

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 281

29 AUGUST 2014

PAGES 36104 TO 36232



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64 10th Avenue, Highlands North, Johannesburg
P O Box 721, Highlands North, 2037
Tel: 011-440-3647 Fax: 011-440-9119 Cell: 083 273-5335
E-mail: realtime@mweb.co.za
Web Address: <http://www.realtimesa.co.za>



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1 [PROCEEDINGS ON 29 AUGUST 2014]
 2 [09:14] CHAIRPERSON: The Commission resumes. Mr
 3 Bham, I believe you're going to call a witness.
 4 MR BHAM SC: I am, the witness is
 5 [microphone off, inaudible].
 6 CHAIRPERSON: Would you please stand up,
 7 Sir? I think you'd better turn your microphone on. What
 8 are your full names?
 9 MR BLOU: Mr Chairperson, my full names
 10 are Mntunaye Henry Blou.
 11 CHAIRPERSON: Are you prepared to take
 12 the oath?
 13 MR BLOU: Yes, Mr Chairperson.
 14 CHAIRPERSON: Will you swear that the
 15 evidence you will give before this Commission will be the
 16 truth, the whole truth, and nothing but the truth? Please
 17 raise your right hand and say, "I swear, so help me God."
 18 MR BLOU: I swear that the evidence I
 19 will give –
 20 CHAIRPERSON: No, just say "I swear, so
 21 help me God," all you have to say.
 22 MNTUNAYE HENRY BLOU: So help me God.
 23 CHAIRPERSON: Thank you, you may be
 24 seated. Mr Bham.
 25 EXAMINATION BY MR BHAM SC: Thank you, Mr

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1 Chairman, Commissioners. Mr Blou, you have a file of
 2 documents in front of you. May I ask you to turn to the
 3 very first document, which is a witness statement dated 17
 4 October 2012. Do you have that in front of you?
 5 CHAIRPERSON: His statement I think is
 6 already an exhibit. Is that correct?
 7 MR BHAM SC: I'm not sure, Mr Chairman.
 8 There are five statements I want to refer to. I'm not sure
 9 if they've been given exhibit numbers.
 10 CHAIRPERSON: Yes. No, I think we'd
 11 better do the housekeeping.
 12 MR BHAM SC: I think we should do.
 13 CHAIRPERSON: We are fortunately able to
 14 call upon Ms Pillay to help us this morning. Ms Pillay,
 15 have you got a Blou bundle? My one is also blue, but have
 16 you got a Blou bundle? We have a statement here, actually
 17 a number of statements from Mr Blou. Certainly a number of
 18 them aren't exhibits. So shall we call them RRRR1 and then
 19 give them numbers 1.1, 1.2 and so on? Would that find
 20 favour with you, Ms Pillay?
 21 MS PILLAY: That's fine, Chair.
 22 CHAIRPERSON: Alright, RRRR1. Now the
 23 first document is a document which is not actually an
 24 affidavit. I don't know why that was done, but it's a 12-
 25 page document dated the 17th of October 2012. Do you know

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1 whether that's an exhibit yet?
 2 MS PILLAY: Chair, I haven't seen the
 3 Blou bundle, so I'm not sure. Unfortunately I wasn't here
 4 yesterday.
 5 CHAIRPERSON: Alright, well is that the
 6 Blou bundle or is that the cross-examination bundle you're
 7 getting?
 8 MS PILLAY: Chair, I have it now, the
 9 examination-in-chief bundle.
 10 CHAIRPERSON: Right, okay. So the first
 11 document there is a statement, 12-page statement dated the
 12 17th of October 2012. Do you know whether that's an
 13 exhibit?
 14 MS PILLAY: I know one of Mr Blou's
 15 statements is an exhibit, Chair, but just give me a few
 16 seconds, I can find –
 17 CHAIRPERSON: As far as I know most of
 18 the documents in this bundle are not exhibits. There's one
 19 that I think is. I just want to identify that one and then
 20 we'll mark the others.
 21 MR TIP SC: Chair, if I can assist, the
 22 statement dated 3 July 2014 I believe is FFFF1.
 23 CHAIRPERSON: That document is the one
 24 you say that is FFFF1, is it?
 25 MS PILLAY: No, Chair, FFFF1 is the

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1 statement by Graeme Sinclair.
 2 CHAIRPERSON: Oh, alright. Well, Mr Tip,
 3 have you misled us inadvertently?
 4 MR TIP SC: It seems that I have. I am
 5 dreadfully apologetic, Chair.
 6 CHAIRPERSON: Apology accepted. Right,
 7 now –
 8 MR BHAM SC: Mr Chair, may I make a
 9 suggestion –
 10 CHAIRPERSON: Yes.
 11 MR BHAM SC: - just so, it may mean a
 12 second number, but may I make a suggestion that we –
 13 CHAIRPERSON: Alright, let's call the
 14 whole thing RRRR1 –
 15 MR BHAM SC: RRRR1.1 through to 1.5.
 16 CHAIRPERSON: Good. Your suggestion is
 17 accepted.
 18 MR BHAM SC: Thank you. So Mr Blou –
 19 CHAIRPERSON: You may now start leading
 20 your witness.
 21 MR BHAM SC: - the document you have in
 22 front of you which is a statement dated 17 October 2012,
 23 could you mark that RRRR1.1? Now if you go to the last
 24 page of that document, it's dated 17 October 2012 and
 25 there's a signature below that. Is that your signature?

