacking and hostile. It  
 3 wasn't nearly the same as we experienced on the Friday or  
 4 with any other strike up until that point.  
 5 MR WESLEY: Okay this is something new.  
 6 COMMISSIONER HEMRAJ: What about their  
 7 body language led you to those conclusions?  
 8 MR LOUW: Mr Commissioner, I think it's  
 9 more a question of the way they acted. The way they  
 10 chanted, the way they – if I can just go over to Afrikaans  
 11 at this stage quickly. The manner in which they were  
 12 holding their spears and the manner in which they were  
 13 swinging their spears towards us. Remarks they made like  
 14 for instance one taking his spear and demonstrated a cut  
 15 through his neck that he was going to slaughter us.  
 16 CHAIRPERSON: He acted as if he was  
 17 slitting his throat conveying a message to you, that's what  
 18 you said.  
 19 MR LOUW: That's how I experienced it,  
 20 Sir, yes and I think the facial expressions as well. I  
 21 mean the facial expressions wasn't friendly, they were  
 22 frowning and some of them were shouting and they were  
 23 taunting us. At that stage we could feel that they were  
 24 looking for some sort of reaction from us and Vorster at  
 25 one stage asked me if he must shoot or not and I said no

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1 let me rather call for backup. And that's when I called  
 2 for backup and that's where our attack started then.  
 3 MR WESLEY: If I put to you – put a  
 4 statement to you, you've described the crowd went into a  
 5 crouching position.  
 6 MR LOUW: Yes, Sir.  
 7 MR WESLEY: If I put it to you that that  
 8 was showing respect to you, as a sign of respect towards  
 9 you what would you say to that?  
 10 MR LOUW: I would totally disagree with  
 11 that, Sir.  
 12 MR WESLEY: How did you interpret this  
 13 movement?  
 14 MR LOUW: As an attack on us.  
 15 MR WESLEY: Now this crowd that we're  
 16 talking about here and on the 12th had you experienced a  
 17 similar crowd like that before in your career?  
 18 MR LOUW: No, Sir and just to come back,  
 19 if I may come back and just elaborate on the previous  
 20 question. That's exactly why I'm saying they were hostile  
 21 because in the manner in which they moved it gave me the  
 22 impression that this is definitely not one of the crowds  
 23 that we have previously dealt with in any given situation  
 24 since I started at Lonmin in 2008.  
 25 MR WESLEY: Now compare the mood of the



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1 crowd, now remember we're at Sunday the 12th I've asked you  
 2 to consider the mood of the crowd on the 11th and the 10th,  
 3 now we're on the 12th. Compared to the previous days what  
 4 was the mood now?  
 5 MR LOUW: The mood was absolutely,  
 6 absolutely sober. I remember when we arrived on duty at 5  
 7 o'clock Mr Vorster phoned and said ja he's a bit late, so  
 8 we only picked him up at about 6 o'clock. And from 5:00  
 9 till 6 o'clock we were stationary at Wonderkop hostel and  
 10 as soon as we picked Vorster and he drew his weapons from  
 11 the vault we went around the western platinum area and we  
 12 proceeded to the Karee area. And I think if we saw two  
 13 people that were a lot because at that stage there were no  
 14 vendors. It was dead, dead quiet, so you could smell, not  
 15 actually, that's the wrong word, you could sense that  
 16 there's definitely, definitely something about to happen  
 17 and something is not well. All the vendors were gone,  
 18 there was not even one single vendor  
 19 that we could spot on the Sunday of the 12th.  
 20 MR WESLEY: All right if we can then go  
 21 over to –  
 22 COMMISSIONER HEMRAJ: If we could – on  
 23 the 12th you were obviously hopelessly outnumbered when you  
 24 arrived there. When you called for backup were there  
 25 indications that the backup would arrive soon or was there

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1 no backup close to you, what was the position?  
 2 MR LOUW: Ma'am at that stage, Mrs  
 3 Commissioner, most of the security guards were either at  
 4 EPL hostel or they were patrolling the outskirts of the  
 5 mining area which at that stage will include Karee mine,  
 6 EPL area and the western platinum area. So I wasn't sure  
 7 as to where the other security vehicles was, but I think  
 8 most of them were in the vicinity of the eastern platinum  
 9 mine hostel area.  
 10 COMMISSIONER HEMRAJ: And was there any  
 11 indication that you would get assistance soon or what was  
 12 the response when you asked for help?  
 13 MR LOUW: My direct line of reporting  
 14 were at the emergency ops, so I thought that if the guys  
 15 hurry that we could get help within seven to ten minutes.  
 16 But quicker than that I really didn't think so, Ma'am, no.  
 17 COMMISSIONER HEMRAJ: Thank you, Mr Louw.  
 18 MR LOUW: Thank you, Ma'am.  
 19 MR WESLEY: Now if I can take you back,  
 20 this relates to the 12th. Go back to the ICAM report.  
 21 We'll put it up, I know you don't have a hard copy, but  
 22 we'll put it up on the screen for you. It's the 9th page of  
 23 the ICAM report, DDDD2. Okay that's the last page, up one,  
 24 okay, go down one, Craig. Sorry, Mr Bennett, right stop  
 25 there. Okay.

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1 [11:20] CHAIRPERSON: Page 16 that we are looking  
 2 at.  
 3 MR WESLEY: Page 16, if we can go down a  
 4 little bit please, just show the bottom, right stop there.  
 5 If we can zoom in on the third bottom, the third block from  
 6 the bottom on the left-hand side to make it legible. Now  
 7 you'll see the third block from the bottom reads, "Lack of  
 8 risk/change management process applied across the  
 9 department." Do you see that?  
 10 MR LOUW: I see that, Mr Chairman.  
 11 MR WESLEY: Now that leads to an arrow,  
 12 there are three arrows that emanate from that block. The  
 13 bottom block that that leads to reads as follows, "Poor  
 14 judgment from dayshift commander to engage with crowd  
 15 inside the Wonderkop Hostel." You see that?  
 16 MR LOUW: Yes, I do, Sir.  
 17 MR WESLEY: Who was the dayshift  
 18 commander? Do you know?  
 19 MR LOUW: I think at that stage one of  
 20 the dayshift commanders must have been either Mr Fundi or  
 21 Mr Mabelane because they were from the mining department.  
 22 MR WESLEY: Okay, and that's in, when you  
 23 talk about the mining department, we went through the  
 24 organogram, that's from the other – if I may use the word –  
 25 division –

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1 MR LOUW: That's correct, Sir.  
 2 MR WESLEY: It's not the one that you  
 3 usually work with.  
 4 MR LOUW: That's correct, Sir.  
 5 MR WESLEY: Now the next block, that  
 6 leads on to, the next block, that blocks leads to an arrow,  
 7 it says then, "Dayshift protection service commander  
 8 disobeyed warning of Dewald Louw not to engage with the  
 9 crowd in Wonderkop Hostel area." Do you see that?  
 10 MR LOUW: That's correct, Sir.  
 11 MR WESLEY: Can you tell us about this?  
 12 Did you give a warning to the dayshift protection service  
 13 commander as indicated there?  
 14 MR LOUW: Sir, I made a comment on the  
 15 radio to emergency ops when, just after we were attacked.  
 16 As I said when we stopped at the soccer field – or I call  
 17 it a soccer field, it's normally just the open space where  
 18 I stopped where we got all the pieces of glass off us and I  
 19 made the radio call to emergency ops and the phone call to  
 20 Mr Miles, and on the radio conversation I had with central  
 21 ops I said to them do not engage the crowd as they are  
 22 hostile and I think that is what they might refer to.  
 23 MR WESLEY: Do you know who would – who  
 24 were you on the radio to, the person, the individual that  
 25 you're talking to on the radio when you give this report?

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1 MR LOUW: Sir, I can't remember who was  
 2 on duty that day.  
 3 MR WESLEY: So if I ask you who the  
 4 dayshift protection service commander was, are you able to  
 5 identify that person by name?  
 6 MR LOUW: Ja, it might be Mr – either,  
 7 like you said either Mr Mabelane or Mr Fundi, as they were  
 8 both in C5 positions. Who exactly was put into, in charge  
 9 that day I'm not quite sure, Sir.  
 10 MR WESLEY: But this report you're making  
 11 back to your control room, your radio control room,  
 12 security radio control room, this report that you're  
 13 making?  
 14 MR LOUW: Yes, Sir.  
 15 MR WESLEY: Mr Mabelane and Mr Fundi,  
 16 they were not at the radio control room though, were they?  
 17 MR LOUW: No, Sir.  
 18 MR WESLEY: You didn't give a report  
 19 directly to either of them?  
 20 MR LOUW: No, I didn't, Sir.  
 21 MR WESLEY: You gave a report to whomever  
 22 was on the other side of the radio at the radio control  
 23 room.  
 24 MR LOUW: That's correct, Sir.  
 25 MR WESLEY: Do you know if that report

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1 was given through to them –  
 2 MR LOUW: I'm not sure, Sir.  
 3 MR WESLEY: - by the radio control room?  
 4 You don't know?  
 5 MR LOUW: I'm not sure, Sir.  
 6 MR WESLEY: Would they have been able –  
 7 do you know if they had radios with them which would have  
 8 enabled them to maybe hear your report?  
 9 MR LOUW: It might, if they had radios.  
 10 I'm not aware of the situation with regards to the  
 11 equipment they had, but I can also state for the record  
 12 that if they had hand radios, some of the messages can get  
 13 lost in translation as we do not have sufficient reception  
 14 in certain areas, Eastern being one of them at certain  
 15 places.  
 16 CHAIRPERSON: Did they have cell phones?  
 17 MR LOUW: Excuse me, Sir?  
 18 CHAIRPERSON: Did they have cell phones?  
 19 MR LOUW: Yes, they did, Sir.  
 20 CHAIRPERSON: So a message could have  
 21 been got to them by cell phone.  
 22 MR LOUW: It could have been, Sir.  
 23 MR WESLEY: And you were adamant you  
 24 wanted to give a warning this crowd must not be engaged.  
 25 MR LOUW: That's correct, Sir.

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1 MR WESLEY: Because they were dangerous.  
 2 MR LOUW: That's correct, Sir.  
 3 COMMISSIONER HEMRAJ: Apart from not  
 4 engaging, did you indicate that a lot more security  
 5 personnel would be required even to approach that area?  
 6 MR LOUW: No, I didn't, Ma'am. At that  
 7 stage, like I said my priority – okay, you must remember  
 8 now I was just attacked. I mean I almost lost my life.  
 9 Being supervisor, or being in a supervisory role in my  
 10 current working environment I have to make certain  
 11 decisions as well. As I've indicated I was also injured,  
 12 but that didn't matter at that stage. At that stage the  
 13 only thing that mattered to me was that the crowd not be  
 14 engaged and as I said, I've asked the, or I've requested  
 15 the control room to phone all the managers and inform them  
 16 as to what just happened so that they can make the choice  
 17 as to how many people we need to deploy to that area,  
 18 because my main concern at that stage is that unnecessary  
 19 people might die and that unnecessary damage may be caused  
 20 to Lonmin property. But no, I didn't make any decision as  
 21 to how many security we will need to engage the crowd  
 22 because I don't think we would have had enough, and just to  
 23 add to my answer is our main priority is not to engage with  
 24 crowds, is we need to either deter or maybe just find some  
 25 sort of way just to prolong for the necessary police to

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1 arrive, because we can't just go around and start shooting  
 2 live ammunition and do this and do that to stop a crowd.  
 3 COMMISSIONER HEMRAJ: Whose decision  
 4 would it have been as to how many people to deploy to that  
 5 area?  
 6 MR LOUW: At that stage Mr Graeme  
 7 Sinclair was in charge, so the decision as to how many  
 8 people and who to be dispersed or dispatched to that area  
 9 would have lied with him.  
 10 COMMISSIONER HEMRAJ: Thank you, Mr Louw.  
 11 MR LOUW: Thank you, Ms Commissioner.  
 12 MR WESLEY: Chair, those are my  
 13 questions.  
 14 CHAIRPERSON: Are those your questions?  
 15 I'd like to ask a question. On this extract from the ICAM  
 16 report which is on the screen at the moment, the middle  
 17 column as we see on the screen is a rectangle which  
 18 contains the following; "Lack of risk assessments in line  
 19 with day-to-day activities," and in the next line says, the  
 20 next rectangle talks about "Lack of effective baseline risk  
 21 assessment for ENDM and protection services." Now whose  
 22 responsibility was it to make risk assessments in line with  
 23 day-to-day activity?  
 24 MR LOUW: Mr Chairman, I would assume  
 25 that that would be the commander in charge, which would

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1 according to my opinion be Mr Graeme Sinclair.

2 COMMISSIONER HEMRAJ: Mr Louw, from the

3 years that you've worked in this mining community did you

4 form any impression as to the prevalence of firearms within

5 that community?

6 MR LOUW: Preference of firearms with

7 regards to the security services?

8 COMMISSIONER HEMRAJ: Not the security

9 services, the mining community, among the employees, what

10 impression did you form about the presence of the

11 possession of firearms?

12 MR LOUW: Ja, Ma'am, I think if I might

13 in my personal opinion, I think the biggest preference with

14 regards to, if you can call it weapons, would have been

15 knobkieries and sticks. I think that would be the most

16 common one to describe and to be associated with the

17 community, if we need to.

18 COMMISSIONER HEMRAJ: The question

19 related to the possession of firearms, whether there was a

20 high prevalence of the possession of firearms among

21 employees.

22 MR BURGER SC: Chair, if I may assist, I

23 think the witness misunderstands "prevalence." He reads

24 for it "preference," so it's a language problem I think.

25 COMMISSIONER HEMRAJ: Let me try again.

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1 Did you get the impression that many persons that were

2 employees of Lonmin had firearms while they were working in

3 that community?

4 MR LOUW: No, I don't, Ma'am. Excuse me,

5 I did misinterpret the word.

6 COMMISSIONER HEMRAJ: That's quite

7 alright. Thank you.

8 MR LOUW: I'm sorry, Ma'am.

9 CHAIRPERSON: Did you ever come across a

10 case where at least one employee had a firearm?

11 MR LOUW: No, Sir, not myself, no.

12 CHAIRPERSON: We do know on the evidence

13 that on the 13th the police – remember there was a group of,

14 you dealt with it in your statement, there were a group of

15 strikers who went off to Karee and came back –

16 MR LOUW: That's correct, Sir.

17 CHAIRPERSON: - and were involved in

18 engagement with the police. The evidence of the police is

19 that at some stage before the actual engagement started

20 they found, I take it these were strikers, they found I

21 think it was three people in possession of firearms and

22 they actually took them off to the police, someone took

23 them off to the police station and it was discovered that

24 they actually had licences to possess the firearms and so

25 they were released and the firearms given back. So that

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1 indicates that there were at least some firearms legally in

2 the hands of some of the workers. That was something you

3 were not aware of?

4 MR MPOFU: No, Chairperson, I'm sorry, I

5 think you're making a mistake there. There's no suggestion

6 that the two people who were stopped on the 13th were either

7 strikers or workers.

8 CHAIRPERSON: Well, my –

9 MR MPOFU: There's no suggestion at all.

10 CHAIRPERSON: That was my impression that

11 they –

12 MR MPOFU: Ja.

13 CHAIRPERSON: They found a, they saw a

14 crowd of people. They found that two or three were in

15 possession of firearms. They took them away from the

16 crowd, took them to the police station, checked out,

17 discovered they had licensed firearms, gave them back their

18 firearms and released them. That's –

19 MR MPOFU: No, that's even another

20 mistake. There was no crowd. There's footage of this.

21 There was no crowd. They met up, the evidence was very

22 clear they met up with the two people, they searched them

23 and they put them in a van and then they found that they

24 had licences and let them go.

25 CHAIRPERSON: Ja, those people were

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1 according to the evidence as I understood it, they were

2 part of the group. But in any event, it doesn't really

3 matter. The witness says he wasn't aware of that.

4 COMMISSIONER HEMRAJ: Mr Louw, the

5 occurrence book of Lonmin on the 10th, there are three

6 instances of intimidation noted. Do you have any personal

7 knowledge of those?

8 MR LOUW: No, I don't, Ma'am.

9 COMMISSIONER HEMRAJ: Thank you.

10 CHAIRPERSON: Okay, now who's next to

11 cross-examine Mr Louw, Mr Wesley?

12 MR WESLEY: Chair, it's Mr Tip.

13 CHAIRPERSON: Mr Tip.

14 MR TIP SC: Thank you, Chair.

15 CHAIRPERSON: How long has he got?

16 MR WESLEY: Two hours, Chair.

17 CHAIRPERSON: Two hours, Mr Tip. Do you

18 want to start now or do you want us to take tea now? I'm

19 in your hands.

20 MR TIP SC: Whatever is convenient for

21 you, Chair.

22 CHAIRPERSON: No, what's convenient for

23 you is what interests me.