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1 MR BLOU: That is correct, Mr Chairman.
 2 MR BHAM SC: And is that the date on
 3 which you signed the document?
 4 MR BLOU: That is correct.
 5 MR BHAM SC: May I ask you then to turn
 6 to the next document in the bundle? That's a supplementary
 7 statement, it's a two-page statement, could you mark that
 8 RRRR1.2? If you turn the page, the second page of the
 9 statement, there's a date at the bottom, 19 July 2013 and a
 10 signature below that. Is that your signature?
 11 MR BLOU: That is correct.
 12 MR BHAM SC: Thank you. Could I ask you
 13 to then turn to the next page, the next document. That's a
 14 document dated 3 July 2014. Could you mark that RRRR1.3,
 15 please. On the last page of that document there's a date 3
 16 July 2014 and there's a signature below that. Is that your
 17 signature?
 18 MR BLOU: That is correct.
 19 MR BHAM SC: Now Mr Blou, before we move
 20 from that statement, you'll see that statement is fairly
 21 similar to the first statement which is dated 17 October
 22 2012. Can you explain to the Commission why you had signed
 23 this statement, which is RRRR1.3?
 24 MR BLOU: Mr Chairman, this RRRR1.3 I
 25 signed because it was a correction of the first statement.

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1 MR BHAM SC: Thank you. Can I then ask
 2 you to go to the next document, a document dated 24 August
 3 2014? Could you mark that RRRR1.4, please, and if you go
 4 to the last page of that document there's a dated 24 August
 5 2014 and beneath that there's a signature. Is that your
 6 signature?
 7 MR BLOU: That is correct.
 8 MR BHAM SC: Can I then ask you to go to
 9 the next document, it's a single-page supplementary witness
 10 statement. There isn't a date on it. Could you mark that
 11 document RRRR1.5, please. Mr Blou, is that your signature
 12 at the bottom?
 13 MR BLOU: That is correct, Mr Chair.
 14 MR BHAM SC: Now I've referred you to
 15 five witness statements. Do you confirm, subject to the
 16 correction you made in the third of those statements
 17 regarding the first statement, do you confirm those to be
 18 your witness statements?
 19 MR BLOU: That is correct, Mr Chair.
 20 MR BHAM SC: And that, Mr Blou,
 21 represents your evidence before this Commission?
 22 MR BLOU: That is correct.
 23 MR BHAM SC: Thank you, Mr Chairman, that
 24 is the evidence-in-chief.
 25 CHAIRPERSON: Yes, his evidence-in-chief,

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1 Mr Bham, thank you very much. Mr Tip.
 2 MR TIP SC: Thank you, Chair –
 3 MR BHAM SC: Sorry, Mr Chairman, just
 4 before Mr Tip starts, having done my bit I understand that
 5 the electronic form of the statements may not be with the
 6 person dealing with that and I wonder whether we can just
 7 sort that out because –
 8 MS PILLAY: Chair, we've just giving him
 9 a copy of the electronic statements.
 10 MR BHAM SC: Then that's sorted out,
 11 thank you very much.
 12 CHAIRPERSON: Problem solved. Mr Tip.
 13 MR TIP SC: Thank you, Chair. Perhaps we
 14 should deal with some further housekeeping. There are some
 15 additional documents that need to be exhibited. The
 16 Commissioners will have before them a bundle that we've
 17 compiled, which hopefully comprise those documents. Could
 18 I just go through each one of them and if I'm incorrect in
 19 the sense that some of them are already exhibits, then Ms
 20 Pillay will hopefully correct us. The first document is
 21 the –
 22 CHAIRPERSON: The first document you
 23 refer to in your index isn't actually in the bundle I've
 24 got, but it's a document which we have now called RRRR1.3.
 25 MR TIP SC: That's correct, Chair, yes.

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1 CHAIRPERSON: Then you have a statement
 2 by Mr Sinclair, which is – in fact I think the real problem
 3 is that your index is wrong. The first document actually
 4 isn't intended to be Mr Blou's statement, it's Mr
 5 Sinclair's statement.
 6 MR TIP SC: Yes.
 7 CHAIRPERSON: So we'll alter the index.
 8 Statement of Graeme Sinclair –
 9 MR TIP SC: Chair, sorry –
 10 CHAIRPERSON: That's the first document
 11 I've got.
 12 MR TIP SC: Yes.
 13 CHAIRPERSON: And that's –
 14 MR TIP SC: Chair, can I –
 15 CHAIRPERSON: Yes, sorry.
 16 MR TIP SC: Forgive me for interrupting.
 17 What we've put into this bundle is not the entirety of all
 18 the documents, but the new exhibits.
 19 CHAIRPERSON: Yes.
 20 MR TIP SC: In other words only those
 21 that actually require –
 22 CHAIRPERSON: I see, I've got it.
 23 MR TIP SC: - actually to be given fresh
 24 exhibit numbers.
 25 CHAIRPERSON: Okay.

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1 MR TIP SC: So the first document that
 2 requires to be exhibited in this bundle is the earlier
 3 statement of Mr Sinclair.
 4 CHAIRPERSON: And that can be RRRR2. In
 5 fact shall we call all of these RRRR2 and give them
 6 numbers?
 7 MR TIP SC: Yes.
 8 CHAIRPERSON: So earlier statement of
 9 Sinclair will be RRRR2.1. Then you've got the ICAM report,
 10 that appears to be an exhibit, DDDD2. Is that correct?
 11 MR TIP SC: That is already an exhibit,
 12 Chair, correct.
 13 CHAIRPERSON: Then you've got a new one
 14 and you've marked the new one in heavy type. The new one
 15 will be RRRR2.2, ICAM File 1 Tab 22 will be RRRR2.3, ICAM
 16 File 2 Tab 5 RRRR2.4, ICAM File 3 Tab 12 RRRR2.5, ICAM File
 17 3 Tab 14.2 pages 8 to 11 RRRR2.6, ICAM File 1 Tab 30
 18 RRRR2.7, ICAM File 1 Tab 5, statement of Lebo Runto,
 19 RRRR2.8, then documents in bundle prepared by Lonmin, the
 20 first section, pages 423 to 432 is already before us as
 21 FFFF6, pages 355 to 359 RRRR2.9. Lubbe's statement, which
 22 is pages 324 to 326 of the Lonmin bundle, RRRR2.10, and
 23 then pages 327 to 344 already before us, XXX8, pages 363,
 24 368 to 370, 372, 374, RRRR2.11. The ICAM file 3 Tab 7 is
 25 RRRR2.12. Post mortem report on Mr Mabebe is already

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1 before us. The log sheets are before us. I thought
 2 Marsden Forbes's statement was before us as well, but Ms
 3 Pillay will look into that quickly.
 4 MR TIP SC: This is the ICAM statement –
 5 CHAIRPERSON: Oh, it's not before us,
 6 alright. So RRRR2.13, and the last document is the
 7 Gcilitshana statement, that's XX1.
 8 MR TIP SC: That is XX1.
 9 CHAIRPERSON: Now we've done all your
 10 housekeeping.
 11 CROSS-EXAMINATION BY MR TIP SC: Thank
 12 you so much, Chair. Mr Blou, let me just indicate to
 13 assist you that I'll be putting some questions to you on
 14 behalf of NUM and also on behalf of Mrs Fundi. There will
 15 also be some questions from me in relation to the events at
 16 K4 Shaft and the death of Mr Mabebe, and Chair, just for
 17 good order, I've previously put on record that I don't have
 18 instructions for the family but Mr Ramphele, who does
 19 appear for the family, has indicated that he would be happy
 20 for me to put some questions in that regard –
 21 CHAIRPERSON: Yes, thank you.
 22 MR TIP SC: - on their behalf as it were.
 23 CHAIRPERSON: Yes, I see he's not here at
 24 the moment.
 25 MR TIP SC: He's not here at present, no.

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1 CHAIRPERSON: He did indicate that he
 2 wanted to ask Mr Blou some questions, but – oh, here he
 3 comes. You've just come at the psychological moment, Mr
 4 Ramphele, because Mr Tip has been talking about you. So
 5 he'd better repeat in your presence what he said behind
 6 your back.
 7 MR TIP SC: Yes, as soon as Mr Ramphele
 8 has taken his seat – Chair, let me just repeat that. I had
 9 said that although I don't have any formal instruction in
 10 respect of the family of Mr Mabebe, that in discussion with
 11 my learned colleague Mr Ramphele he had indicated that he
 12 would happy if I put some questions in respect of the
 13 events at K4 Shaft and the death of Mr Mabebe.
 14 MR RAMPHELE: Absolutely correct, Chair.
 15 CHAIRPERSON: Was Mr Mabebe a member of
 16 NUM?
 17 MR TIP SC: He was a member of NUM.
 18 CHAIRPERSON: So that's a reason why you
 19 can ask these questions –
 20 MR TIP SC: There is a residual
 21 interest –
 22 CHAIRPERSON: - in your own right.
 23 MR TIP SC: There is that interest also,
 24 and then Mr Blou, also just to give you something of a
 25 roadmap of what I intend to do this morning through the

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1 questions that I have for you is to examine only the events
 2 of 10, 11 and 12 August 2012, to put those in context to
 3 some extent by looking at factors, background factors that
 4 preceded the march of 10 August. I will be drawing your
 5 attention to aspects of the planning, or shortcomings in
 6 the planning in respect of Lonmin Security and the
 7 deployment of its forces, and the purpose of that, Mr Blou,
 8 will be to afford you the opportunity to explain as fully
 9 as you are able to what the information is that the
 10 Commission should be aware of. That essentially is what we
 11 will be dealing with, and then there will be some
 12 incidental points that will come out as we examine certain
 13 of the documentation. But that's the main thrust of what I
 14 will be seeking to traverse with you today. I hope that
 15 assists you. You'll need to get into the habit of –
 16 MR BLOU: Ja.
 17 MR TIP SC: - of that mike and just to
 18 say yes or no, as the case may be.
 19 MR BLOU: Yes, Mr Chair, it does assist.
 20 MR TIP SC: Thank you so much. Alright,
 21 now –
 22 CHAIRPERSON: He's gotten into the habit
 23 of saying yes already. It's a good one to stick to, and if
 24 the answer, as the police would say is in the negative, you
 25 can say no. Obviously you can elaborate and explain if you