24 MR TIP SC: I think generally tea is

25 mine, and –

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1 CHAIRPERSON: Alright, well we'll take  
 2 the tea adjournment now. We try to be back at - in the  
 3 absence of housekeeping problems, we'll be back by just  
 4 after quarter to 12.  
 5 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 6 [11:57] CHAIRPERSON: The Commission resumes.  
 7 You're still under oath, Mr Louw. Mr Tip.  
 8 MR TIP SC: Thank you, Chair. As was the  
 9 amount before the tea, I've got two hours, but I anticipate  
 10 that I will complete my questions in well before the expiry  
 11 of that time.  
 12 CHAIRPERSON: May we wish you best of  
 13 luck in that endeavour.  
 14 CROSS-EXAMINATION BY MR TIP SC: Mr Louw,  
 15 I've got some questions to put to you on behalf of NUM and  
 16 also on behalf of Mrs Fundi and the Fundi family. I am  
 17 going to divert most of those questions to seeking  
 18 clarification from you, as far as you can assist us. on  
 19 the process of co-ordination, control, command and the like  
 20 in respect of security measures at Lonmin over that period.  
 21 MR LOUW: 100% Sir.  
 22 MR TIP SC: And if you can assist me as  
 23 best as you can it will be convenient for me. In fact to  
 24 begin by picking up where Commissioner Hemraj had put some  
 25 questions to you about the Lonmin occurrence book and the

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1 entries that appear there in the course of the evening and  
 2 night of the 10th of August, that is the Friday night where  
 3 it is noted that incidents of intimidation had taken place.  
 4 Reported at least. You've explained to the Commissioner  
 5 and to all of us that you have no personal knowledge of  
 6 them. You can take it from me that there are such reports.  
 7 It's not necessary, with respect, to go to the documents,  
 8 but although you have no personal knowledge of such matters  
 9 had you become aware of there being reports that there had  
 10 been instances of intimidation over that period?  
 11 MR LOUW: Yes, Sir.  
 12 MR TIP SC: And specifically would you  
 13 have been aware of such reports by say the morning of  
 14 Saturday 11 August when I think you came on duty again?  
 15 MR LOUW: Yes, Sir.  
 16 MR TIP SC: Would that have been put to  
 17 you in the course of a briefing session?  
 18 MR LOUW: On the morning of the Saturday  
 19 I was supposed to be put into a briefing session, but we  
 20 only took over duty from Mr Gian Kellerman and Mr PW Botha  
 21 at Wonderkop stadium itself. They made mention of cases of  
 22 intimidation, but I had no in depth knowledge as to the  
 23 cases that were opened or as to the intimidation as per se  
 24 what exactly happened, no.  
 25 MR TIP SC: All right. So this was

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1 really, if I may use the word, quite casually conveyed to  
 2 you by colleagues of yours and not through a formal  
 3 briefing session in which you were given instructions about  
 4 what might take place in the course of your shift.  
 5 MR LOUW: No, Sir.  
 6 MR TIP SC: You mean you agree with what  
 7 I'm -  
 8 MR LOUW: I agree, yes.  
 9 MR TIP SC: All right, thank you. Would  
 10 that have been the position on Sunday morning as well that  
 11 there wasn't a formal briefing session?  
 12 MR LOUW: That will be so, Sir.  
 13 MR TIP SC: Now that gives rise to a  
 14 need, Mr Louw, to explore with you just what the  
 15 relationship was between the two divisions, I'll use that  
 16 word, that were displayed in the organogram that Mr Wesley  
 17 took you to earlier this morning. Do you recall that?  
 18 I'll go into detail. Do you remember looking at the  
 19 organogram?  
 20 MR LOUW: Yes, Sir.  
 21 MR TIP SC: And what we saw there was  
 22 that there was one section of the security establishment of  
 23 Lonmin that was headed by Kevin van Zyl and you described  
 24 that as essentially process operations.  
 25 MR LOUW: That's correct, Mr

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1 Commissioner.  
 2 MR TIP SC: And that your section and  
 3 below Kevin van Zyl there was Kelly Miles and then below  
 4 him there is yourself as superintendant.  
 5 MR LOUW: That's correct, Mr  
 6 Commissioner.  
 7 MR TIP SC: Now there is the other  
 8 division which is headed by Graham Sinclair and that is  
 9 essentially mining operations, shafts and the like, you  
 10 described all that.  
 11 MR LOUW: That's correct, Sir.  
 12 MR TIP SC: And below him there, there is  
 13 Henry Blaauw.  
 14 MR LOUW: That's correct, Sir.  
 15 MR TIP SC: Now if I understood your  
 16 evidence correctly and I just want to confirm it please,  
 17 Messrs Mabulani and Fundi and their colleagues who were -  
 18 my junior says I spoke about Mrs, I was talking about  
 19 Messrs in the plural. Mr Mabulani and Mr Fundi and their  
 20 colleagues which are the ones who set up the attempted  
 21 blockade on the 12th of August. Were they all part of  
 22 Graham Sinclair's division?  
 23 MR LOUW: That's correct, Mr  
 24 Commissioner.  
 25 MR TIP SC: Yes, now what generally

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1 speaking would be the relationship between those two  
 2 divisions particularly in the circumstance such as the one  
 3 on the 11th and the 12th of August? Would there be co-  
 4 ordination between you and your colleagues and Mr Blaauw,  
 5 Mr Mabulani and their colleagues or did you operate  
 6 independently of each other?  
 7 MR LOUW: No we don't, in situations like  
 8 that we converse in operations. We basically act as a  
 9 supporting role to the mining division there.  
 10 MR TIP SC: So you would act if you were  
 11 called upon by Mr Sinclair's division.  
 12 MR LOUW: That's correct, Sir.  
 13 MR TIP SC: Did that in fact happen on  
 14 the occasions that you've been describing to us, on the  
 15 10th, 11th and 12th and so on?  
 16 MR LOUW: That's correct, Sir.  
 17 MR TIP SC: Now we do have at this stage  
 18 a statement from Mr Sinclair, but I'm advised that at this  
 19 stage he hasn't yet had an opportunity to read through it,  
 20 so I'm not going to put it up, Chair. I will just ask you  
 21 this. The notion of a red alert in security operations at  
 22 Lonmin, are you familiar with that?  
 23 MR LOUW: It's one of the terms that Mr  
 24 Sinclair gives us, yes.  
 25 MR TIP SC: And what would you understand

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1 by that?  
 2 MR LOUW: Red alert is that we basically  
 3 need to be fully aware of what's going on and that  
 4 something might happen. Whether it be a strike or there  
 5 might be a threat to individuals or Lonmin property.  
 6 MR TIP SC: And in terms of co-ordination  
 7 what did that imply, if anything? And by co-ordination I  
 8 again refer to co-ordination between your section and Kevin  
 9 van Zyl and the other section under Graham Sinclair.  
 10 MR LOUW: I think co-ordination with  
 11 regards to that is that the managers will be briefed by Mr  
 12 Sinclair himself and they will then relay the messages  
 13 through to their personnel.  
 14 MR TIP SC: Right let's just jump for a  
 15 moment to your state of knowledge on 12th of August, on the  
 16 Sunday morning. You've told us that in the course of the  
 17 unfolding of those events you heard that that, I'll call it  
 18 a march for the moment, the march from the koppie that you  
 19 tried to intercept involved a planned attack on NUM because  
 20 of what had taken place on the day before, that is the 11th.  
 21 Do you recall that?  
 22 MR LOUW: Yes, Sir.  
 23 MR TIP SC: Now when you went on duty as  
 24 at the morning of 12 August were you personally aware of  
 25 the incident on the 11th of August -

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1 MR LOUW: Yes, Sir.  
 2 MR TIP SC: - what had taken place?  
 3 MR LOUW: I was aware. I wasn't there  
 4 when it happened, but I was aware of the incident that took  
 5 place.  
 6 MR TIP SC: Yes and in what circumstances  
 7 were you made aware of that?  
 8 MR LOUW: Like I've explained earlier, I  
 9 was busy with patrols at Karee mine when Mr Dirk Botes  
 10 called us on the radio and said that shots had been fired  
 11 at the Wonderkop area. And we needed to proceed to that  
 12 area.  
 13 MR TIP SC: Yes that's clear, thank you,  
 14 Mr Louw. But really what I'm after is whether there was  
 15 any formal discussion or briefing session at which the  
 16 implications of that event were taken up on the 12th of  
 17 August in relation to what you should expect on that day?  
 18 Did anything of that sort take place?  
 19 MR LOUW: Yes, we had a briefing session  
 20 in front of the Wonderkop offices, just out the Wonderkop  
 21 hostel area, just on the outside of the general offices by  
 22 Mr Miles that evening. And he explained to us what had  
 23 expired in the morning, also what had happened during the  
 24 day. And also what might happen the next morning.  
 25 MR TIP SC: The next morning being 12

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1 August.  
 2 MR LOUW: That's correct, Sir.  
 3 MR TIP SC: Yes, and was there any  
 4 discussion about the possibility that there might be  
 5 another move by strikers on the NUM office on the 12th of  
 6 August?  
 7 MR LOUW: That's correct, Sir. The  
 8 possibility of retaliation by the members on the koppie to  
 9 the NUM offices were discussed.  
 10 MR TIP SC: So that was discussed, if I'm  
 11 following you correctly, at a session on the 11th of August.  
 12 MR LOUW: That's correct, Sir.  
 13 MR TIP SC: And was any planning put in  
 14 place in respect of what should be done if indeed there was  
 15 what you call a retaliation?  
 16 MR LOUW: There was no formal planning  
 17 put into place as to what role and function each member  
 18 would play the next day. It was merely a discussion form  
 19 of meeting that took place on the Saturday evening.  
 20 MR TIP SC: Did that meeting involve Mr  
 21 Sinclair or Mr Blaauw or any other senior person from  
 22 mining operations security?  
 23 MR LOUW: Not that I can recall no, Sir.  
 24 MR TIP SC: You see the impression that I  
 25 get from your evidence, Mr Louw, is that you and Mr Voster

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1 were patrolling in your vehicle, your Hilux on the Sunday  
 2 morning when you get a radio message that there's a group  
 3 of people leaving the koppie in the direction of Wonderkop,  
 4 correct?  
 5 MR LOUW: That's correct, Sir.  
 6 MR TIP SC: And you react to that, the  
 7 two of you on your own.  
 8 MR LOUW: That's correct, Sir.  
 9 MR TIP SC: But there was at that stage  
 10 no concerted plan in respect of how to deal with that event  
 11 if it actually took place.  
 12 MR LOUW: No, Sir, the only – it's not  
 13 planned per se, but the only mention was made by Mr PW  
 14 Botha the morning that we must try and hinder these guys  
 15 from crossing the tar road which is on the western side of  
 16 the island that we were attacked on. And that was the only  
 17 formal type of instruction, message given through to us.  
 18 MR TIP SC: All right well let me try and  
 19 put a description to that for your comment. That sounds  
 20 more to me like a general statement of a general objective  
 21 than it sounds like a plan as to how security resources  
 22 were to be deployed if necessary. Do you follow me?  
 23 MR LOUW: I follow.  
 24 MR TIP SC: And the general objectives I  
 25 think you've described was to try to prevent people from

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1 getting into the Wonderkop hostel area because once that  
 2 took place it would become very difficult from a security  
 3 point of view to manage the position.  
 4 MR LOUW: That's correct, Sir.  
 5 MR TIP SC: But Mr Botha, neither Mr  
 6 Botha nor anybody else had anything concrete to say about  
 7 who would attend and with what resources and in what  
 8 numbers in order to deal with the situation.  
 9 MR LOUW: No, Sir.  
 10 MR TIP SC: So you and Mr Voster actually  
 11 found yourselves on your own trying to contain a very  
 12 large, aggressive group and as you've described to us that  
 13 was a hopeless attempt and you nearly lost your lives, the  
 14 two of you.  
 15 MR LOUW: That's the truth, Sir.  
 16 CHAIRPERSON: Sorry to interrupt. You  
 17 did tell us yesterday, but I've forgotten the answer. This  
 18 group of people you describe, I think you said there were  
 19 really two groups. There was one group in front, a smaller  
 20 group and then there was a bigger group slightly behind.  
 21 Did I understand correctly?  
 22 MR LOUW: That's correct, Mr  
 23 Commissioner.  
 24 CHAIRPERSON: The group at the front how  
 25 big approximately, how many, if you can estimate –

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1 MR LOUW: I would estimate, I would say  
 2 approximately 50 to 70 members, Mr Commissioner.  
 3 CHAIRPERSON: And the group behind?  
 4 MR LOUW: More than 1000.  
 5 CHAIRPERSON: More than 1000. So you  
 6 were having to deal with over 1000 people.  
 7 MR LOUW: Never in my life, no, Sir.  
 8 CHAIRPERSON: You had to on that day.  
 9 MR LOUW: Ja, on that day obviously.  
 10 CHAIRPERSON: You were supposed to block  
 11 them, you'd stopped at the traffic line and your  
 12 instructions were to prevent them from, if I understand you  
 13 correctly, from crossing the road in front of the traffic  
 14 line which ran –  
 15 MR LOUW: That's correct, Mr  
 16 Commissioner.  
 17 CHAIRPERSON: The two of you were  
 18 expected to do that with over 1000 people.  
 19 MR LOUW: Yes, Mr Commissioner.  
 20 COMMISSIONER HEMRAJ: Was there no  
 21 discussion about any other arrangements being made with  
 22 regard to the number of people to try and keep the crowd  
 23 from crossing the tarred road?  
 24 MR LOUW: No, Ma'am.  
 25 MR TIP SC: Mr Louw, what I want to turn

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1 to and still with the overall purpose of seeking to  
 2 increase our state of understanding and knowledge about how  
 3 the Lonmin security operation was to take place and how it  
 4 did take place. And that subject is one of radio  
 5 communication. Now let me immediately remark, Commissioner  
 6 Hemraj has mentioned the occurrence book, just for cross  
 7 reference, Chair it's exhibit XX2 and again it's not  
 8 necessary to put it on the screen because I just want to  
 9 read to you one, two entries. Are you familiar first of  
 10 all with what this occurrence book is?  
 11 MR LOUW: Yes, I am familiar with the  
 12 occurrence book, Sir.  
 13 MR TIP SC: Who maintains this occurrence  
 14 book, who makes the entries in it?  
 15 MR LOUW: In a situation like we had  
 16 whereby we were given instruction to move over to situation  
 17 red, that will be monitored and kept by our emergency ops  
 18 or the small JOC room or similar to the small JOC room  
 19 within the ENDM department.  
 20 MR TIP SC: Yes, now in particular at the  
 21 stage that you were making radio broadcasts. You were on  
 22 your radio and I think you said that you were calling the  
 23 emergency control room trying to get backup and you  
 24 conveyed the warning that you described that other  
 25 personnel should not try to stop this group because of the

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1 level of aggression.  
 2 MR LOUW: That's correct, Sir.  
 3 MR TIP SC: Would that be into the same  
 4 control facility that would maintain this occurrence book?  
 5 MR LOUW: Ja, that would go to the same  
 6 control facility whether it was mentioned in the occurrence  
 7 book I'm not quite sure of.  
 8 MR TIP SC: You see what I just want to  
 9 mention is that on the 12th of August 2012 and again, Chair,  
 10 if there's any need for me to have it put up we can, but I  
 11 understand there's a bit of a technical issue. If I may  
 12 just read it and I think everyone will accept that I'll do  
 13 so properly. At 9:28 on the morning of the 12th of August  
 14 there's an entry that says "Mob at the Wonderkop koppie  
 15 moves direction Nkaneng." That would correspond with what  
 16 you observes.  
 17 MR LOUW: Yes, Sir.  
 18 MR TIP SC: You, I think have put the  
 19 time of approximately 09:35 as being when this group  
 20 arrived at your vehicle.  
 21 [12:17] MR LOUW: Approximately, yes.  
 22 MR TIP SC: Approximately. And then  
 23 there is no other entry in this occurrence book until  
 24 11:20, when there's a report from a bus driver, nothing at  
 25 all in between. No radio traffic is recorded, no entry of

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1 any security people, what they're experiencing, or where  
 2 they are going. I know it's difficult for you, but if you  
 3 have got any comment that you can make on that, I'd be  
 4 grateful. In particular, let me just ask you, would it  
 5 surprise you if there are no entries during this entire  
 6 period of the incident on 12 August?  
 7 MR LOUW: To be quite honest, Mr  
 8 Chairman, I am surprised to learn of the fact that there  
 9 was almost, a two-hour gap, of non-entries being made. If  
 10 I may elaborate a bit, and it might come back to the  
 11 situations that we normally had to deal on the mine with,  
 12 is the volatile nature of the crowd was never of such a  
 13 nature as we experienced on the 12th. So I think there  
 14 might have been some panic that arose within the guys that  
 15 was supposed to translate messages, phone people, and that  
 16 might be the reason for entries not being made into the  
 17 occurrence book, that was held by the emergency ops room at  
 18 that stage.  
 19 MR TIP SC: Alright, that is something  
 20 that might be clarified in due course, but I appreciate  
 21 that you're not in a first-hand position to say anything  
 22 about what was happening in the room.  
 23 MR LOUW: Unfortunately not, Sir.  
 24 MR TIP SC: It is of course important,  
 25 potentially, because you had conveyed what appears, with

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1 respect, to me to be a very important warning –  
 2 MR LOUW: Definitely, Sir.  
 3 MR TIP SC: Namely do not engage with  
 4 these people, it is dangerous.  
 5 MR LOUW: That's correct, Sir.  
 6 MR TIP SC: And why it is so important is  
 7 because, acting as I do for Mrs Fundi, it is a real  
 8 consideration that had that warning been acted on properly  
 9 and effectively, then Mr Fundi and his colleagues might  
 10 well not have found themselves deployed or otherwise  
 11 positioned in Wonderkop with the results that we know, that  
 12 Mr Mabelane and Mr Fundi lost their lives. Would that be  
 13 exaggerating the position at all in your view?  
 14 MR LOUW: In terms of what could have  
 15 happened and to make a speculation now, would be unfair to  
 16 me, because I think each one of us makes certain decisions  
 17 at certain times, whereby one has to eventually take  
 18 responsibility for. With that said, I cannot say that  
 19 which Mr Fundi and Mr Mabelane did was right or wrong, but  
 20 from my evidence and from my statements it appears that  
 21 pertaining to the protection of Lonmin personnel and  
 22 property, we had it high in our hearts and that was  
 23 important. And I would under the circumstances also would  
 24 have done the same.  
 25 MR TIP SC: Mr Louw, thank you. That's