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1 want to, but if the answer is simply yes or no just say yes
 2 or no. It does save a lot of time.
 3 MR TIP SC: Yes.
 4 MR BLOU: Thank you, Mr Chair.
 5 MR TIP SC: I was really just wanting to
 6 say that use the mike when you give the answers, otherwise
 7 they won't come through, not to push you into agreeing with
 8 everything that I say.
 9 Mr Blou, very briefly, you've explained in your
 10 statements that you took up the position of the manager of
 11 security at Lonmin from 2005. Is that correct?
 12 MR BLOU: That is correct.
 13 MR TIP SC: And before that did you have
 14 relevant experience in the security environment?
 15 MR BLOU: Mr Chair, yes, before that I
 16 had worked for De Beers Consolidated Mines at their Finsch
 17 Mine for three years in the Northern Cape, followed by
 18 another three years at their Kimberley Mines, as well as
 19 some 10 months at their Venetia Mine Operations in Limpopo.
 20 So I'd worked for De Beers for just shy of seven years in
 21 security.
 22 MR TIP SC: In security, yes.
 23 MR BLOU: That is correct.
 24 MR TIP SC: Right, thank you. Well
 25 that's very helpful. Now as I'd indicated one of the

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1 interests that I'll be traversing with you is the planning
 2 or shortcomings, and of course in order to do that we need
 3 to be clear about what meetings took place amongst the
 4 security management over that period, and I'm going to do
 5 that, I think it may assist if I ask for EEEE19, perhaps
 6 point 1, the log sheets to be put up, and I'm going to take
 7 you to certain of the entries, and let me again just
 8 explain what I'm doing at this stage.
 9 What I want to do is just to identify the various
 10 briefing and debriefing meetings that are annotated on the
 11 log, first of all. I'll refer to a paragraph in the
 12 statement where you refer to a different, another meeting,
 13 and then to ask you whether there were any other meetings,
 14 other than the ones that we thus identify, that took place
 15 in respect of security planning over that period. You're
 16 happy with that?
 17 MR BLOU: I'm happy with that, Mr Chair.
 18 MR TIP SC: Good. Alright, well then
 19 what we will see is if we go to the 10th of August at 7
 20 o'clock in the morning, you'll see that that is a debrief
 21 done by GS, and we can take it that that is Graeme
 22 Sinclair. Have you got the spot?
 23 MR BLOU: I've got it, Mr Chair.
 24 MR TIP SC: Yes, alright, and then your
 25 name is there below, H Blou.

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1 MR BLOU: That is correct.
 2 [09:34] MR TIP SC: So that is a significant
 3 briefing session and we'll look at certain of the details
 4 of it shortly. Can we track onto the 10th of August at
 5 13:58? Did I say 13? No 10 August at 13:58, yes. That's
 6 perfect thank you. That is described, if you look at the
 7 top annotation next to that time, Debriefed by GS. That's
 8 two minutes to two on the Friday. Were you present at that
 9 meeting Mr Blou? Do you recall?
 10 MR BLOU: May I just for clarity, Mr
 11 Chair, if I may, that is a meeting, the debrief of that
 12 being done by GS, is that correct?
 13 MR TIP SC: Correct.
 14 MR BLOU: Yes.
 15 MR TIP SC: That's at 13:58, in other
 16 words shortly after the group that had marched to the
 17 Lonmin offices had gone back to Wonderkop stadium and they
 18 had dispersed from there.
 19 MR BLOU: Correct.
 20 MR TIP SC: Do you recall that meeting?
 21 MR BLOU: I recall a series of meetings,
 22 I do not recall specifically the one that is up on the
 23 screen.
 24 CHAIRPERSON: The next entry relates to a
 25 briefing at ten past three which says in terms Briefing by

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1 HB and GS, so you undoubtedly were at the meeting at ten
 2 past three –
 3 MR BLOU: Mr Chairman, I remember that
 4 meeting, yes.
 5 MR TIP SC: All right. Then we can go
 6 onto the 11th of August at 8 o'clock in the morning. You'll
 7 see there, there is a gain a briefing by GS and HB is noted
 8 as present. That, we can take it, is yourself.
 9 MR BLOU: That is correct.
 10 MR TIP SC: So you were there. Then the
 11 next one is at 9:43 on the 11th. A short debrief by GS and
 12 you were present.
 13 MR BLOU: That is correct, Mr Chair.
 14 MR TIP SC: The next one is at 2 o'clock,
 15 14:00 briefed by HB and D Botes, yourself and Mr Botes.
 16 MR BLOU: That is correct.
 17 MR TIP SC: Then at half past three,
 18 15:30 just below that, debriefed by Botes and yourself.
 19 MR BLOU: Yes, indeed.
 20 MR TIP SC: And then on the 12th, the
 21 following day, there is at 7:40 there is a debrief by
 22 yourself, run by yourself.
 23 MR BLOU: Correct.
 24 MR TIP SC: And then on the log sheet at
 25 any rate there is no other meeting on that day, briefing

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1 meeting until 19:12. If we can just go through to that
 2 time. That's again a briefing conducted apparently by Mr
 3 Sinclair. Your initials don't appear there, I think, but
 4 do you recall whether you were present at that?
 5 MR BLOU: Mr Chair, I do not have a
 6 recollection of my presence in that meeting.
 7 MR TIP SC: All right.
 8 CHAIRPERSON: It does seem that when
 9 you're there it's recorded, normally. You may occasionally
 10 slip in unnoticed, but normally when you are at a meeting
 11 the occurrence book records the fact.
 12 MR BLOU: That is correct, Mr Chair.
 13 CHAIRPERSON: That seems to be the case.
 14 MR BLOU: That was the norm that those
 15 present must be recorded.
 16 MR TIP SC: Yes fair enough. Then that
 17 exhausts the briefing meetings that are logged in this log
 18 sheet over those days. Could I ask you to go to paragraph
 19 21 of your supplementary statement which is RRRR1.4?
 20 Paragraph 21, thank you. There you say that, if you don't
 21 mind I'll just read it, Mr Blou. "I attended a further
 22 security meeting during the early afternoon of 12 August
 23 2012. Messrs Sinclair and Botes also attended this
 24 meeting. We discussed the events of that morning including
 25 the tragic murder of the late Hassan Fundi and the late

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1 Frans Mabelane. Do you confirm that?
 2 MR BLOU: Yes, I confirm.
 3 MR TIP SC: Can you tell us approximately
 4 what time that meeting took place?
 5 MR BLOU: Mr Chair, the date being so far
 6 back, about two years, I would give an estimate. I know we
 7 had had briefings, but it would have been in the afternoon
 8 maybe after 3:00 or thereabouts. And if I'm afforded the
 9 opportunity I'll explain why.
 10 MR TIP SC: Yes we'll look at that
 11 meeting, certainly you'll have the opportunity to deal with
 12 that.
 13 MR BLOU: Okay.
 14 MR TIP SC: For the moment I'm just
 15 really trying to establish what the totality is of the
 16 meetings that took place over that period.
 17 MR BLOU: That is fine.
 18 MR TIP SC: Now that meeting that you
 19 refer to there in paragraph 21, that appears not to have
 20 been recorded on the log.
 21 MR BLOU: It is not there, I noticed.
 22 MR TIP SC: Yes is there any reason why
 23 that should be the case?
 24 MR BLOU: Mr Chair, I must add that the
 25 log sheet, it served more as a mind jogger for us, to

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1 remind us if we were to account to management. Now I note
 2 it was not there, I wouldn't really know why it was omitted
 3 in the first place, but I've certainly noted that that
 4 meeting has not been logged.
 5 MR TIP SC: All right, well we needn't
 6 dwell on that, but we have catalogued here then is all the
 7 meetings, briefing, or debriefing meetings that are
 8 recorded in the log plus the one that you've referred to in
 9 paragraph 21 on 12 August. Were there any other meetings
 10 that you can recall that aren't included in this catalogue?
 11 MR BLOU: Mr Chairman, yes, although I
 12 would not be able to give an accurate record of the number
 13 of those meetings. I know, for example, that we had
 14 meetings with other security managers in the close vicinity
 15 of other companies, to share the events as was happening
 16 and to prepare themselves as well as lots of other
 17 meetings. I had, for example, meetings with the welfare
 18 people, with the late Mr Frans Mabelane's sons and so on.
 19 MR TIP SC: Yes all right. Forgive me,
 20 what I'm really focusing on purely are meetings over the
 21 course of 10, 11, 12 August. Not any that took place
 22 thereafter. Are the ones that you've just referred to
 23 meetings that may have taken place after the 12th of August?
 24 MR BLOU: Mr Chairman, they fall within
 25 that period 10 to 12th of August.

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1 MR TIP SC: All right, yes I see. You've
 2 referred to meetings with security personnel from the other
 3 companies. Are we talking here about Impala, Anglo Plats?
 4 MR BLOU: Mr Chairman, here we refer to
 5 Semenco, we're talking about IFM and we're talking about
 6 Tharisa Mining. These are all within close proximity to
 7 our operations at Marikana excluding Impala and Anglo
 8 during that period.
 9 MR TIP SC: I see and that is part, I
 10 think, of a general pattern of interaction at security
 11 levels between different companies in the area. So that,
 12 as I think you put it a few minutes ago, there is
 13 transmission backwards and forwards about security related
 14 experience in order to assist other companies to prepare
 15 themselves if they fear that they may have security issues
 16 that arise. Is that generally the case?
 17 MR BLOU: Indeed, Mr Chairman.
 18 MR TIP SC: Yes all right. Thank you.
 19 Now, Mr Blou, as we proceed and we look at aspects of these
 20 meetings, if there are any other discussions that then come
 21 to mind you tell us at that stage and we'll take it
 22 onboard.
 23 MR BLOU: Thank you, Mr Chair.
 24 MR TIP SC: Good. Then what I would like
 25 to do next is to have a look with you at what seems to be a