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1 an entirely appropriate attitude on your part, but let me  
 2 ask if you can assist us with how we might make further  
 3 inquiries in order to establish exactly what happened to  
 4 the warning that you gave.  
 5 MR LOUW: Yes, Mr Chairman.  
 6 MR TIP SC: And that is – let me take a  
 7 step back, you've mentioned that you don't now recall who  
 8 the person was to whom you spoke on that occasion and to  
 9 whom you relayed – well, didn't relay, you gave your  
 10 warning to the person in the control room?  
 11 MR LOUW: That's correct, Sir.  
 12 MR TIP SC: Now, how would we set about  
 13 establishing who that person was and how your warning was  
 14 acted upon, if it all?  
 15 MR LOUW: I would think that there would  
 16 be a duty roster that was or is supposed to be in place  
 17 with regards to the members on duty, and the members on  
 18 duty also is or need to be reflected on the occurrence book  
 19 as well.  
 20 MR TIP SC: Yes. And that would be a  
 21 perfectly routinely available document? That is something  
 22 that should be, in other words, kept up accurately with  
 23 every shift on every day?  
 24 MR LOUW: Most definitely, Sir.  
 25 MR TIP SC: Yes, alright. Now, Mr Louw,

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1 again in order not to spend time questioning you about  
 2 matters that are not within your knowledge, I understand  
 3 that essentially whatever the decision-making processes  
 4 were, whatever the communications might have been that led  
 5 to Mr Fundi and Mr Mabelane and their colleagues being in  
 6 Wonderkop on the 12th of August is something that you don't  
 7 know about at all?  
 8 MR LOUW: No, Mr Chairman.  
 9 MR TIP SC: Alright. Then I want to ask  
 10 you something different, these questions go to a different  
 11 aspect of the events, but related, and they concern again  
 12 the question of the coordination of information, how  
 13 security matters are arranged, particularly in the  
 14 circumstance where there have been very serious events, to  
 15 see what you can assist us with in that regard. That  
 16 relates to the position with planning at the end of your  
 17 shift on the 12th of August. You remained on duty, I think,  
 18 until about 18h00 on that Sunday.  
 19 MR LOUW: The Sunday night, I think I was  
 20 a bit longer on duty, Sir.  
 21 MR TIP SC: Alright. Well, I understand  
 22 that. What I might go to, to get to the point immediately,  
 23 is to know what particular arrangements were made, again if  
 24 any, in relation to proper security of workplaces in and  
 25 around the Lonmin mining environment. You with me?

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1 MR LOUW: Yes, Sir.  
 2 MR TIP SC: And I'll tell you immediately  
 3 what I particularly am concerned is the event at the K4  
 4 shaft in the course of the night, at about 9 o'clock that  
 5 evening, that you doubtless have heard about, where Mr  
 6 Mabebe lost his life.  
 7 MR LOUW: Yes, Sir.  
 8 MR TIP SC: Now, can you tell us whether,  
 9 in the course of any discussions or debriefing sessions, as  
 10 you were approaching the end of your dayshift on that  
 11 Sunday, were there discussions about how security  
 12 arrangements were to be put in place to secure workplaces,  
 13 and of course the persons who might go to those places in  
 14 order to render work?  
 15 MR LOUW: Sir, if such discussions took  
 16 place, I was not part of that, as my direct line manager is  
 17 Mr Miles, and I personally haven't had any such discussions  
 18 with Mr Miles on that given day, no.  
 19 MR TIP SC: That again would primarily be  
 20 a matter for Mr Sinclair's division?  
 21 MR LOUW: That's correct, Mr Chairman.  
 22 MR TIP SC: Alright, then we'll direct  
 23 our questions along that route. There's another topic that  
 24 you might be able to assist us on, and that is the role of  
 25 Protea Coin, in relation to Lonmin' security. There is

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1 mention of a Protea Coin, Mamba, which is, as I understand  
 2 it, an armoured personnel carrier, being used at some stage  
 3 of the events on Sunday morning, of the 12th.  
 4 MR LOUW: That's correct, Mr Chairman.  
 5 MR TIP SC: That was of course, as I  
 6 follow the evidence thus far, after the event, after Mr  
 7 Mabelane and Mr Fundi had unfortunately lost their lives.  
 8 MR LOUW: Yes, Mr Chairman.  
 9 MR TIP SC: Now, generally speaking, what  
 10 is the role of Protea Coin at Lonmin in a circumstance such  
 11 as we're investigating here, namely where there are quite  
 12 acute operational requirements, there's an extreme  
 13 situation on hand. Is there any standing relationship  
 14 between the two that you're aware of?  
 15 MR LOUW: No, Sir.  
 16 MR TIP SC: Do you mean that you're not  
 17 aware, or there isn't an arrangement?  
 18 MR LOUW: I mean I'm not aware, Sir.  
 19 MR TIP SC: Right. So you're not  
 20 familiar at all, yourself, with what Protea Coin are  
 21 ordinarily expected to do or what they might be expected to  
 22 do in a situation of some crisis?  
 23 MR LOUW: No, Sir, that will be a  
 24 discussion with Mr Sinclair, Mr Blou and obviously the  
 25 company, Protea Coin.

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1 MR TIP SC: Yes. I want, perhaps  
 2 finally, Mr Louw, just to take up one remark of yours and  
 3 to see where that takes us. You had said in relation to  
 4 the evidence you gave about your warning, the one that you  
 5 conveyed on the radio, do not engage with these strikers,  
 6 it is too dangerous, correct?  
 7 MR LOUW: Yes, Sir.  
 8 MR TIP SC: And you then went on to  
 9 describe your understanding of the function generally of  
 10 Lonmin security in that situation, which is to do whatever  
 11 it can to delay matters or to deter people, but really in  
 12 the expectation that the South African Police Service would  
 13 be called and would arrive and would deal with that sort of  
 14 situation. Have I followed you correctly?  
 15 MR LOUW: Yes, Sir.  
 16 MR TIP SC: And are you able to give us  
 17 any insight into whether anything effective, as far as what  
 18 was taking place on the ground at the time, had been done  
 19 in relation to securing an effective SAPS presence?  
 20 MR LOUW: To be quite honest, from my  
 21 personal point of view, I cannot elaborate on that, as  
 22 that's not my area of responsibility, Sir.  
 23 MR TIP SC: Thank you. Mr Louw, thank  
 24 you very much. Those are our questions.  
 25 CHAIRPERSON: Thank you, Mr Tip you



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1 didn't need your full two hours at all. Who is next?  
 2 MR WESLEY: Chair, it's Mr Mpofu?  
 3 CHAIRPERSON: Mr Mpofu, how long has he  
 4 got?  
 5 MR WESLEY: 45 minutes.  
 6 CHAIRPERSON: Well, there's a little bit  
 7 of time left over from Mr Tip, so we'll bear that in mind,  
 8 but we won't go overboard with that. Yes, Mr Mpofu.  
 9 CROSS-EXAMINATION BY MR MPOFU: Thanks,  
 10 Chairperson. Good afternoon, Mr Louw.  
 11 MR LOUW: Good day, Sir.  
 12 MR MPOFU: You don't know any of the  
 13 strikers personally, correct?  
 14 MR LOUW: No, I don't, Mr Chairman.  
 15 MR MPOFU: So you can't identify any  
 16 people involved in these matters, you just know that you  
 17 were dealing with a group of strikers?  
 18 MR LOUW: That's correct, I cannot identify any  
 19 members, no.  
 20 MR MPOFU: Yes.  
 21 MR MPOFU: All you knew was that, and I'm  
 22 now talking, sorry, about the 12th, which is the main day of  
 23 your involvement. Well, firstly, let's say what happened  
 24 to you on the 12th was very traumatic, correct?  
 25 MR LOUW: That's correct, Sir.

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1 MR MPOFU: It something that you wouldn't  
 2 want to ever experience again?  
 3 MR LOUW: Definitely not, Sir.  
 4 MR MPOFU: A very close shave.  
 5 MR LOUW: Definitely, yes.  
 6 MR MPOFU: Yes. And surely, just in  
 7 relation to the questions that the chairperson asked you,  
 8 if you ever have to face a crowd of a 1000 people who are  
 9 armed, surely you wouldn't want to be on the side of two  
 10 people facing that crowd, correct?  
 11 MR LOUW: Correct.  
 12 MR MPOFU: And all you knew at that stage  
 13 was that the motive of this crowd was revenge for the  
 14 events of the 11th?  
 15 MR LOUW: That's correct, Sir.  
 16 CHAIRPERSON: He didn't actually know  
 17 that, that's what you expected, I think you said?  
 18 MR MPOFU: So you were informed?  
 19 MR LOUW: Ja, we were informed and we  
 20 suspect, but I don't know it for a fact. No, Sir.  
 21 CHAIRPERSON: Were you informed that, or  
 22 was it was just your suspicion?  
 23 MR LOUW: No, we were informed, but it  
 24 was, like I said to Mr –  
 25 CHAIRPERSON: To Mr Tip, I think.

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1 MR LOUW: Excuse me, Mr Chairman, is that  
 2 that was merely an informal conversation or merely a  
 3 conversation that took place as we handed over duty, or  
 4 took over duty from Mr Botha and Mr Kellerman.  
 5 CHAIRPERSON: That wasn't hard  
 6 information that you had?  
 7 MR LOUW: No.  
 8 CHAIRPERSON: It seems to me there are  
 9 other possibilities, which we don't have to discuss with  
 10 you.  
 11 MR LOUW: Sir.  
 12 MR MPOFU: Ja, well, whatever the  
 13 possibility is, but only you were informed and you accepted  
 14 that information was that they were acting upon revenge for  
 15 what had happened on the 11th?  
 16 MR LOUW: If you take the information,  
 17 yes, we –  
 18 MR MPOFU: You had no reason to doubt  
 19 that information?  
 20 MR LOUW: Not really, no, Sir.  
 21 MR MPOFU: Ja. And on top of that, you  
 22 had no information - or let me put it this way, there was  
 23 no information that you, yourselves, and the security  
 24 personnel were their target?  
 25 MR LOUW: No, Sir.

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1 MR MPOFU: There was also no information  
 2 that any Lonmin property was the target, apart from the  
 3 NUM, the fact that they were going to revenge or avenge  
 4 whatever they wanted to avenge, correct?  
 5 MR LOUW: Eventually when, I think we can  
 6 describe it in many ways, but I think the fact of the  
 7 matter still stands that whenever, or whether Lonmin  
 8 property or Lonmin personnel are involved, we don't take,  
 9 even it's rumours, we don't take it lightly, and we do act  
 10 upon it and make sure that we sustain peace and  
 11 sustainability within the security and safekeeping of  
 12 personnel and property.  
 13 MR MPOFU: Yes, that I understand, and  
 14 it's quite commendable. All I'm saying to you is, you've  
 15 already answered the question that you have no information  
 16 that you were the target, as the security personnel. I'm  
 17 now asking you similarly, you had no information that any  
 18 specific Lonmin property or personnel were the target,  
 19 correct?  
 20 MR LOUW: Correct, Sir.  
 21 MR MPOFU: Thank you. So really, apart  
 22 from just generally keeping peace, which obviously you have  
 23 to do, the target that you were protecting would have been  
 24 the NUM offices and personnel, correct?  
 25 MR LOUW: I would differ a bit, Sir. It

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1 would mostly the area, like I've described, the area where  
 2 we were attacked, the western side of road, that's all part  
 3 Lonmin property. So the main focus that morning was to  
 4 keep the striking workers of Lonmin property to cause  
 5 damage. So the NUM office won't be their target per se,  
 6 no, it would be the whole hostel area.  
 7 MR MPOFU: No, but okay, maybe – we don't  
 8 understand each other, but you had no information that  
 9 anything else was going to happen in the hostel areas. The  
 10 only information you had was that NUM was going to be  
 11 targeted for a revenge or whatever, but you had no  
 12 information that anything else was going to be targets.  
 13 [12:37] MR LOUW: No, Sir. If I might ask a  
 14 question with regards to information.  
 15 MR MPOFU: Yes.  
 16 MR LOUW: Whether this information is  
 17 hearsay or it came through, if I can call it via the  
 18 grapevine, which was carried over from one person to  
 19 another without any formal letters or emails or SMSs being  
 20 sent out, do you think I can still refer to that as  
 21 information or –  
 22 MR MPOFU: Ja. Ja, ja. No, I didn't  
 23 mean – no, no, you can. I really don't mean to be  
 24 steadfast about the quality of the information. All I'm  
 25 saying to you –

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1 MR LOUW: I understand.  
 2 MR MPOFU: Ja, is to the best of your  
 3 knowledge, whether it was from rumour or whatever, the  
 4 intention of the strikers was to attack for revenge or  
 5 whatever, the NUM?  
 6 MR LOUW: From my knowledge, yes, Sir.  
 7 MR MPOFU: Yes, thank you, and nothing,  
 8 you had no other similar information about any other  
 9 target?  
 10 MR LOUW: No, Sir.  
 11 MR MPOFU: Thank you. Now you have said  
 12 that the 12th was quite a traumatic – and it's  
 13 understandable – traumatic episode, correct?  
 14 MR LOUW: Correct, Sir.  
 15 MR MPOFU: And again without looking into  
 16 the quality of the information, but you've also said that  
 17 what you observed on the 12th was something, the kind of  
 18 aggression and what you have described was something that  
 19 you had never seen before in your career?  
 20 MR LOUW: That's correct, Mr Chairman.  
 21 MR MPOFU: And you had never – it was  
 22 certainly not what was either observed or described to you  
 23 in relation to the 10th or the 11th, correct?  
 24 MR LOUW: That's correct.  
 25 MR MPOFU: Yes, and I'm asking you this

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1 because there is some – ja, let's call it evidence, ja, it  
 2 comes from someone who I'm going to describe as very  
 3 unreliable and should not have been here, but for what it's  
 4 worth, there's a suggestion that the strikers on the 11th –  
 5 or let me put it this way. Did you observe the events of  
 6 the 11th in the morning, or were they reported to you or did  
 7 you pick them up on the radio? Which of those would –  
 8 MR LOUW: It was only relayed to me  
 9 through a radio message.  
 10 MR MPOFU: Through the radio, yes.  
 11 MR LOUW: That's correct, Sir.  
 12 MR MPOFU: Okay, fine. It would seem  
 13 that – maybe you're not the right witness, so if you can't  
 14 answer I'll move on to something else, but it would seem  
 15 that what happened in the morning of the 11th was there was  
 16 a gathering outside the stadium. From that gathering the  
 17 strikers moved towards the NUM offices and then there was  
 18 the shooting that happened and then you came and saw  
 19 somebody lying on the ground. Would that be the sequence?  
 20 MR LOUW: I'm not quite sure about a  
 21 sequence. During that time I was busy with patrolling the  
 22 Karee area, so exactly what led up to the shooting I'm  
 23 really not aware of.  
 24 MR MPOFU: Okay.  
 25 MR LOUW: Yes, Sir.