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1 fairly important document and that is exhibit XXX8. That
 2 is now up on the screen and that is described as The
 3 Counter Industrial Action Response Procedure Document For
 4 Lonmin. Correct?
 5 MR BLOU: I see that, Mr Chair, correct.
 6 MR TIP SC: And if we just move down a
 7 little on that cover page, thank you, that's fine, you'll
 8 see that its initial date is recorded as 9 May 2012 and
 9 it's approved by Manager Mining Security and that would be
 10 yourself.
 11 MR BLOU: Yes, Mr Chairman.
 12 MR TIP SC: So you recall approving that
 13 document.
 14 MR BLOU: I recall the document being
 15 drafted, yes, Mr Chair.
 16 MR TIP SC: And do you recall approving
 17 it?
 18 MR BLOU: Mr Chairman, I wish to state
 19 that we have had a lot of procedures that were developed,
 20 but that were never signed off physically.
 21 MR TIP SC: Well let us look at some of
 22 the content of this and you can tell us whether this was in
 23 fact an activated document. Perhaps what we should do
 24 while we're still on the cover page is that you will see at
 25 the foot of the page in red print it's recorded that that

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1 document was last printed on the 10th of August 2012 just
 2 after 3 o'clock in the afternoon.
 3 MR BLOU: I see that, Mr Chair.
 4 MR TIP SC: Do you perhaps know who saw
 5 fit to print that document on that day?
 6 MR BLOU: I would not recall so far back,
 7 Mr Chair.
 8 CHAIRPERSON: I see it says "Signed off
 9 copy of this document is held at E and DM Mining Security
 10 Middle Kraal security compound." So if that's correct it
 11 means this document was in fact signed off and a signed off
 12 copy was kept in the middle kraal. Would that be correct?
 13 MR BLOU: Mr Chair, my earlier statement
 14 was that I know that we did not sign all of them, but
 15 certainly we have got copies of those that would have been
 16 signed off at Middle Kraal even not signed off.
 17 CHAIRPERSON: This document tells us
 18 correctly or incorrectly a signed off copy was held at
 19 Middle Kraal, the last line there on the page. So can we
 20 accept that as being accurate?
 21 MR BLOU: Let us accept it because that
 22 is the practise, Mr Chair.
 23 COMMISSIONER HEMRAJ: And the
 24 implications of the signed off document what are they?
 25 MR BLOU: That is, in my mind how I would

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1 understand it is a document that bears a physical signature
 2 of the security management team who has got rights to sign
 3 that document.
 4 CHAIRPERSON: What's the effect of
 5 signing off? I understand signed off means it's signed and
 6 that information in this respect doesn't help me very much.
 7 What is the consequence of the fact that a document is
 8 signed off as opposed to the fact that another document is
 9 not signed off?
 10 MR BLOU: Mr Chairman, my understanding
 11 if a document has been signed off it means it is approved
 12 and put in motion. However, similarly it is also correct
 13 that some documents do not bear a physical signature, but
 14 they are communicated. They are also in motion.
 15 MR TIP SC: Well let's just deal broadly
 16 at that level, Mr Blou, with this document. It contains a
 17 number of regulatory provisions about how security matters
 18 are to be managed of some consequence. We'll look at some
 19 in detail. Those reflect good practise do they? And
 20 agreed upon practise?
 21 MR BLOU: Yes, Mr Chair.
 22 MR TIP SC: And they ought to have
 23 governed the conduct of security managed over the period
 24 that I'm discussing with you.
 25 MR BLOU: Yes, Mr Chair.

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1 MR TIP SC: Yes, all right, thank you.
 2 Then if we could go to page 331 and Mr Blou, again the
 3 purpose of me taking you to certain of these provisions is
 4 not only to identify them, but also to afford you the
 5 opportunity as we go of adding any comment or qualification
 6 or remarks that will assist our understanding of how these
 7 worked in practise.
 8 MR BLOU: I understand, Mr Chair.
 9 MR TIP SC: Thank you. 331, sorry I'm
 10 looking at the pagination in the bundle prepared for the
 11 cross-examination of Mr Sinclair, my apologies. Page 15 of
 12 the document itself, paragraph 3.1.2, yes thank you, Chair.
 13 "Mining security procedures, documents and information and
 14 the like contained in this document are generic to all
 15 operations."
 16 MR BLOU: Yes, Mr Chair.
 17 MR TIP SC: In other words this applies
 18 to the entirety of mining across Lonmin, all shafts and all
 19 plants.
 20 MR BLOU: All mining security,
 21 specifically, Mr Chair.
 22 MR TIP SC: All mining security.
 23 MR BLOU: Yes.
 24 MR TIP SC: Yes all right. So one would
 25 leave out of the count some of the processing plants, they

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1 have their own arrangements.
 2 MR BLOU: Correct.
 3 MR TIP SC: Yes and then paragraph 3.2.2
 4 "The manager mining security" that is yourself "or other
 5 such appointed person will be the custodian of all generic
 6 security risk management procedure, document and associated
 7 information within Lonmin.
 8 MR BLOU: Correct, Mr Chairperson.
 9 MR TIP SC: And did you, at all times,
 10 consider yourself bearing that custodial responsibility?
 11 MR BLOU: Correct, Mr Chairperson.
 12 MR TIP SC: Paragraph 4.1.3 we can go to
 13 next on the following page. Yes we have it there, thank
 14 you. "This procedure will serve as a guideline for
 15 managing industrial action as each individual type of
 16 incident will warrant the manager, mining security to apply
 17 his or her discretion on how to effectively manage the
 18 relevant situation."
 19 MR BLOU: Noted, Mr Chairperson.
 20 MR TIP SC: Yes and I just want to check
 21 my understanding, Mr Blou, that appears on the face of it
 22 to be really quite an important statement in respect of
 23 your responsibility. Namely, that industrial action
 24 situations are not to be treated as though each one
 25 duplicates the one before. Each one may have individual