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1 MR MPOFU: Fair enough.  
 2 CHAIRPERSON: What you told us in your  
 3 statement, which is exhibit AAAA36, was you were busy  
 4 patrolling at Karee with Mr Vorster.  
 5 MR LOUW: That's correct, Mr Chairman.  
 6 CHAIRPERSON: You received a call from Mr  
 7 Dirk Botes on the radio –  
 8 MR LOUW: That's correct, Mr Chairman.  
 9 CHAIRPERSON: - informing you there were  
 10 shots fired at Wonderkop Hostel.  
 11 MR LOUW: That's correct.  
 12 CHAIRPERSON: And that you needed to  
 13 investigate.  
 14 MR LOUW: That's correct, Mr Chairman.  
 15 CHAIRPERSON: So you then went to the  
 16 Wonderkop Hostel and when you got there you saw people  
 17 running away from the hostel in the direction of Nkaneng  
 18 and other people inside the hostel dispersing in all  
 19 directions away from the southern workshop area and you  
 20 then checked the northern perimeter of the hostel area and  
 21 to see if there's a possibility of a group entering the  
 22 hostel area from the northern side, and while you were  
 23 doing that you saw people walking around and you saw three  
 24 people, two were standing, one was sitting and he was in  
 25 obvious discomfort, and that's the incident you described

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1 to us of the injured miner and you called the ambulance I  
 2 think –  
 3 MR LOUW: That's correct.  
 4 CHAIRPERSON: - and he was taken to  
 5 hospital. That's the story?  
 6 MR LOUW: That's correct, Mr Chairman.  
 7 MR MPOFU: Alright. Okay, moving on,  
 8 fine, I accept then that you only came at a particular  
 9 stage. The events of the 10th, I just want to touch on  
 10 something about the 10th; your information, again whether it  
 11 came directly or from your own observations, was that on  
 12 the 10th there was a group of NUM people – you might not  
 13 have been aware of the specific details, but I can tell you  
 14 the detail was that they were in a Quantum and allegedly  
 15 escorting people to work. You are aware of that?  
 16 MR LOUW: I'm not aware of that and I  
 17 have no knowledge about that, Sir.  
 18 MR MPOFU: Okay, but you just know that  
 19 there was a group of NUM people "escorting" people to work?  
 20 MR LOUW: Ja, that was per foot, but the  
 21 Quantum is the first word I'm hearing now in the  
 22 Commission.  
 23 MR MPOFU: No, fair enough, and you knew  
 24 that this group was armed with dangerous weapons?  
 25 MR LOUW: That was not the 10th, if I

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1 might correct you, Mr Chairman. That was on the Saturday  
 2 morning the 11th.  
 3 MR MPOFU: Ja, okay, I mean it broadly.  
 4 The early hours or –  
 5 MR LOUW: The early hours of Saturday –  
 6 MR MPOFU: Of the 11th.  
 7 MR LOUW: Ja.  
 8 MR MPOFU: While it was still dark.  
 9 MR LOUW: That's correct, Sir.  
 10 MR MPOFU: Ja, okay and anyway, the  
 11 thrust of my question was that you are aware that this  
 12 group was armed with dangerous weapons?  
 13 MR LOUW: That's correct, Mr Chairman.  
 14 MR MPOFU: Yes, and then you observed  
 15 people running away after the shootout, correct? Or the  
 16 shooting, sorry. Is that correct?  
 17 MR LOUW: That's correct, Sir.  
 18 MR MPOFU: Ja, and you also observed one  
 19 of the victims, at least one of the people lying down.  
 20 MR LOUW: That's correct, Sir.  
 21 MR MPOFU: And none of those people were  
 22 armed with dangerous weapons?  
 23 MR LOUW: Not that I saw, no, Sir.  
 24 MR MPOFU: Yes, and in fact the person  
 25 that you did see that I call the victim, had been shot at

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1 the back.  
 2 MR LOUW: That's correct, Sir.  
 3 MR MPOFU: Right. Alright, now let's go  
 4 to – or well, why in your statement did you not mention  
 5 anything about the 16th of August?  
 6 MR LOUW: On the 16th I can assure you I  
 7 was, we came on duty. On, during that day I was busy with  
 8 my statement, my statements with the police, so I was  
 9 basically the whole occupied at the Middelkraal offices,  
 10 waiting for the police investigators to take our  
 11 statements. That will be the first statement that you see  
 12 in this pamphlet that was given to me - evidence number I'm  
 13 not quite sure of what –  
 14 MR MPOFU: The handwritten one?  
 15 CHAIRPERSON: You're referring to exhibit  
 16 DDDD1.  
 17 MR LOUW: Yes, Sir.  
 18 CHAIRPERSON: That's the statement you  
 19 made on the 16th of August.  
 20 MR LOUW: That's correct, Mr Chairman.  
 21 CHAIRPERSON: I don't think, I'm not sure  
 22 if it gives the time, but it does say you made it – yes, it  
 23 does give the time.  
 24 MR LOUW: 10 to 10 that morning, Sir.  
 25 CHAIRPERSON: That's right.

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1 MR MPOFU: Ja. No –  
 2 CHAIRPERSON: [Microphone off, inaudible]  
 3 Lonmin offices, is that the Lonmin offices at Middelkraal?  
 4 MR LOUW: That will be the ENDM offices.  
 5 CHAIRPERSON: That's at Middelkraal?  
 6 MR LOUW: At – no, not at Middelkraal –  
 7 ja, at Middelkraal, that's correct, Mr Chairman. Excuse  
 8 me.  
 9 MR MPOFU: No, okay fine. I understand  
 10 that. I'm saying it's the statement that you made, for  
 11 whatever reason, was made on the 25th of October 2012,  
 12 correct?  
 13 MR LOUW: That's correct, ja.  
 14 MR MPOFU: And that's AAAA36. I'm saying  
 15 why in that statement did you not say anything about the  
 16 16th of August?  
 17 MR LOUW: Because on the 16th of August I  
 18 was basically busy with normal patrols. I was at the  
 19 Middelkraal office, then went back to the SIU – Security  
 20 Intervention Unit offices, and from there I went for  
 21 patrols to the Eastern Platinum Mine. I was only informed  
 22 of the shooting or when the police went into the koppie  
 23 area, and I think some of the vehicle tracking evidence  
 24 will show that when the police went into the koppie area I  
 25 was still at Eastern and I proceeded from Eastern to the

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1 BMR vicinity.  
 2 CHAIRPERSON: Did you hear what –  
 3 MR LOUW: I wasn't –  
 4 CHAIRPERSON: I'm sorry to interrupt  
 5 you –  
 6 MR LOUW: Ja, no I'm trying to explain,  
 7 Mr Chairman –  
 8 CHAIRPERSON: Yes. No, I want to ask a  
 9 question, but finish your explanation first.  
 10 MR LOUW: Ja, because we weren't involved  
 11 on anything with the 16th our statements, or my statement  
 12 was only taken up to the 15th.  
 13 CHAIRPERSON: I understand that. What I  
 14 want to know from you is at what time on the 16th did you  
 15 learn that there had been this shooting incident and that a  
 16 number of strikers were shot at what we call scene 1? You  
 17 know what scene 1 is? Scene 1 is the area near the kraal.  
 18 MR LOUW: That's correct, Mr Chairman.  
 19 CHAIRPERSON: At what time did you hear  
 20 for the first time that that had happened?  
 21 MR LOUW: Mr Chairman, if I can just  
 22 elaborate; I'm not quite sure about a time, but as soon as  
 23 the police moved into the koppie area I was informed that  
 24 the police went into the koppie area and normally when –  
 25 because prior to that the police also went to go and speak

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1 to the strikers and normally what we then did was that we  
 2 just moved closer to that area and we just observed from  
 3 the outside, basically from either the Rowland Crossing or  
 4 from the back of the BMR. So at that stage when the police  
 5 were moving in I wasn't there, but when they were already  
 6 in with the crowd and what was happening there I'm not  
 7 aware of, but I arrived and about 10 to 15 minutes after I  
 8 arrived we could, heard the gunshots.  
 9 CHAIRPERSON: You heard the gunshots?  
 10 MR LOUW: Ja, we could, heard the –  
 11 CHAIRPERSON: This is from the Rowland  
 12 Crossing, was it?  
 13 MR LOUW: No, no, the –  
 14 CHAIRPERSON: Were you at the Rowland  
 15 Crossing at that stage?  
 16 MR LOUW: No, at that stage I was  
 17 standing on the western side of the Basic Metal Refinery,  
 18 the western perimeter –  
 19 CHAIRPERSON: So from the western side of  
 20 the BMR you heard –  
 21 MR LOUW: That's correct. That's  
 22 correct, Mr Chairman.  
 23 CHAIRPERSON: - shots, and are you able  
 24 to tell us that that was scene 1 that you heard? Because  
 25 you know there were later, there are two scenes. The one

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1 was what we call scene 1 near that kraal, and then later on  
 2 there were further shots and further deaths in fact –  
 3 MR LOUW: Ja.  
 4 CHAIRPERSON: - at what's known as koppie  
 5 3. That's what we call scene 2. You understand the  
 6 distinction?  
 7 MR LOUW: I understand, Mr Chairman.  
 8 CHAIRPERSON: Now the shots that you  
 9 heard when you were at the BMR, western side of the BMR,  
 10 were those scene 1 shots?  
 11 MR LOUW: Mr Chairman, I'm going to lie  
 12 to you if I can tell you exactly where the shots came from.  
 13 CHAIRPERSON: Let me explain it to you  
 14 this way.  
 15 MR LOUW: Ja.  
 16 CHAIRPERSON: At scene 1 there was  
 17 something like eight seconds, there was a volley of shots  
 18 and then later on there were further shots but not in a  
 19 volley, there were shots over a period of minutes –  
 20 MR LOUW: Ja.  
 21 CHAIRPERSON: - at scene 2. Now the  
 22 shots you heard from the BMR, could that have been  
 23 described as a short volley of about eight seconds?  
 24 MR LOUW: Mr Chairman, at that stage we  
 25 were asking each other questions about who was shooting and

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1 why they were shooting and we actually, I know one of my  
 2 colleagues, I was actually telling him that I don't hope  
 3 that someone else is being shot now or being killed, and so  
 4 what the volume or the amount of rounds or where it came  
 5 from, to be quite honest, I cannot testify as to what,  
 6 where, how, because I really didn't take notice. The only  
 7 thing I took notice of was the fact that we heard shots and  
 8 I will not be able to explain any volume or –  
 9 CHAIRPERSON: Alright, well volleys, what  
 10 we call a fusillade, a whole lot of shots being fired at  
 11 once –  
 12 MR LOUW: No, no, I understand what the  
 13 word means ja, but –  
 14 CHAIRPERSON: Alright, okay, okay. And  
 15 then what happened after that we know is you went to,  
 16 effectively to koppie 3, as we see in the photograph.  
 17 MR LOUW: That's correct.  
 18 CHAIRPERSON: So you went with, I think  
 19 you said with the Netcare people.  
 20 MR LOUW: That's correct, Mr Chairman.  
 21 CHAIRPERSON: But what was the time lapse  
 22 between the shots that you heard when you were at the BMR  
 23 and your going to koppie 3 with the, as we see on the  
 24 photograph?  
 25 MR LOUW: I would say approximately 20 to

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1 25 minutes, Mr Chairman.  
 2 CHAIRPERSON: And during that time,  
 3 between the first shots that you heard when you were at the  
 4 BMR and your arrival at koppie 3 as you've described it,  
 5 did you hear any other firing of any kind, any other shots?  
 6 MR LOUW: No, Mr Chairman.  
 7 CHAIRPERSON: Okay, thank you.  
 8 COMMISSIONER HEMRAJ: And the medical  
 9 personnel that you escorted into the second scene, where  
 10 did they come from?  
 11 MR LOUW: They proceeded – where exactly  
 12 they came from I'm not quite sure, Ms Commissioner, but  
 13 they, where we were standing they were coming in a western  
 14 direction from the four-way stop at the, or the Rowland  
 15 Crossing.  
 16 CHAIRPERSON: Where did you meet up with  
 17 them?  
 18 MR LOUW: Excuse me, Mr Chairman?  
 19 CHAIRPERSON: Where did you meet up with  
 20 these paramedics?  
 21 MR LOUW: No, we waited in the gravel  
 22 road close to the Eskom substation and we met them at the  
 23 Eskom substation, then we took the lead to drove in and we  
 24 took them to the koppie, koppie 3, as you mentioned, yes.  
 25 MR MPOFU: Yes. Okay, I'm saying apart

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1 from you've already described the traumatic nature of the  
 2 events of the 12th. Surely the events of the 16th must have  
 3 been the next traumatic experience for you, correct?  
 4 MR LOUW: That's correct.  
 5 MR MPOFU: Seeing so many dead bodies and  
 6 mayhem, correct?  
 7 MR LOUW: That's correct.  
 8 MR MPOFU: Ja, and you didn't think that  
 9 those events would be also important to describe in your  
 10 statement?  
 11 MR LOUW: I would not say it was not  
 12 important. I think that was a police scene and we were  
 13 merely acting as escorts to the ambulance services. I  
 14 think if they wanted us to give comments on, or take  
 15 statements from as to what happened I wouldn't be able to  
 16 say anything except for the fact what I saw and then  
 17 obviously the fact that I've escorted the ambulances in and  
 18 that we helped to take care of the wounded.  
 19 MR MPOFU: Ja okay, can we have  
 20 JJJ29.265? Okay, well that's the middle of the killings  
 21 zone, the war zone, which was scene 2, and that is you  
 22 standing there holding a handgun, or rather a shotgun,  
 23 correct?  
 24 MR LOUW: That's correct, Mr Chairman.  
 25 MR MPOFU: And a cigarette.

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1 MR LOUW: That's correct, Mr Chairman.  
 2 MR MPOFU: Yes, and you were not looking  
 3 after any medical personnel now.  
 4 MR LOUW: Mr Chairman, just to give you  
 5 clarification on this exact photo, I wouldn't describe that  
 6 as the middle of the crime scene. That would be more the  
 7 south entrance to the crime scene and at that stage Mr  
 8 Miles instructed me to go and, because it was getting dark  
 9 at that stage, instructed me to go and organise for some  
 10 additional lighting to be brought to this area to assist  
 11 with the medical personnel, or to assist the medical  
 12 personnel to be able to work better.  
 13 CHAIRPERSON: This picture where you can  
 14 see some medical personnel on the right-hand side, at least  
 15 one person, I think probably two on the right-hand side  
 16 bending down, presumably attending to somebody on the  
 17 right-hand side of this photograph, is that right?  
 18 MR LOUW: Ja, it might be, Mr Chairman.  
 19 CHAIRPERSON: Well, I take it those red  
 20 bands on the, more or less above the elbow –  
 21 MR LOUW: Ja, that's correct, yes. Now I  
 22 see it.  
 23 CHAIRPERSON: That's the attire of the  
 24 medical people.  
 25 MR LOUW: That's correct, Mr –

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1 CHAIRPERSON: They usually have a red  
 2 sash of some kind on the shoulder and that's how we tell  
 3 the difference between medical –  
 4 MR LOUW: That's correct, Mr Chairman.  
 5 MR MPOFU: I don't see what the  
 6 Chairperson is talking about. But be that as it may; what  
 7 you are clearly doing there is you're talking to that  
 8 gentleman. You are not minding any personnel that might be  
 9 visible on the photograph, correct? You are having a smoke  
 10 actually.  
 11 MR LOUW: That's correct, Mr Chairman.  
 12 [12:56] MR MPOFU: Alright, there is evidence,  
 13 you have already said that you had SSG is something that  
 14 you had, when I say you had, I mean you personally, that  
 15 you as Lonmin Security had in your possession. Correct?  
 16 MR LOUW: I am speaking under correction,  
 17 but I think we do have SSG rounds. The amount and the  
 18 whereabouts, I am not quite familiar of –  
 19 MR MPOFU: Sure.  
 20 MR LOUW: - but –  
 21 MR MPOFU: No, fine, and you say you only  
 22 use it for shooting practice, correct?  
 23 MR LOUW: Ja, if we use it, to be quite  
 24 honest in my six years, and I am currently a shooting range  
 25 instructor and a range officer, in the six years that I

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1 have been at Lonmin we have never used those rounds, or  
 2 myself whenever I was in charge of the shooting range, I've  
 3 never used SSGs. I've only used AAAs and we've only used  
 4 rubbers.  
 5 MR MPOFU: Yes, but who – okay, maybe you  
 6 personally, but whoever in your staff might have used it,  
 7 would have used it in the course of shooting practice, to  
 8 your knowledge.  
 9 MR LOUW: No, I wouldn't say that, Mr  
 10 Chairman, excuse me. I just want to clarify something, and  
 11 I think I might have misspoken myself when I tried to  
 12 explain what happened, I was actually meaning there might  
 13 be SSGs. Personally, I think I've only seen one or two  
 14 rounds personally ever, and that was during my time in the  
 15 air force. At Lonmin, what ammunition and the type of  
 16 ammunition currently is in the safe, I really cannot say  
 17 with all honesty that there is rounds, or there is not  
 18 rounds. And I don't want to lie, Sir, I am not sure or do  
 19 not have. If we have, I would suggest that it might have  
 20 been used, or we would have used it in the shooting range.  
 21 But I cannot testify to anything with regards to SSGs  
 22 because I am not aware of that and I have never used them  
 23 on the shooting range as well.  
 24 CHAIRPERSON: If you had SSGs, they would  
 25 be kept in the safe, would they? Your ammunition as it

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1 were kept – your ammunition kept in the safe?  
 2 MR LOUW: Yes. I'll explain in  
 3 Afrikaans, what I am trying to say is, if we had such  
 4 rounds we would only use this in an exercise. I possibly  
 5 contradicted myself when I spoke in English. When I  
 6 started in English, I said if we had such ammunition, this  
 7 will be kept in the safe.  
 8 CHAIRPERSON: Who is in charge of the  
 9 safe in which the ammunition is kept?  
 10 MR LOUW: Mr Callie Miles.  
 11 CHAIRPERSON: Mr Miles?.  
 12 MR LOUW: Yes.  
 13 CHAIRPERSON: And when ammunition is  
 14 taken out of the safe and issued to particular staff  
 15 members, is a record kept of that?  
 16 MR LOUW: Yes, Sir, and he will obviously  
 17 have the record of those as well.  
 18 CHAIRPERSON: The date of issue, as well  
 19 as what's been issued, and to whom?  
 20 MR LOUW: Yes, Sir. If I can just add,  
 21 Mr Chairman, to my knowledge, I have never ever in my life,  
 22 on Lonmin received any SSG rounds, we only worked with AAAs  
 23 and –  
 24 CHAIRPERSON: Yes, I understand what you  
 25 are saying.

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1 MR LOUW: - with rubbers.  
 2 CHAIRPERSON: Mr Burger or Mr Van As, I  
 3 don't know to whom I must address the request, but we would  
 4 like sight please, of the documentation which is kept at  
 5 the safe or in relation to the safe, dealing with the issue  
 6 of ammunition, if SSGs would be included otherwise other  
 7 ammunition that was issued over the period from say, I  
 8 think we previously spoke about a period in another  
 9 context, from the 9th too say, the 16th, could that be done  
 10 as well, please?  
 11 MR MPOFU: I am sorry -  
 12 COMMISSIONER HEMRAJ: Mr Louw, I have a  
 13 note that says under cross-examination by Adv Wesley, that  
 14 you said SSGs were only used for shooting practice. They  
 15 were under the control of Callie Miles. Now if you  
 16 misspoke, what were you referring to?  
 17 MR LOUW: That –  
 18 COMMISSIONER HEMRAJ: That's being used  
 19 for shooting practice and under the control of Mr Miles.  
 20 MR LOUW: Yes, Commissioner, that's what  
 21 I was trying to add is that if there were such rounds, then  
 22 obviously they would have been used on the shooting range.  
 23 Now we are different range officers using the shooting  
 24 range, and from my personal experience, I have never used  
 25 SSG rounds. I've only used AAA rounds and I've only been

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1 issued AAA rounds with rubber rounds. So that's why I am  
 2 saying I think I misspoke myself in terms of that regard –  
 3 CHAIRPERSON: We understand you say you  
 4 didn't express yourself correctly.  
 5 MR LOUW: Yes, Sir.  
 6 CHAIRPERSON: And it was because you had  
 7 switched over to English, to try and speed things up for  
 8 us, because you were being cross-examined by Mr Wesley in  
 9 English, and you were replying in English. But you've now  
 10 corrected it to say if there were such, if there were SSGs  
 11 they would be in the safe and then obviously be covered by  
 12 any, their issue and so forth, would be covered by any  
 13 register and we have asked for the relevant registered and  
 14 Lonmin counsel very properly indicated that they'll co-  
 15 operate and make those available to us. Mr Mpofo, I was  
 16 proposing to take the lunch adjournment now, but if you  
 17 want to ask something before we take the lunch adjournment  
 18 –  
 19 MR MPOFU: Yes, I just want to put  
 20 something.  
 21 CHAIRPERSON: - go ahead.  
 22 MR MPOFU: Yes, thank you, Chairperson.  
 23 Now I just want to put to you before we take the lunch  
 24 break that this evidence you are giving now is a  
 25 contradiction to what you said earlier and I want you to

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1 think of the answer so that when we get back you can give  
 2 an answer.  
 3 MR LOUW: I can –  
 4 MR MPOFU: And what I am going to ask  
 5 you, if I can finish, I will give you a chance to answer,  
 6 is that your evidence, you were asked a direct question  
 7 about whether there is SSG and you said, yes, there is.  
 8 And you even went as far as to say, who keeps it, and you  
 9 went even further to say under what circumstances it gets  
 10 used. So if it was a hypothetical thing, yes, we have it,  
 11 but if have it, then Callie Miles keeps it. If he keeps it  
 12 then we use it for shooting practice. I mean, that's  
 13 clearly not what you intended to convey to Mr Wesley, and  
 14 you can think of the answer during the –  
 15 CHAIRPERSON: You don't have to –  
 16 MR MPOFU: Unless you want to give it  
 17 now.  
 18 CHAIRPERSON: You don't have to answer  
 19 now, Mr Louw, unless you want to. What Mr Mpofo is  
 20 extending to you is the opportunity to think about your  
 21 answer and give it to us when we resume. But if you want  
 22 to answer now –  
 23 MR LOUW: If I might answer now, I'll  
 24 appreciate it.  
 25 CHAIRPERSON: You may do so.

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1 MR LOUW: Yes, Mr Mpofo, that's exactly  
 2 what I said to –  
 3 MR MPOFU: Mr Wesley.  
 4 MR LOUW: - Mr Wesley and that's where I  
 5 wanted to basically take out a contradiction, and take out  
 6 any evidence with regards to hearsay. At that stage, like  
 7 I said, I didn't want to give the impression that we have  
 8 or we do not have. Personally, I cannot testify that we  
 9 have and I cannot testify that we do not have. And that's  
 10 the point I want to bring across, and that's why I wanted  
 11 to correct myself before this was taken out of context that  
 12 we have or we do not have. If we, and I was just trying to  
 13 add to that, that if we had such rounds, then it would be  
 14 kept in the safe at Karee, which I mentioned and it would  
 15 be handled by Mr Miles, as I mentioned. If it was to be  
 16 used, obviously it would have been used on the shooting  
 17 range because in my testimony now, I made it clear that in  
 18 my six years at Lonmin, I've never been issued with SSGs,  
 19 only AAAs and rubber rounds. That's the point I wanted to  
 20 bring across because I cannot testify on rounds and  
 21 ammunition and I think I was a bit caught up by the  
 22 question when Mr Wesley asked me that question, is because  
 23 I haven't got any knowledge as to how many rounds is kept  
 24 in the vault. What is kept in the vault and was not kept  
 25 in the vault, that is the responsibility of Mr Miles, and

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1 only he can give you an answer with regards to that. So if  
 2 I have mistaken or given contrary evidence, I would like to  
 3 subtract that and make note that that was not to falsify  
 4 anything, but like I said, I think I was rather caught out  
 5 by the question and I was assuming that if there was such  
 6 round, this is what would have happened.  
 7 CHAIRPERSON: I think you've made that  
 8 clear.  
 9 MR LOUW: I was going to say. Does that  
 10 answer your question, Mr Mpofo?  
 11 CHAIRPERSON: Mr Mpofo may wish to take  
 12 the point up further but perhaps he – if you've answered  
 13 his question, he asks the questions, you answer them.  
 14 Perhaps he can take up the matter further after lunch. We  
 15 take the adjournment now and we will come back at, well, I  
 16 suppose about ten to two.  
 17 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 18 [13:57] CHAIRPERSON: The Commission resumes.  
 19 You're still under oath, Mr Louw.  
 20 DEWALD LOUW: [s.u.o.]  
 21 CHAIRPERSON: Mr Mpofo.  
 22 CROSS-EXAMINATION BY MR MPOFU (CONTD.):  
 23 Thank you, Chairperson. Mr Louw, I just want to be fair to  
 24 you firstly so that you understand why I'm sitting on this.  
 25 This issue of the SSG pellets is important for the

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1 Commission because some of the people who were injured, and  
 2 even some of the deceased had clearly been shot with SSG  
 3 pellets. You understand that?  
 4 MR LOUW: I understand.  
 5 MR MPOFU: Yes, and so this question of  
 6 the SSG pellets is one of the seven wonders of this  
 7 Commission because nobody knows, the police say they did  
 8 not use SSG. Lonmin also is kind of vague on whether they  
 9 had SSG or not, and yet people died and were injured with  
 10 it on the day. So you understand where we're coming from,  
 11 why it's important?  
 12 MR LOUW: I understand, Mr Chairman.  
 13 MR MPOFU: Yes. Now I was saying to you,  
 14 you did not by any chance – I'm sure nobody in your ranks  
 15 regarded what was happening at the koppie as shooting  
 16 practice.  
 17 MR LOUW: Definitely not, Mr Chairman.  
 18 MR MPOFU: Ja, now when I asked you  
 19 before you said that SSG was, or rather when Mr Wesley  
 20 asked you, you said that it was only used for shooting  
 21 practice, correct?  
 22 MR LOUW: I said that, Mr Chairman.  
 23 MR MPOFU: You did, yes, and then there  
 24 was the tea break. Then after that when I asked you, you  
 25 then said, you know, the other story, which is that it was,

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1 you yourself had never seen it in six years; if it was  
 2 there it would have been kept by Mr Callie Miles, and if he  
 3 kept it, it would only be used for shooting practice, which  
 4 as I said is not acceptable as an answer, or rather is  
 5 incompatible, and you conceded that it was incompatible  
 6 with your earlier answer but you tried to reconcile the  
 7 two. Remember that?  
 8 MR LOUW: You're correct, Mr Chairman.  
 9 MR MPOFU: Yes, in the last answer that  
 10 you gave before lunch you then said something about  
 11 hearsay. You gave another long explanation before we  
 12 broke, but then you said you didn't want to give the  
 13 Commission hearsay and so on, and so on. What were you  
 14 referring to in relation to hearsay and this SSG story?  
 15 MR LOUW: In relation to the hearsay and  
 16 the SSG story there's nothing that comes to mind that has  
 17 any reflection on the other whatsoever. I was referring to  
 18 hearsay with regards to information received on the 12th and  
 19 the 11th -  
 20 MR MPOFU: No. No, I'm sorry, sorry to  
 21 cut you. Sorry to cut you. You can continue.  
 22 MR LOUW: No, you can ask your question,  
 23 Sir.  
 24 MR MPOFU: Okay. No, I was saying I'm  
 25 not talking about the 11th or the 12th. I'm saying the very

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1 last answer that you gave before we broke for lunch,  
 2 remember the Chairperson said you want to answer now or  
 3 later and then you said you wanted to answer now, then.  
 4 MR LOUW: Mr Chairman, if I recall I  
 5 think the word I used was "assume," to rectify the answer I  
 6 firstly gave and if that is such a big issue I think we can  
 7 go back to my first statement made by myself. I actually  
 8 only meant that if we had such rounds it would be kept in  
 9 the vault and if the round were to be used it would be used  
 10 for shooting practice.  
 11 Now the events leading up to the 16th and the 16th  
 12 itself, when you made the comment earlier with regards to  
 13 shooting practice and some of the members laughed, I truly  
 14 and strongly feel that that is definitely not a laughing  
 15 matter, but it wasn't shooting practice for us and we  
 16 didn't practice on anything on that day either.  
 17 MR MPOFU: Ja. No, fine. If there's  
 18 anyone who laughed I think you're right, they were out of  
 19 order. It's not a laughing matter. As I said to you that  
 20 some people, some of the deceased people were found from  
 21 the objective evidence to have been shot with this SSG and  
 22 that's why I started this after lunch by showing you the  
 23 seriousness of the issue that you and I are dealing with.  
 24 Now I'm saying to you, I've moved from the fact  
 25 that you have contradicted yourself, at least at face

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1 value, and you have tried to give us an explanation for  
 2 that. I'm moving from that. I'm saying in the course of  
 3 that explanation you said partly it was because you did not  
 4 want to give the Commission hearsay. Now I want to know  
 5 want hearsay were you referring to in relation to the SSG.  
 6 MR LOUW: Yes, Mr Chairman, with regards  
 7 to the SSG matter I was only trying to express myself with  
 8 regards to I cannot testify as to what type of rounds we do  
 9 keep in the vault because I'm not familiar with the amount  
 10 of rounds and the type of ammunition that is kept. What I  
 11 can testify on, on my own behalf, is that since I started  
 12 working at Lonmin and I obtained my weapon competency and  
 13 my weapon proficiency I was never issued with SSGs. I was  
 14 only issued with AAAs and rubber rounds, and just to  
 15 elaborate on that is all the shooting exercises that I  
 16 undertake as a range officer at Lonmin shooting range were  
 17 all undertaken by AAAs and I haven't used SSGs. So I just  
 18 wanted to try and explain in that regard.  
 19 MR MPOFU: Sure. Okay. Alright, the SSG  
 20 pellets are compatible with the shotgun that you were  
 21 holding in that picture, correct?  
 22 MR LOUW: That's correct, it's a 12-gauge  
 23 round, yes.  
 24 MR MPOFU: Yes, and even there at scene 2  
 25 - I just don't have the exhibit number now - there are SSG

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1 cartridges that were found in the pictures. So obviously  
 2 the SSG pellets were used both at scene 1 and at scene 2.  
 3 Do you understand that?  
 4 MR LOUW: I understand, but I do not have  
 5 any knowledge of that, Sir.  
 6 MR MPOFU: No, where I'm going is this,  
 7 Mr Louw; since these SSG pellets are a motherless child,  
 8 nobody wants to own up to them, the only person, it's  
 9 either they came from SAPS or they came from Lonmin. Those  
 10 are the people who were wielding, shotguns there. Now -  
 11 MR VAN AS: Sorry, sorry, I don't want -  
 12 my learned friend must also please bear in mind that there  
 13 was a stolen Lonmin shotgun -  
 14 MR MPOFU: There's what?  
 15 MR VAN AS: - on the Sunday. One of the  
 16 guns that was removed on the Sunday was a stolen -  
 17 CHAIRPERSON: You're correct. There are  
 18 three possible -  
 19 MR VAN AS: Correct.  
 20 CHAIRPERSON: - sources, as it were, of  
 21 the expended cartridge cases. The one is the police; they  
 22 deny it. The one is the strikers, only from one shotgun,  
 23 but it is a possibility, and the third possibility is  
 24 Lonmin. Lonmin is the one Mr Mpofu is concentrating on at  
 25 the moment.



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1 MR MPOFU: Yes. Yes, that's the one. In  
 2 fact, yes, theoretically obviously the SSG could have come  
 3 from anybody, including the sangoma and all that, but those  
 4 other possibilities are so fanciful as to be disregarded.  
 5 I'm saying to you in relation to –  
 6 CHAIRPERSON: Mr Mpofo no, I don't know  
 7 if in relation to the police it's so fanciful. It may be  
 8 that their denial is correct, but that doesn't make the  
 9 suggestion a fanciful one, but Lonmin is certainly a horse  
 10 in the race as it were –  
 11 MR MPOFU: No, I'm not suggesting –  
 12 CHAIRPERSON: - and it's worthy of  
 13 further investigation.  
 14 MR MPOFU: No, I agree with you,  
 15 Chairperson. I'm saying that the most likely would be the  
 16 police or Lonmin. Obviously on the law that anything is  
 17 possible it could be Father Christmas or anybody else.  
 18 CHAIRPERSON: No, it also could have been  
 19 the strikers because, or a striker who had a Lonmin shotgun  
 20 acquired on the morning of the 12th. So –  
 21 MR MPOFU: And did what?  
 22 CHAIRPERSON: Sorry?  
 23 MR MPOFU: And they then killed people  
 24 next to the kraal and then went up, go onto scene 2 as  
 25 well? Really, I mean, that's so fanciful as to be

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1 disregarded. That's my point I'm making. That's why I'm  
 2 saying that's impossible –  
 3 CHAIRPERSON: Well, anyway, you're  
 4 arguing the matter in advance, that's all. You may be  
 5 right, yes.  
 6 MR MPOFU: Ja, okay. I don't want to  
 7 argue it now, ja. But coming back to reality, the point  
 8 I'm saying is that if – I'll argue this later, so I might  
 9 be right, I might be wrong, but the realistic possibilities  
 10 of the source of the SSG are the police or Lonmin. Just  
 11 accept that, that's what I'll argue successfully or not  
 12 later. Do you understand?  
 13 MR LOUW: I understand that, Mr Chairman.  
 14 MR MPOFU: Ja, now I'm saying if we take  
 15 away the police, we have done and we have dealt with it,  
 16 with the police and we've taken them to task, it was also  
 17 found in Mothotlung and all that and all that. Now I'm  
 18 saying if you put that aside, as far as Lonmin is concerned  
 19 you sitting there are the only person that we see holding a  
 20 shotgun that is compatible with SSG. Do you understand  
 21 that?  
 22 MR LOUW: On the 16th?  
 23 MR MPOFU: On the 16th, ja. Literally  
 24 within a few metres or so of where the cartridges, the  
 25 scene 2 cartridges were found. So you are the only person

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1 that I can ask this.  
 2 MR LOUW: What the photo evidence shows  
 3 on that picture, obviously it shows me standing with a  
 4 shotgun, but I think if you make the assumption that I'm  
 5 the only one that had a shotgun on the 16th, I think that's  
 6 a bit farfetched with regards to the rounds that –  
 7 CHAIRPERSON: Let me ask you a direct  
 8 question.  
 9 MR LOUW: Yes, Sir.  
 10 CHAIRPERSON: How many of your colleagues  
 11 from Lonmin were on koppie 3? You were there and your  
 12 colleague who's in the photograph, accompanying the Netcare  
 13 people. Were any other Lonmin people there on koppie 3  
 14 after the shooting incident at scene 2?  
 15 MR LOUW: Yes, there were.  
 16 CHAIRPERSON: How many?  
 17 MR LOUW: I'm not quite sure of the  
 18 amount, but it's anything between eight and 14, if I –  
 19 CHAIRPERSON: And did any of them have  
 20 shotguns?  
 21 MR LOUW: Yes, I think most of us had  
 22 shotguns, yes, Sir.  
 23 MR MPOFU: Well, the person you are  
 24 standing there during your smoke break next to didn't have  
 25 a shotgun, did he?