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1 characteristics, individual implications, individual
 2 security requirements, correct?
 3 MR BLOU: Correct.
 4 MR TIP SC: And that you are the person
 5 who must apply his discretion to the proper management of
 6 that.
 7 MR BLOU: That is correct.
 8 MR TIP SC: And implicitly it would be
 9 correct also that there would need to be very effective
 10 communication systems in place to ensure that relevant
 11 information in respect of developments are conveyed to you
 12 so that you can exercise the discretion that is vested in
 13 you in terms of this paragraph.
 14 MR BLOU: Correct, Mr Chairperson.
 15 MR TIP SC: Thank you, then a little
 16 lower down on that page. Well we can move on to
 17 abbreviate, on the next page, page 17, paragraph 4.4
 18 generally. Now this there's a series of paragraphs here
 19 4.4 deals with briefing sessions. 4.5 deals with planning
 20 sessions and 4.6 deals with debriefing sessions. I'm going
 21 to look at particular paragraphs, well several of them.
 22 Again so that you can comment on them because they appear
 23 to be important in respect of how the events that have been
 24 logged that we looked at previously should have been
 25 managed and what should have taken place at them.

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1 MR BLOU: Correct.
 2 [09:54] MR TIP SC: Thank you, and these
 3 paragraphs bear on those meetings, the ones that we have
 4 looked at?
 5 MR BLOU: Yes.
 6 MR TIP SC: Alright now I'm going to read
 7 the number and I'll pause with each paragraph to afford you
 8 the chance to comment or if I have a particular observation
 9 to put to you for your comment, I will do so.
 10 MR BLOU: Thank you.
 11 MR TIP SC: Then 4.4.1, "The manager,
 12 mining security, or such an appointed person will be
 13 responsible to conduct an effective and detailed planning
 14 and briefing session."
 15 MR BLOU: I note that, yes.
 16 MR TIP SC: And is that what you
 17 understood your duties to be?
 18 MR BLOU: That is correct.
 19 MR TIP SC: So I underline for us to
 20 attention to later, the word detailed. If you'll just flag
 21 that mentally, Mr Blou? 4.4.2. "An attendance list of all
 22 parties attending the briefing session must be recorded and
 23 stored safely." Correct?
 24 MR BLOU: Correct, yes.
 25 MR TIP SC: 4.4.3, "Minutes of the

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1 briefing session pertaining to the content of the
 2 information, plans, and action conveyed must be recorded
 3 and stored safely."
 4 MR BLOU: Noted, yes, Mr Chair.
 5 MR TIP SC: Now, again, that appears to
 6 me, Mr Blou, to be a very important provision, because that
 7 requires proper minutes to be kept and stored of very
 8 critical steps in the security process, namely the
 9 evaluation of information – the gathering of information,
 10 of course, the evaluation of it, plans and action. That
 11 really straddles the essence of what it is that you, as a
 12 security manager, need to do. Isn't that correct?
 13 MR BLOU: That is correct, Mr Chair.
 14 MR TIP SC: So that should all be
 15 properly recorded and, for instance, if you, your
 16 colleagues or management need to know what has been, what
 17 the information is, what the plans are, and what the action
 18 is to be or has been, that will be clearly, unequivocally
 19 recorded in such a minute.
 20 MR BLOU: That is correct.
 21 MR TIP SC: Now, generally speaking, Mr
 22 Blou, this is something that I want you to comment on, if
 23 you would, when one looks at the log and the recording of
 24 the briefing and debriefing sessions that we find there,
 25 it's not always clear that that amounts to a proper minute

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1 of plans or what the information was, or how it was
 2 evaluated. Are you able to comment on that at all? And
 3 coupled with that request is whether there are indeed
 4 minutes, fuller minutes that are stored somewhere else that
 5 relate to sessions of this kind?
 6 MR BLOU: Mr Chair, indeed, all briefings
 7 that were held at security, as the procedure quite
 8 correctly states, needed to be kept in a manner that is
 9 detailed and as explained above there. My recollection of
 10 all briefings held is that we kept our logs up to date, and
 11 that briefings that we needed to do were done. Also, Mr
 12 Chairman, you referred to the fact that it must be a
 13 detailed briefing. As far as I know all such briefings
 14 would have been detailed and were detailed, however I do
 15 note that in the log sheet kept there appears to be
 16 discrepancies and quite honestly I am noting them, however,
 17 I can only surmise that either we did not capture them, as
 18 one reason perhaps. Perhaps another reason would be that
 19 because of events that were developing at the time, as well
 20 as the pace at which we were going at the time, there would
 21 have been an omission, but I am honestly noting what I
 22 would refer to as discrepancies, Mr Chairman.
 23 MR TIP SC: Thank you, Mr Blou, We'll
 24 examine some of those shortly, but what I do want to
 25 underline, just to ensure that I understood correctly,