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1 CHAIRPERSON: He said there were about  
 2 between eight and 14 people. The picture only gives two of  
 3 them.  
 4 MR MPOFU: Yes, I know, Chairperson –  
 5 CHAIRPERSON: So it's possible that some  
 6 of others may have – but he says most of the others had  
 7 shotguns. So he's not the only –  
 8 MR MPOFU: Ja, but I'm entitled to ask  
 9 him –  
 10 CHAIRPERSON: No, I'm not stopping you  
 11 from asking him. I'm just saying –  
 12 MR MPOFU: Oh, okay.  
 13 CHAIRPERSON: - the question created the  
 14 impression with me that you were suggesting he was the only  
 15 one there. If you are confining yourself to the only one  
 16 on the photograph then there isn't a problem.  
 17 MR MPOFU: No, I just said he was the  
 18 only one on the photograph. That's exactly what I said.  
 19 He's the only one that we see, that means on the  
 20 photograph. I'm not suggesting that anyone else was not,  
 21 only carrying gloves. Let's have a look at – is it MMM51?  
 22 Yes, you can see that SSG cartridge there?  
 23 MR LOUW: I can see that, yes.  
 24 MR MPOFU: Ja, now I don't know the exact  
 25 location, but it was found at scene 2, which is where you

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1 were, not far from where you were standing with your  
 2 shotgun.  
 3 MR LOUW: No, it is quite a, it's quite a  
 4 end apart.  
 5 CHAIRPERSON: It's quite a distance away  
 6 from where you were standing?  
 7 MR LOUW: Yes, Sir.  
 8 CHAIRPERSON: On what do you base that?  
 9 MR LOUW: If I understand correctly,  
 10 scene 2 is the one in front of the main koppie, if I'm not  
 11 mistaken.  
 12 CHAIRPERSON: No, scene 2 is the whole of  
 13 koppie 3 because –  
 14 MR LOUW: The whole of koppie 3 –  
 15 CHAIRPERSON: - a number of people were  
 16 killed in various spots. At scene 1 they were all  
 17 concentrated in one place, it all happened in eight  
 18 seconds. Scene 2 is over several minutes at koppie 3, a  
 19 number of strikers in various positions were shot. Some  
 20 were wounded and some were killed. It may well be that  
 21 this particular spot was on a different part of the koppie  
 22 from where you were photographed, but the fact is it was at  
 23 scene 2. There's no doubt about that.  
 24 MR LOUW: So it's still at koppie 3 then?  
 25 MR MPOFU: Yes.

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1 MR LOUW: Okay.  
 2 MR MPOFU: No, that's fine. I understand  
 3 it's quite confusing.  
 4 MR LOUW: Yes.  
 5 MR MPOFU: Scene 2 and koppie 3 and all  
 6 that.  
 7 MR LOUW: Ja. Okay, no that's – I  
 8 understand now.  
 9 MR MPOFU: Ja, the point I'm making is  
 10 that this – or well, do you know what that is, by the way?  
 11 MR LOUW: Ja, like you said it might be a  
 12 SSG round.  
 13 MR MPOFU: Alright, well it's been  
 14 identified as such before.  
 15 CHAIRPERSON: I don't think it's a round.  
 16 I think it's a cartridge case.  
 17 MR MPOFU: A cartridge case.  
 18 MR LOUW: Cartridge case, yes.  
 19 MR MPOFU: Ja, that's one, and I'm not  
 20 going to show you all of them. I'm just using this one as  
 21 an example, and really the only evidence I want from you is  
 22 – or rather to put to you is that this was found at scene  
 23 2, which is the same scene of the photograph where you were  
 24 holding the shotgun.  
 25 MR LOUW: I understand you.

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1 CHAIRPERSON: I've been shown by Mr  
 2 Wesley, he's saying your time is up but I did indicate that  
 3 there was some time left over from Mr Tip, so I'll allow  
 4 you an extra quarter of an hour.  
 5 MR MPOFU: Thank you, Chairperson. Yes,  
 6 yes, thank you. Well, Mr Tip has donated it but the Chair  
 7 had already given –  
 8 CHAIRPERSON: You complain when I give  
 9 people extra time, but on this occasion I'm sure you won't  
 10 complain. You can have an extra quarter of an hour.  
 11 MR MPOFU: Thank you. Thank you,  
 12 Chairperson. Let's just go to something else. Do you  
 13 accept that the deployment – or let me put it this way. Is  
 14 it true that, I mean you're not a military organisation or  
 15 anything like that, but it's true that your deployments are  
 16 determined hierarchically from above as it were?  
 17 MR LOUW: That's correct, Sir.  
 18 MR MPOFU: Yes, and you would accept that  
 19 the deployment of your group of two, as well as the  
 20 deployment of the Fundi group – let's call it that – were  
 21 unwise?  
 22 MR LOUW: I do not disagree, Sir.  
 23 MR MPOFU: You think they were wise?  
 24 MR LOUW: I do not agree, excuse me.  
 25 MR MPOFU: You don't agree?

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1 MR LOUW: No, Sir.  
 2 MR MPOFU: You think it was wise to  
 3 deploy two people against a thousand armed protesters?  
 4 That was a wise decision?  
 5 MR LOUW: Well, if I'm sitting here  
 6 looking at, looking back at it now then obviously it was  
 7 not a wise decision, as large as it was that day. As I  
 8 mentioned previously I think our main focus was to protect  
 9 Lonmin assets and especially Lonmin personnel and that  
 10 includes all members of Lonmin personnel and I think that  
 11 was our main aim. As I also mentioned in the previous  
 12 occasion is that with all the other strikes leading up to  
 13 the 12th of August 2012 we have never dealt with a situation  
 14 like that at Lonmin.  
 15 MR MPOFU: Yes. No, we've already  
 16 established earlier – I don't want us to go back there –  
 17 that there was no Lonmin personnel or property that was  
 18 under any threat of attack. The point I was simply making  
 19 now was do you, is your evidence that deploying two persons  
 20 with rubber bullets and one vehicle to stop a crowd, armed  
 21 crowd of more than a thousand people, you regard that as a  
 22 wise deployment?  
 23 MR LOUW: Not to stop a crowd, no.  
 24 MR MPOFU: And that's exactly what you  
 25 were going to do, to try and prevent the crowd from getting

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1 anywhere near any Lonmin property, correct?

2 MR LOUW: Correct.

3 MR MPOFU: According to you, ja.

4 Similarly the deployment of Mr Fundi and Mr Mabelane, which

5 was in the hostel, I think – well, we're going to argue was

6 similarly unwise. Would you agree?

7 MR LOUW: If that's your opinion, yes

8 Sir.

9 MR MPOFU: Ja, no, I know what my – I've

10 told you that is definitely my opinion, that's why I said

11 we're going to argue. I'm asking for your opinion.

12 MR LOUW: My opinion is no, Sir. I don't

13 think my decision, my and Mr Vorster's decision or the

14 decision by Mr Fundi and his group, I don't think neither

15 of them were wrong. We had every right to protect Lonmin

16 assets and we had every right to protect human life.

17 MR MPOFU: Ja. Sorry, sorry, carry on.

18 MR LOUW: Okay, and I feel that our right

19 to protect our assets and our people didn't justify an

20 unwarranted attack by an illegal strike action which caused

21 two security members to die, that's my opinion.

22 [14:17] MR MPOFU: Yes, no, thank you for that,

23 Mr Louw. Don't get me wrong, nothing can justify you know

24 killing innocent people who just happened to be between

25 some intended target and a group. That's not where I'm

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1 going. All I'm saying is that – you and I have agreement

2 that the deployment – it's not so much that Mr Fundi and

3 Mabalani were wrong. We've already established that they

4 did not deploy themselves, they were deployed from above,

5 correct?

6 MR LOUW: That's correct, Sir.

7 MR MPOFU: Ja, so if there was anything

8 wrong it was not their fault, it was whoever deployed them.

9 That's why I'm criticising not the victims but the people

10 who deployed them in a particular manner. Do you

11 understand? In the same as you, I wouldn't blame you to

12 say why were you standing on that island because you were

13 deployed there, correct?

14 MR LOUW: Correct, Sir.

15 MR MPOFU: Ja and in fact there's one of

16 your colleagues, I just can't find the statement now who

17 say that even on the 10th he realised that the deployment

18 that they had was quite dangerous if the crowd had not been

19 as peaceful as it was. But maybe you don't know anything

20 about it. You were not on the actual scene on the 10th,

21 correct?

22 MR LOUW: No I was, Sir. I think the 10th

23 the reference is being made when the crowd wanted to talk

24 to management and we were standing in the area between the

25 striking workers and the main building, Mr Chairman.

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1 CHAIRPERSON: It's obvious that if the

2 crowd had turned ugly and had attacked you people in the

3 position in which you were you'd have difficulty in getting

4 away and there would have been very serious consequences

5 but –

6 MR LOUW: That's correct.

7 CHAIRPERSON: - but as Mr Mpofo says the

8 crowd was relatively peaceful. Perhaps I take that

9 relatively, they were peaceful and in fact it wasn't a

10 problem.

11 MR LOUW: That's correct, Mr Chair.

12 CHAIRPERSON: That's the thrust of his

13 question.

14 MR MPOFU: Yes, Chairperson, the

15 gentleman says I'm paraphrasing, I'm afraid – I'm told it's

16 a statement of Vorster, your colleague. It goes something

17 like this and forgive I might not be capturing it

18 correctly, that – well he starts by saying the crowd – he

19 says "It occurred to me that this group of illegal

20 gatherers were far more disciplined than any previous

21 rioting group I encountered before." I don't know if this

22 is already an affidavit or rather an exhibit, Chairperson.

23 Vorster is going to be called hey. No, okay. Well then

24 can we just make it an exhibit, Chairperson?

25 CHAIRPERSON: Yes all right. What is the

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1 exhibit number? I think we had DDDD6, Statement of Martin

2 Vorster. What's the date?

3 MR MPOFU: The date of the statement?

4 CHAIRPERSON: Ja.

5 MR MPOFU: It says 3rd and 4th October,

6 but it's signed – it just says dated 3rd and 4th October.

7 CHAIRPERSON: All right well we'll 3 item

8 4 October –

9 MR MPOFU: The statement of Martin

10 Vorster.

11 CHAIRPERSON: Yes I've written that. The

12 Statement of Martin Vorster 3 Item 4 October 2012 DDDD7.

13 MR MPOFU: Thank you, Chairperson. On

14 the screen for us. We'll see at the end if it's signed, if

15 we get the date on which it was signed.

16 MR MPOFU: Yes, thank you, Chairperson.

17 It's the third paragraph.

18 CHAIRPERSON: No the date's not there is

19 it? Let's see a bit more.

20 MR MPOFU: I'm quoting the heading.

21 CHAIRPERSON: The heading you've got your

22 3 and 4. I was hoping that near the end – oh we've now got

23 it.

24 MR MPOFU: No it's not, I've checked

25 that. You can't find an end that is signed. At least not

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1 on my version.

2 CHAIRPERSON: It doesn't matter because

3 I've got 3 item 4 October.

4 MR MPOFU: Yes and I'm only dealing with

5 page 1. Thank you, Chairperson. It's the third paragraph

6 from the top.

7 CHAIRPERSON: While we're busy with that

8 point, I trust Mr Mpofo will forgive me if I interpose,

9 well you haven't heard what –

10 MR MPOFU: For a few minutes.

11 CHAIRPERSON: Would you agree with what

12 Mr Vorster said, he says what occurred to him that this was

13 a very disciplined group. He'd never seen a disciplined

14 group like that before. Was that your impression as well?

15 MR LOUW: Mr Chairman, as I explained

16 earlier during my statements was obviously this group was

17 more disciplined than previously observed with the

18 exception on the matters as I've explained on the marching

19 from Wonderkop to the LPD offices where you had your group

20 that gathered together, but yes approximately 80% of the

21 group was together. But you had your individuals that were

22 lagging behind, but yes I would agree with statement, yes.

23 CHAIRPERSON: I put to you what is set

24 out in the sentence of the paragraph, namely, that if they

25 got aggressive it would have been very difficult for you

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1 and your colleagues in the position in which you were and

2 you've agreed with that. So I won't repeat that, but

3 flowing from that I notice something in your statement, the

4 first page of your statement AAAA36 which has a bearing on

5 this. You describe what happened on the 10th and you say

6 during the interaction between the mediator and the RDO

7 representatives I realised that there were individuals in

8 the crowd who seemed to be taking the lead regarding the

9 way the crowd behaved. And these individuals [leaders]

10 were all wearing striped shirts. Now that was what you

11 said in your statement and you've confirmed that to be

12 correct.

13 MR LOUW: That's correct, Mr Chair.

14 CHAIRPERSON: Would it be correct that

15 therefore anyone who wanted to speak to the leaders to

16 identify the leaders and actually speak to them shouldn't

17 have had any difficulty in seeing who they were?

18 MR LOUW: That might be the case, Mr

19 Chairman.

20 CHAIRPERSON: But if the management for

21 example who were in the building had been minded to speak

22 to the leaders of the group they wouldn't have had any

23 problem in seeing who they were and calling them in and

24 speaking to them.

25 MR LOUW: Mr Chairman, if I can maybe

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1 give my opinion. I think being a matter of reference with

2 regards to any organogram or formal structure within any

3 group I think you have your manager type, your leader type

4 and then you have the guys that's more the executioners

5 with regards the work that needs to be done. I would

6 mostly describe the guys in the striped shirts which I've

7 described as the guys, not as leaders as such, but taking

8 the lead with regards to the actions of the crowd because

9 at the one stage there was a few members that came out from

10 within the crowd that spoke to Mr Graham Sinclair. And

11 none of those members which had the striped shirts on were

12 part of that group. But they still controlled the crowd as

13 to keeping quiet and stuff like that.

14 CHAIRPERSON: So if the management people

15 in the LPD had wanted to speak to the leaders of the group

16 then they could have spoken to the people who had spoken to

17 Mr Sinclair.

18 MR LOUW: I think they would have spoken

19 to the guys that came out from within the group, Sir,

20 because that is the group that was identified or that was

21 the leader group or the representative group.

22 CHAIRPERSON: Those are ones who spoke to

23 Mr Sinclair.

24 MR LOUW: That's correct, Chair.

25 CHAIRPERSON: So it can't be said that

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1 the management people would have had any problem if they

2 wanted to speak to the leaders in identifying the people

3 with whom they should have been speaking.

4 MR LOUW: Only from my opinion I wouldn't

5 say there would be difficulty in identifying individuals to

6 speak to.

7 CHAIRPERSON: Thank you.

8 MR MPOFU: Thank you, Chairperson. All

9 right let's move onto something else. So you agree with

10 that paragraph from Mr Vorster. The next issue that I want

11 to talk to you about is you – I'm sorry to take you back,

12 the event that happened on what you've described as the

13 early hours of the 11th. Remember we spoke about that, you

14 didn't know about the quantum but you knew about the event

15 and so on.

16 MR LOUW: That's correct, Mr Chairman.

17 MR MPOFU: And you and I agreed that

18 those people were armed with dangerous weapons. Now in

19 your statement you say that – AAA36 yes, on the 11th of

20 August –

21 MR LOUW: Yes, Mr Chairman.

22 MR MPOFU: - people armed with

23 knobkerries and pangas escorting employees from the hostel

24 towards the Rowland shaft. Then you say upon questioning

25 my night shift colleague we were told that this group of

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1 NUM members acting like security officers or I suppose were  
 2 acting like security officers escorting people to work.  
 3 Now I'm just interested in that comment. Does it suggest  
 4 that someone was complaining that these people were almost  
 5 taking over the job of security officers?  
 6 MR LOUW: No not at all, Mr Chair.  
 7 MR MPOFU: In what context was it said  
 8 that they were acting like security officers? That's a  
 9 strange or at least unusual way to describe –  
 10 MR LOUW: No I don't think it's that  
 11 strange or unusual. I think what is meant by that is they  
 12 were basically acting as a type or a form of a security for  
 13 the personnel or the people that want to go to work.  
 14 MR MPOFU: I see, so it was said  
 15 approvingly, not in a form of complaining.  
 16 MR LOUW: No definitely not, Sir.  
 17 CHAIRPERSON: What you said in the rest  
 18 of the sentence was they were acting like security officers  
 19 escorting people to work. So the form of "security work"  
 20 if one can call it that in quotation marks would have been  
 21 escorting people to work.  
 22 MR LOUW: That's correct, Mr Chairman.  
 23 MR MPOFU: Well okay, I don't know about  
 24 that, but be that as it may so if you say it was said  
 25 approvingly are saying that as an institution you approved

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1 of panga wielding people you know taking people to work?  
 2 Is that the kind of behaviour that carrying dangerous  
 3 weapons which is unlawful?  
 4 MR LOUW: No we do not approve of that,  
 5 Mr Chairman.  
 6 MR MPOFU: But you're saying this was  
 7 said with approval that these people were –  
 8 MR LOUW: No it's not said with approval,  
 9 what I'm saying is it's not being said in a negative light.  
 10 We do not approve of anyone taking matters into their own  
 11 hands and as Lonmin has their in house security members we  
 12 also do not approve of members walking around with  
 13 dangerous weapons or intimidating other people. What I was  
 14 trying to say is that this was part of their own group of  
 15 people and at that stage I think we more or less just  
 16 monitored into what's going on because there wasn't any  
 17 incidents reported. And we didn't want to unnecessarily  
 18 provoke these members into taking action or causing some  
 19 harm to other members out of their own will. I think  
 20 that's the reason why we only monitored them.  
 21 MR MPOFU: Yes no but I'm - I'm sorry.  
 22 MR LOUW: It doesn't matter or it didn't  
 23 – I'm not saying that it carries our approval, no, Sir.  
 24 MR MPOFU: Ja no I'm saying that in  
 25 relation to - the Chairperson seemed to emphasise the words

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1 escorting people to work as if they were doing a good thing  
 2 by wielding those pangas around. So I had to ask you that  
 3 question in fairness. Okay but you would agree that – well  
 4 in your experience it's something unusual at the very  
 5 least. Two or three questions, Chairperson.  
 6 CHAIRPERSON: I'll allow you three  
 7 questions as in one plus one plus one.  
 8 MR MPOFU: You'd agree that it is  
 9 something unusual or at least something that you probably  
 10 haven't seen before in my estimation it was last seen  
 11 during the apartheid where the white unions would assist  
 12 the police against NUM strikers. Would you agree that it  
 13 is unusual for a union to be carrying pangas and escorting  
 14 people to work when there's a strike in which some of their  
 15 members are participating?  
 16 MR LOUW: I cannot comment on that, Mr  
 17 Chairman.  
 18 MR MPOFU: In your experience. Is it  
 19 something you've ever experienced?  
 20 MR LOUW: No, I haven't experienced that  
 21 at all.  
 22 MR MPOFU: Okay and then the final two  
 23 questions I'm going to ask you is the event, particularly  
 24 the event of the 12th must have shaken you up and you must  
 25 have been scared. Everyone, I would have been scared. Did

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1 you undergo any therapy as a result of that or counselling.  
 2 MR LOUW: Yes, I was referred to Lonmin  
 3 Careways and we went through some sessions, I think eight  
 4 if I'm not mistaken.  
 5 MR MPOFU: Yes okay. I'm asking that  
 6 question very carefully because I didn't want you to accuse  
 7 me of insulting you. Okay, but also it must have also made  
 8 you angry, correct? The whole episode.  
 9 MR LOUW: No I won't agree with that,  
 10 Sir.  
 11 MR MPOFU: You weren't angry that you  
 12 almost died you know, cheaply if I may put it that way.  
 13 MR LOUW: Not at all, Sir, it might sound  
 14 difficult, but up until now I truly believe and this might  
 15 be quite personal, but I truly believe that it was the hand  
 16 of God that protected us. And I was merely thankful and up  
 17 until now even with the help that we assisted on the 16th  
 18 and even with the help on the Saturday morning with the  
 19 injured guy our aim always is to help other individuals and  
 20 other members. I don't care which union you are, what  
 21 colour your skin is like I said up until now I was never  
 22 angry, just grateful for the fact that I'm still here to  
 23 look after my child.  
 24 MR MPOFU: Yes and were you aware at the  
 25 time given that really the only installation in your

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1 evidence that was under any threat was the NUM offices,  
 2 were you aware that at that stage the NUM offices had been  
 3 abandoned?  
 4 MR LOUW: No I wasn't aware of that, Sir.  
 5 MR MPOFU: Okay, thank you, Chairperson.  
 6 CHAIRPERSON: Thank you, Mr Mpofo. Mr  
 7 Semenya, I think you're next. How long has Mr Semenya got,  
 8 Mr Wesley?  
 9 MR WESLEY: Mr Semenya requested 90  
 10 minutes, but I understand he's not going to be that long at  
 11 all.  
 12 CHAIRPERSON: Well he's got his 90  
 13 minutes and if he chooses to donate us some time at the end  
 14 of his cross-examination we will gratefully accept the  
 15 donation. Mr Semenya.  
 16 MR SEMENYA SC: Happy to announce we have  
 17 no questions for the witness.  
 18 CHAIRPERSON: That is a substantial  
 19 donation.  
 20 MR MPOFU: I can take that donation and  
 21 that other donation, Chairperson.  
 22 CHAIRPERSON: Commissioner Hemraj wants  
 23 to ask a question.  
 24 COMMISSIONER HEMRAJ: Mr Louw, in one of  
 25 the police dockets CAM 69 of 2012 there are two incidents

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1 mentioned on the 10th of August. One is 19:40 where a  
 2 complainant says that five shots were fired from a crowd of  
 3 people or security and he was shot in his head. And the  
 4 second incident still on the 10th at 18:16 where two people  
 5 were shot allegedly from people shooting from a Lonmin  
 6 security vehicle. Do you have any knowledge of these  
 7 incidents? Have you heard anything about them?  
 8 MR LOUW: Ms Commissioner, I definitely  
 9 do not have any knowledge. I heard of the incident and to  
 10 be quite honest that wasn't even discussed with me. I  
 11 heard of that when we started preparing for the Farlam  
 12 Commission and someone raised the issue, but no I wasn't  
 13 aware of that, Ma'am.  
 14 COMMISSIONER HEMRAJ: Thank you.  
 15 MR LOUW: Thank you, Ma'am.  
 16 COMMISSIONER HEMRAJ: Who would decide if  
 17 Protea Coin security was to come and bolster up the  
 18 security as you were for any particular incident? On whose  
 19 shoulders would that responsibility be?  
 20 MR LOUW: That would only be on Mr Graham  
 21 Sinclair, Ma'am.  
 22 COMMISSIONER HEMRAJ: And when was the  
 23 first involvement of the Protea Coin security from the 9th  
 24 onwards?  
 25 MR LOUW: Ma'am, if I remember correctly

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1 there was Protea guards present on the 10th if I'm not  
 2 mistaken. Although I think they were just posted on the  
 3 outskirts of the some of the mining areas. I can't  
 4 remember seeing them during the march from Wonderkop to the  
 5 LPD offices and at the time where we were standing between  
 6 the striking mineworkers and the main offices I do not  
 7 recall because I was more focused on what was happening  
 8 inside the crowd. So I can really not give you a straight  
 9 answer, Ma'am.  
 10 COMMISSIONER HEMRAJ: In the incident  
 11 that you were involved in, there was no Protea Coin  
 12 armoured vehicle close by.  
 13 [14:36] MR LOUW: Not while the attack commenced,  
 14 but after the attack, there was an armoured vehicle which  
 15 was entered by Martin Vorster, which he was accompanied by  
 16 Protea Coin members to try and go into the area where Mr  
 17 Mabelane and Mr Fundi were attacked.  
 18 COMMISSIONER HEMRAJ: Thank you, Mr Louw.  
 19 MR LOUW: Thank you, Ms Commissioner.  
 20 CHAIRPERSON: I'd like to ask you a  
 21 question. Go to the Lonmin occurrence book, I don't think  
 22 you have a copy, but I'll read you the relevant section,  
 23 it's page 220 of the Lonmin occurrence book, which is an  
 24 exhibit before us, now there's an entry there on the 12th of  
 25 August 2012, that's to say the, "Sunday at 11:20, Midbank

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1 Blue driver, Shabangu of Midbank report to Mr Nokatu,  
 2 supervisor Lefoto, that he saw a dead body at Marikana.  
 3 The person was allegedly killed while reporting from duty  
 4 around 17h00. They reported the body was recovered by  
 5 SAPS." And then in the far right-hand column, it says,  
 6 "follow up to get details of deceased." Now, as far as I  
 7 can recall, we never ever had heard any evidence relating  
 8 to that dead body, that Midbank driver, Shabangu, saw a  
 9 person who was allegedly killed while reporting from duty  
 10 around 17h00, body was recovered by the SAPS. Do you know  
 11 anything about that?  
 12 MR LOUW: No, Mr Chair, I've got no  
 13 knowledge with regards to that.  
 14 CHAIRPERSON: Alright, thank you. Mr Van  
 15 As, re-examination?  
 16 MR VAN AS: One question, thank you, Mr  
 17 Chairperson. Mr Louw, on the 16th of August, when you were  
 18 at the koppie, what ammunition did you have in your  
 19 shotgun?  
 20 MR LOUW: At that stage, I only had  
 21 rubber rounds, Mr Chairman.  
 22 MR VAN AS: Thank you, Mr Chairman.  
 23 CHAIRPERSON: You'll be excused, Mr Louw,  
 24 on the usual basis that if it's necessary for you to come  
 25 back, I'm not sure that it will be, but it probably won't

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1 be, but if it is necessary for you to come back, that  
 2 you'll be prepared to come back, without my having to  
 3 subpoena you again. If you're prepared to accept that  
 4 condition, you may -  
 5 MR LOUW: Yes, definitely, Mr Chair.  
 6 CHAIRPERSON: Thank you, Mr Louw.  
 7 MR LOUW: Thank you for your time, Mr  
 8 Chair.  
 9 CHAIRPERSON: Thank you very much.  
 10 [NO FURTHER QUESTIONS - WITNESS EXCUSED]  
 11 CHAIRPERSON: Am I correct in thinking  
 12 your next witness is going to be Mr Joseph Mosebe?  
 13 MR VAN AS: Mr Mosebe, Mr Chairman, may I  
 14 ask for a ten minute adjournment, we didn't realise that Mr  
 15 Semenya wasn't going to ask any questions at all, and if I  
 16 could just go and see Mr Mosebe, and get him ready. If we  
 17 can have ten minute adjournment, please?  
 18 CHAIRPERSON: Well, I suppose if we take  
 19 the tea adjournment now, we won't have to take another  
 20 adjournment before 4 o'clock, so it's a bit early for the  
 21 tea adjournment, but some people would say it's never too  
 22 early for a tea adjournment. So let's take the tea  
 23 adjournment now.  
 24 MR VAN AS: Thank you, Mr Chair.  
 25 [COMMISSION ADJOURNS COMMISSION RESUMES]

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1 [15:08] CHAIRPERSON: The Commission resumes. I  
 2 believe your next witness is Mr Masibi.  
 3 MR VAN AS: Thank you, Mr Chairperson.  
 4 CHAIRPERSON: His statement's already  
 5 been marked AAA37. Are there any other exhibits you want  
 6 to refer to?  
 7 MR VAN AS: There's three other exhibits  
 8 if we could please refer to them, I've again handed up a  
 9 small bundle of documents, Mr Chairperson, there's ICAM  
 10 statement that Mr Masibi deposed to, I think DDDD6 is the  
 11 next number if I am not -  
 12 CHAIRPERSON: 7. Are we staying with D?  
 13 Is it linked?  
 14 MR VAN AS: They are all Security,  
 15 perhaps so we could just -  
 16 CHAIRPERSON: Alright, let's keep DDDD  
 17 for the Security people. So DDDD7 is an ICAM statement of  
 18 the witness.  
 19 MR VAN AS: Correct, Mr Chairperson.  
 20 CHAIRPERSON: Okay. Next?  
 21 MR VAN AS: DDDD8 is an incident shooting  
 22 report.  
 23 CHAIRPERSON: Yes, relating to what date?  
 24 MR VAN AS: Relating to shotgun  
 25 ammunition discharged by the witness on the 12th of August

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1 2012.  
 2 CHAIRPERSON: Yes?  
 3 MR VAN AS: And you will be glad to know,  
 4 Mr Chairperson, the next annexure DDDD9 is the first of the  
 5 registers that we were -  
 6 CHAIRPERSON: They've come already?  
 7 MR VAN AS: I was able to get this one,  
 8 this is just an extract -  
 9 CHAIRPERSON: Okay register what?  
 10 MR VAN AS: Of ammunition discharged.  
 11 CHAIRPERSON: Ammunition, register of  
 12 ammunition discharged?  
 13 MR VAN AS: Ammunition discharged on that  
 14 specific day.  
 15 CHAIRPERSON: What day?  
 16 MR VAN AS: On the 12th of August, Mr  
 17 Chairperson.  
 18 CHAIRPERSON: Alright, there are more  
 19 registers on the way, particularly relating to all  
 20 ammunition discharged from the safe, from the 9th onwards to  
 21 the 16th.  
 22 MR VAN AS: Correct, Mr Chairperson.  
 23 CHAIRPERSON: That will come, that is  
 24 something we'll get in due course. Mr Masibi, will you  
 25 please stand? Are you prepared to give evidence under oath

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1 or do you wish to make an affirmation?  
 2 MR MASIBI: I am going to take an oath.  
 3 CHAIRPERSON: Will you swear the evidence  
 4 you will give before this Commission will be the truth, the  
 5 whole truth and nothing but the truth, please raise your  
 6 right hand and say "I swear, so help me, God." What are  
 7 your full names?  
 8 MOGOMOTSI JOSEPH MASIBI: Mogomotsi M-O-  
 9 G-O-M-O-T-S-I, Joseph Masibi, M-A-S-I-B-I. [Sworn in  
 10 through interpreter].  
 11 CHAIRPERSON: Madam Interpreter, do we  
 12 have your name on record? I don't think we have.  
 13 MS MOSHOANE: It is RA Moshwane.  
 14 CHAIRPERSON: Thank you, and you are a  
 15 duly sworn interpreter?  
 16 MS MOSHOANE: I am a sworn interpreter.  
 17 CHAIRPERSON: Thank you. Actually have I  
 18 sworn you in for the purposes of this Commission?  
 19 MS MOSHOANE: Yes.  
 20 CHAIRPERSON: I did, a long time ago.  
 21 MS MOSHOANE: At the Airport and at  
 22 Rustenburg.  
 23 CHAIRPERSON: Rustenburg, I see, thank  
 24 you. Thank you for reminding me.  
 25 MS MOSHOANE: Thank you.

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1 CHAIRPERSON: Right, you may sit down, Mr  
 2 Masibi. Mr Van As.  
 3 EXAMINATION BY MR VAN AS: Thank you, Mr  
 4 Chairperson. Mr Masibi, where you employed?  
 5 MR MASIBI: I work at the Lonmin Mine.  
 6 MR VAN AS: And what job do you do there?  
 7 MR MASIBI: I am a security officer.  
 8 MR VAN AS: And how long have you been  
 9 employed at Lonmin as a security officer?  
 10 MR MASIBI: Three years.  
 11 MR VAN AS: I want to take you to the 12th  
 12 of August 2012, it was a Sunday. Did you sign a witness  
 13 statement, a police witness statement in relation to your  
 14 involvement in an incident on that day?  
 15 MR MASIBI: Yes, I did make a sworn  
 16 statement at the police station.  
 17 MR VAN AS: There's a bundle of documents  
 18 in front of you, I'd like you to turn to the first two  
 19 pages of that bundle of documents. Is this that statement?  
 20 MR MASIBI: It is the statement.  
 21 MR VAN AS: Now if we go to page, it  
 22 appears as if at some stage it says, the statement was  
 23 signed on the 8th of August 2012 at 11 o'clock at the bottom  
 24 of page 2, Mr Chairperson. And if you go slightly higher  
 25 up, it's actually got the 12th of August 2012, but can you

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1 confirm that you signed this statement on the 12th of  
 2 August?  
 3 MR MASIBI: It was signed on the 12th of  
 4 August 2012.  
 5 MR VAN AS: And if we look at the bottom  
 6 of the page, it appears to be that the statement was signed  
 7 at about 11 o'clock that morning. Can you confirm that?  
 8 MR MASIBI: Confirmed.  
 9 MR VAN AS: Do you stand by this  
 10 statement?  
 11 MR MASIBI: I confirm it is my statement.  
 12 MR VAN AS: Is there anything you wish to  
 13 add or explain in the statement?  
 14 MR MASIBI: I would like to add  
 15 something.  
 16 MR VAN AS: Yes?  
 17 MR MASIBI: On page 1 of the statement,  
 18 the last paragraph, when I said I could not find the car  
 19 key, I meant that I could not even reach the car on that  
 20 day. I did arrive at the car, but I could not enter the  
 21 car to retrieve the key. That is all I wanted to add or to  
 22 clarify.  
 23 CHAIRPERSON: That's essentially the  
 24 point that you make in the last paragraph at the foot of  
 25 your other statement, the typed statement, which is exhibit

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1 AAAA37, which is the next statement in the bundle. You  
 2 say, "I ran to my vehicle, the Volkswagen Polo. When I  
 3 reached the vehicle, I realised I would not have enough  
 4 time to get in the vehicle and retreat along with it, I  
 5 left it there and retreated on foot."  
 6 MR MASIBI: It is so, Chair.  
 7 MR VAN AS: Thank you, Mr Chairperson.  
 8 And then Mr Masibi, if you look at pages 3 to 5, that's  
 9 exhibit DDDD7 –  
 10 CHAIRPERSON: That's the statement that  
 11 purports to have been made on the 1st of October but it was  
 12 clearly made on the 12th, either made on the 12th, or after.  
 13 MR VAN AS: Mr Chairperson, if you look  
 14 at page 5 –  
 15 CHAIRPERSON: Oh, yes, I beg your pardon,  
 16 you are correct. It was made on the 1st of October, 1-10-  
 17 2012.  
 18 MR VAN AS: Correct, Mr Chairperson.  
 19 MR MASIBI: It is so.  
 20 MR VAN AS: Is that your signature that  
 21 appears on page 5?  
 22 MR MASIBI: It is.  
 23 MR VAN AS: And did you write "1 October  
 24 2012" there?  
 25 MR MASIBI: I did with my own hand.

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1 MR VAN AS: Now in this statement, if we  
 2 go back to page 3, if we go to the second-last paragraph, I  
 3 beg your pardon, in other words, the first page of the  
 4 statement, paginated page 3. You say in your statement,  
 5 that you discharged seven rounds, seven rubber bullets  
 6 during that incident.  
 7 MR MASIBI: It is true.  
 8 MR VAN AS: And if I take you to the next  
 9 document which is the shooting report, which is exhibit  
 10 DDDD8, and if we look at the second page of that report, it  
 11 records there that you discharged 14 bullets, 14 rubber  
 12 rounds on that day.  
 13 MR MASIBI: It is so.  
 14 MR VAN AS: And then just finally for  
 15 clarity, if we then go to page 11 of the bundle which is  
 16 the shooting register, Mr Chairperson, Mr Masibi's name is  
 17 the third name from the bottom, that also records that you  
 18 discharged 14 rubber bullets, do you see that?  
 19 MR MASIBI: It is so.  
 20 MR VAN AS: Will you please explain to  
 21 the Commission firstly, how many rubber bullets you  
 22 discharged on that date, and when you discharged those  
 23 bullets.  
 24 MR MASIBI: When we started to try and  
 25 disperse the strikers, I shot seven rubber bullets. After



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1 I managed to run with the car – correction, after I managed  
 2 to run past my car, after I had managed to jump into  
 3 another security vehicle, a bakkie, I managed to reload  
 4 seven rubber bullets which were on my waist. I then shot  
 5 seven rounds in the direction where the cars were left.  
 6 MR VAN AS: And why did you discharge  
 7 those additional seven rounds?  
 8 MR MASIBI: My colleagues were left where  
 9 those cars were, I was trying to give them a chance by  
 10 shooting for them to run away from the cars.  
 11 MR VAN AS: Now let's get onto the actual  
 12 incident. You were on duty on the 12th of August 2012, is  
 13 that correct?  
 14 MR MASIBI: It is true.  
 15 MR VAN AS: I want you to please tell the  
 16 Commission in your own words what happened that morning?  
 17 MR MASIBI: On that day, whilst I was  
 18 still on duty, I received a two way radio call, it was from  
 19 my colleague Dewald Louw. He was asking for back up as he  
 20 was being attacked. At that time I was with my other  
 21 colleague. We drove from east end to west end, that is  
 22 where the request from my colleague came from.  
 23 MR VAN AS: Mr Chairperson, I don't want  
 24 to go through the whole map business again, but can you  
 25 explain to us, Mr Masibi, did you drive, when you say from

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1 east to west, did you drive past the Andrew Saffy Hospital  
 2 on that road?  
 3 MR MASIBI: Yes, we went past, we drove  
 4 past Andrew Saffy Hospital.  
 5 MR VAN AS: And then, did you turn left  
 6 into the Wonderkop Hostel area?  
 7 MR MASIBI: Yes, we turned left into  
 8 Wonderkop Stadium.  
 9 MR VAN AS: And what did you see when you  
 10 arrived there?  
 11 MR MASIBI: I then met my ex-colleague,  
 12 the late Mr Mabelane and Mr Fundi and a group of strikers.  
 13 The strikers were a distance away from where Mr Mabelane  
 14 and Mr Fundi were.  
 15 MR VAN AS: Were Mr Mabelane and Mr Fundi  
 16 the first security officers to arrive on the scene? Or  
 17 were there other vehicles there already?  
 18 MR MASIBI: There were other cars on my  
 19 arrival.  
 20 MR VAN AS: And how many security  
 21 vehicles were present there and how many security officers  
 22 were present there?  
 23 MR MASIBI: Six security vehicles, and 12  
 24 security officers.  
 25 MR VAN AS: So there are two security

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1 officers in each vehicle. There are two security officers  
 2 in each of the vehicles normally.  
 3 MS MOSHOANE: You say there were two  
 4 security officers in each car?  
 5 MR VAN AS: There are normally two  
 6 security officers in each of the security vehicles.  
 7 MR MASIBI: It is true.  
 8 MR VAN AS: What did you – were you  
 9 driving your vehicle, or was someone else driving your  
 10 vehicle?  
 11 MR MASIBI: I was driving.  
 12 MR VAN AS: Who was the security officer  
 13 in the vehicle with you?  
 14 MR MASIBI: Mr Marcus Manamela M-A-N-A-M-  
 15 E-L-A.  
 16 MR VAN AS: And what did you and Mr  
 17 Manamela do when you arrived there with the other security  
 18 officers, that already parked their vehicles?  
 19 [15:27] MR MASIBI: Mr Mabelane called us, our  
 20 colleague.  
 21 MR VAN AS: Was he the senior security  
 22 officer present there?  
 23 MR MASIBI: Yes, both Mr Mabelane and Mr  
 24 Fundi were senior security officers.  
 25 MR VAN AS: So Mr Mabelane called you

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1 together, and then what happened?  
 2 MR MASIBI: He told us that that group  
 3 which was approaching, their mission or intention was to go  
 4 and burn NUM offices.  
 5 MR VAN AS: What did he want you to do?  
 6 MR MASIBI: He asked us to form a line  
 7 and disperse those strikers with rubber bullets.  
 8 MR VAN AS: How did you feel about this  
 9 instruction?  
 10 MR MASIBI: I disagreed with it.  
 11 MR VAN AS: Why?  
 12 MR MASIBI: I disagreed and told him that  
 13 we do not have enough equipment to disperse those strikers.  
 14 Again I said we did not have hard-skin armoured vehicles.  
 15 As I further told him that we could not disperse such a big  
 16 group of strikers with rubber bullets. My other colleague  
 17 also concurred with me. As the late Mr Mabelane was our  
 18 senior, Mr Mabelane then instructed us to use our shotguns  
 19 to disperse the crowd with rubber bullets to prevent them  
 20 to damage Lonmin property.  
 21 MR VAN AS: Now could you see the  
 22 strikers at this point? How close were they aware from  
 23 where you'd formed the line?  
 24 MR MASIBI: It was a distance from the  
 25 auditorium to the parking outside.

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1 MR VAN AS: Mr Chairperson, 50, 60  
 2 metres? Would that be a fair estimate? From here to the  
 3 parking area –  
 4 CHAIRPERSON: It's about 50, I would  
 5 think.  
 6 MR MASIBI: At that time they were moving  
 7 towards where we were standing.  
 8 MR VAN AS: How were they moving, Mr  
 9 Masibi? Could you please explain to the Commission?  
 10 MR MASIBI: They were walking closely.  
 11 They then crouched as though they are sitting down and then  
 12 they started clashing the weapons they had in their  
 13 possession.  
 14 MR VAN AS: And what weapons did they  
 15 have in their possession?  
 16 MR MASIBI: I managed to see knobkieries,  
 17 pangas and other weapons, as they were very close to each  
 18 other.  
 19 MR VAN AS: Did any of the Lonmin  
 20 Security officers try to speak to them?  
 21 MR MASIBI: After we spoke to Mr Mabelane  
 22 we then held our shotguns.  
 23 MR VAN AS: Did you point them at the  
 24 strikers?  
 25 MR MASIBI: No, they were pointed down,

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1 not at the strikers. My colleague Julius Motlogeloa, M-O-  
 2 T-L-O-G-E-L-O-A, Motlogeloa - walked past where we were  
 3 standing and approached the strikers.  
 4 MR VAN AS: Was he armed?  
 5 MR MASIBI: No, he was unarmed.  
 6 MR VAN AS: And what did he do?  
 7 MR MASIBI: He lifted his hand up whilst  
 8 he was far from the strikers. He did that as a sign  
 9 gesture, intending to ask them what their problem was. The  
 10 strikers did not listen to us as they did before.  
 11 MR VAN AS: What did they do?  
 12 MR MASIBI: They started slashing the  
 13 weapons and approached us where we were. They used a hand  
 14 gesture to say "shift away from the road," or "shift out of  
 15 the way."  
 16 MR VAN AS: And what happened then?  
 17 MR MASIBI: Mr Julius Motlogeloa then  
 18 turned and went back to the car as they were not listening  
 19 to him. I then heard a gunshot which was shot towards the  
 20 strikers. The shot came from the firing line where we were  
 21 standing.  
 22 MR VAN AS: And what ammunition was shot?  
 23 MR MASIBI: Rubber bullet. I then joined  
 24 that team which was busy shooting and I shot seven rubber  
 25 bullets. As we were shooting at them they did not retreat

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1 back. They started encroaching and then came slowly  
 2 towards us.  
 3 MR VAN AS: Did the rubber bullets have  
 4 no effect on them?  
 5 MR MASIBI: Yes, it had no effect as  
 6 others were wearing blankets.  
 7 MR VAN AS: What happened then, Mr  
 8 Masibi?  
 9 MR MASIBI: After I had shot all the  
 10 seven rubber bullets, they were finished, I then saw my  
 11 colleagues also retreating back as they had also finished  
 12 their rounds. I then turned and went to the direction  
 13 where I had left my vehicle. As I turned the strikers then  
 14 proceeded fast towards us. As I approached the car I could  
 15 feel that there were things that they were throwing at us.  
 16 I did not see what it was as I was running to the car. On  
 17 arrival at the car I held the handle, looked back and saw  
 18 that they were now near. As I was the last I then let go  
 19 of the handle and ran away. The car in which direction I  
 20 ran to was the car which Mr Mabelane and Mr Fundi were in.  
 21 On arrival there was also another van in front which was  
 22 already in motion. I then ran past Mr Mabelane and Fundi's  
 23 vehicle. I then jumped into that security van which was  
 24 moving.  
 25 MR VAN AS: Is that when you reloaded the

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1 shotgun and fired a further seven rounds?  
 2 MR MASIBI: Yes, that is the time.  
 3 MR VAN AS: And what happened after that?  
 4 COMMISSIONER HEMRAJ: Sorry, just before  
 5 that, when you were shooting from the back of the vehicle  
 6 what was happening in the area that you were shooting at?  
 7 MR MASIBI: At that time the strikers  
 8 were now surrounding, or they were now walking next to the  
 9 Polo which I had passed. Some were proceeding to the site  
 10 where Mr Mabelane's car was parked. When I started  
 11 shooting the seven rubber bullets all the vehicles were now  
 12 surrounded by the strikers. I could not see what was  
 13 happening in that area. I then started shooting the seven  
 14 rubber bullets towards them but they did not retreat. The  
 15 car at that time, the van was now moving away. It drove  
 16 until it stopped next to the hospital.  
 17 MR VAN AS: Did the strikers continue  
 18 following the bakkie in which you were being transported?  
 19 MR MASIBI: The majority of them were  
 20 next to the car which was parked there and some were in  
 21 front, but they did not follow us.  
 22 MR VAN AS: Where did you travel to then?  
 23 MS MOSHOANE: Pardon?  
 24 MR VAN AS: Where did the bakkie go to?  
 25 MS MOSHOANE: Where did they go?

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1 MR VAN AS: Where did the vehicle that  
 2 you were travelling in, where did you go? Did you go out  
 3 of the area?  
 4 MR MASIBI: The van stopped at the  
 5 hospital and the other cars which were at the scene then  
 6 also came and stopped at the hospital.  
 7 MR VAN AS: Mr Masibi, could you see any  
 8 smoke at that stage, anything burning?  
 9 MR MASIBI: Immediately on arrival next  
 10 to the hospital, that is where I met Mr Dewald Louw and Mr  
 11 Vorster. We then gave the report that Mr Mabelane and Mr  
 12 Fundi are with that crowd and we do not know what is  
 13 happening. We then climbed into another vehicle which  
 14 reversed in the direction of where the crowd was as we  
 15 wanted to see what was happening.  
 16 MR VAN AS: Was Mr Louw driving that  
 17 bakkie?  
 18 MR MASIBI: No, he was not the driver.  
 19 As the car was reversing, whilst we were at the back of the  
 20 bakkie we then saw smoke coming from the Polo. As we were  
 21 reporting we then saw smoke from the car in which Mr  
 22 Mabelane and Mr Fundi were in. At that time the strikers  
 23 were now proceeding towards the taxi rank that is next to  
 24 NUM offices. The strikers moved in the direction of the  
 25 taxi rank which was next to a building which was NUM

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1 offices then. The majority of the strikers were still  
 2 surrounding the burning vehicle. We could not see what was  
 3 happening. We saw that it was not safe, it was dangerous  
 4 for us to go there. After some time they all went next to  
 5 the rank where they sat down next to the NUM offices. We  
 6 then received an instruction from Dewald saying he received  
 7 a call.  
 8 [15:47] The instruction was no one must go to the scene.  
 9 We should rather meet at Rowland Shaft.  
 10 MR VAN AS: Did you then go to the  
 11 Rowland Shaft? Is that the Rowland Shaft Crossing? Is  
 12 that where you were told to meet?  
 13 MR MASIBI: Yes, to Rowland Shaft.  
 14 MR VAN AS: And did you go there?  
 15 MR MASIBI: On arrival there we were then  
 16 told that some had approached the scene from the side of  
 17 the stadium. They then told us that when the instruction  
 18 was given that no one must go to the scene, the reason was  
 19 that when they arrived at the scene they then find out that  
 20 Mr Mabelane and Mr Fundi were killed.  
 21 MR VAN AS: So you weren't part of the  
 22 Lonmin Security that went back to try and rescue Mr Fundi  
 23 and Mr Mabelane – I'm not sure of my direction – it's from  
 24 the west side?  
 25 MR MASIBI: No, I was not one of them.

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1 MR VAN AS: Thank you, Mr Chairperson,  
 2 those are my questions.  
 3 CHAIRPERSON: Thank you, Mr Van As. Mr  
 4 Wesley, are you in a position to commence your cross-  
 5 examination?  
 6 MR WESLEY: Chair, actually most of my  
 7 questions have been answered. As I sit here now I don't  
 8 have any.  
 9 CHAIRPERSON: What do you want me to do?  
 10 MR WESLEY: Chair, Mr Tip is ready to  
 11 proceed now with his cross-examination. They've asked for  
 12 45 minutes.  
 13 CHAIRPERSON: Mr Tip, would you like to  
 14 cross-examine – 45 minutes you want? I'll give you 10 now  
 15 and give you the rest in the morning.  
 16 CROSS-EXAMINATION BY MR TIP SC: Thank  
 17 you, Chair. Again hopefully I'll be even less than 45  
 18 minutes. Mr Masibi, I have some questions which I'm going  
 19 to put on behalf of NUM and also on behalf of Mrs Fundi.  
 20 The topic that I really want to discuss with you concerns  
 21 what your instructions were on that day and what you  
 22 expected that you might encounter.  
 23 MR MASIBI: Could you please clarify the  
 24 question, at what time or when?  
 25 MR TIP SC: Yes, I'll do that. I'm

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1 concerned with that day and I'm concerned with the early  
 2 part of that day and to make it more clear I'll ask you  
 3 just to look at the very first paragraph of your ICAM  
 4 statement, DDDD7.  
 5 CHAIRPERSON: The ICAM statement is  
 6 AAAA37.  
 7 MR TIP SC: Chair, there are two exhibit  
 8 numbers now. So either one will do, but if you're looking  
 9 at the –  
 10 CHAIRPERSON: Am I wrong in saying AAAA37  
 11 is the ICAM statement?  
 12 MR TIP SC: Well, it's been identified as  
 13 the ICAM statement, Chair –  
 14 CHAIRPERSON: Ja, I know, that's the  
 15 statement on the screen, the one you're referring to.  
 16 MR TIP SC: Yes, it's the same one –  
 17 CHAIRPERSON: No, I know. I know. But I  
 18 think that the handwritten one is DDDD7, but anyway, let's  
 19 not waste time on that. Carry on with your cross-  
 20 examination.  
 21 MR TIP SC: It's been given a fresh  
 22 exhibit number.  
 23 CHAIRPERSON: Alright, we'll sort it out  
 24 in the morning.  
 25 MR TIP SC: It's simply because it's in

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1 the bundle as DDDD7 which has been handed in by Mr Van As.  
 2 In any event, Mr Masibi, you have the typed statement that  
 3 you made.  
 4 MR MASIBI: I do.  
 5 MR TIP SC: And if you look at the very  
 6 first paragraph, I'll read it, "At around 05h00 I arrived  
 7 at work. I was deployed to patrol as we were informed that  
 8 there might be a gathering on the Lonmin property." Are  
 9 you with me?  
 10 MR MASIBI: Yes.  
 11 MR TIP SC: Alright, so that is the time  
 12 that I want to discuss with you and want to get your  
 13 assistance on. You reported for your shift at 5 o'clock in  
 14 the morning.  
 15 MR MASIBI: Yes.  
 16 MR TIP SC: Was there then some form of  
 17 parade of you and your fellow officers, security officers?  
 18 MR MASIBI: I do not remember there being  
 19 a parade but we were told a day before that we should  
 20 arrive at 5. We were then told that we should then book  
 21 out the equipment that we normally use as there was  
 22 information that there was going to be a meeting at Lonmin  
 23 premises.  
 24 MR TIP SC: Yes, Mr Masibi, is that what  
 25 you were told when you had reported for work at 5 o'clock

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1 for a minute more, but clearly in the circumstances in the  
 2 light of what you say it's appropriate for us to take the  
 3 adjournment now. 9 o'clock tomorrow morning, if we can  
 4 manage it.  
 5 MR TIP SC: As it pleases, Chair.  
 6 [COMMISSION ADJOURNED]  
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1 on that Sunday morning?  
 2 MR MASIBI: I was informed a day before.  
 3 MR TIP SC: Alright. Won't you then just  
 4 tell us on the day before when did you receive that  
 5 information?  
 6 MR MASIBI: The day before, that is  
 7 Saturday, there was a confrontation between the strikers  
 8 and NUM at NUM offices. As I was at the stadium when the  
 9 confrontation took place, after the confrontation when the  
 10 strikers, or the workers had gone to their place of abode,  
 11 when we knocked off we were then told that we should report  
 12 for duty at 5 the following morning. That is when we were  
 13 told that there was going to be a meeting of workers the  
 14 following day.  
 15 MR TIP SC: Let's just take it slowly, Mr  
 16 Masibi. What time on the Saturday did you knock off?  
 17 MR MASIBI: I cannot remember when I  
 18 knocked off.  
 19 MR TIP SC: Alright, more or less was it  
 20 in the afternoon or the evening?  
 21 MR MASIBI: In the early afternoon.  
 22 MR TIP SC: Chair, may I suggest, it's  
 23 now 4 o'clock; it may be better if I deal with the question  
 24 of the instruction from beginning to end in one session.  
 25 CHAIRPERSON: Yes, I was going to go on

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33168:3 <b>9th</b> 33039:12 33059:22 33112:9 33143:23 33148:20 <b>9:28</b> 33082:13 <b>90</b> 33142:9,12 <b>9328</b> 33036:20</p>
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