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1 other than what we see in the log, there are no other
 2 minutes recording what plans were decided upon over that
 3 period.
 4 MR BLOU: Mr Chairman, other than what we
 5 see, there are other records, such as, for example, plans,
 6 surface plans that we displayed at notice boards. We would
 7 plot in there where our hotspots are, and that you wouldn't
 8 be able to capture in the log sheet. I am also thinking of
 9 white boards, where you would write information, which also
 10 serves as records. I'm thinking specifically here also of
 11 bus routes that would have been decided upon, because of
 12 hotspot. Those records, you can't put them in a log sheet.
 13 So by those, I am referring to those. Those are the
 14 records I can think of right at the moment.
 15 MR TIP SC: Yes. I appreciate what
 16 you're saying there, but once you have looked, for
 17 instance, at surface plans or the tabulation of certain
 18 issues on a white board, there would result from that a
 19 decision as to the deployment of security personnel to any
 20 particular area and for a particular purpose.
 21 MR BLOU: That is correct, Mr Chair.
 22 MR TIP SC: And that sort of decision
 23 should certainly then find its way into the record of the
 24 meeting.
 25 MR BLOU: Yes, Mr Chair.

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1 MR TIP SC: Yes, thank you. Well, again
 2 you'll have the opportunity, as I've said, Mr Blou, when we
 3 look at one or two of these entries, to explain them. Then
 4 if we can carry on with paragraph 4.4.4 of this document,
 5 which reads as follows, "Deployed members must be briefed
 6 on the latest situation when reporting on duty, and
 7 debriefed when reporting off duty. You note that?
 8 MR BLOU: Yes, Mr Chair.
 9 MR TIP SC: And that again, Mr Blou, to
 10 me appears to be an essential prescription, and serving the
 11 obviously important purpose that when security members are
 12 deployed, they are put into the field, they must be briefed
 13 fully with what the latest facts are concerning the
 14 situation and security issues. Correct?
 15 MR BLOU: Correct, Mr Chair.
 16 MR TIP SC: And likewise that, when they
 17 come off duty, they are debriefed so that they can
 18 immediately relay to a person, such as yourself, in the
 19 security management, what their experiences have been, what
 20 their observations have been, and what their perceptions
 21 may be in respect of the future development of security and
 22 threats.
 23 MR BLOU: Correct, Mr Chair.
 24 MR TIP SC: So very important, correct?
 25 MR BLOU: Very important, critical.

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1 MR TIP SC: Yes. Then if we could look
 2 at 4.4.6, "Briefing sessions must be precise and clear in
 3 order for the management team, as well as the deployed
 4 teams, to fully understand what is expected of them in
 5 performing their individual duties, and really that echoes
 6 specifically what we have just discussed.
 7 MR BLOU: Yes.
 8 MR TIP SC: Yes. Then the next chapter
 9 there is 4.5 planning sessions. I want to touch on some of
 10 these paragraphs also. 4.5.1, "The manager, mining
 11 security, will decide, depending on the situation, which
 12 parties to involve in the planning session of the
 13 operation."
 14 MR BLOU: Yes, noted.
 15 MR TIP SC: This is an aspect of your
 16 broad discretion, is it not, in terms of what is required
 17 to deal with an individual situation that arises or
 18 threatens to arise?
 19 MR BLOU: That is correct.
 20 MR TIP SC: Then 4.5.3, "Planning must be
 21 done precisely in order not to confuse the deployed teams
 22 of what functions are expected of them."
 23 MR BLOU: Yes, Mr Chairman.
 24 MR TIP SC: Self-explanatory, and also
 25 critically important.

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1 MR BLOU: Yes.

2 MR TIP SC: 4.5.4, "Important shortfalls,

3 risks and events must be identified, recorded and managed."

4 MR BLOU: Correct, Mr Chair.

5 MR TIP SC: And would I be correct, Mr

6 Blou, in understanding that shortfalls, for instance, may

7 or might typically include shortfalls in the security

8 deployments, the security plans, that sort of thing?

9 MR BLOU: Coupled also with any

10 shortcomings identified, Mr Chairman.

11 MR TIP SC: Yes. So it might be, well,

12 it might encompass things like the following, shortfalls in

13 the gathering of information, the processing of

14 information, decisions about deployments, equipment to be

15 used in deployments, the number of deployments, the place

16 of deployment, all those sorts of factors.

17 MR BLOU: Yes, Mr Chairman.

18 MR TIP SC: Yes. And risks, likewise, a

19 very important feature of the planning session, so that as

20 a particular risk becomes apparent, and risks, I think,

21 almost inevitably are potential events, aren't they?

22 MR BLOU: Yes.

23 MR TIP SC: That they are identified and

24 addressed.

25 MR BLOU: Correct.

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1 MR TIP SC: Then the last chapter here,

2 4.6, debriefing sessions, I'll just read again all those

3 paragraphs onto the record. 4.6.1. "After any incident, a

4 debriefing session will be held between all relevant role

5 players." Again self-evident, and Mr Blou, that would

6 include presumably the security personnel, who had been

7 deployed and involved in the incident, whatever it may have

8 been?

9 MR BLOU: Yes, Mr Chair,

10 MR TIP SC: And for the reasons that we

11 discussed a few moments ago.

12 MR BLOU: Yes.

13 MR TIP SC: 4.6.2, "Debriefing sessions

14 will be held in order to establish any shortcomings or

15 misses in the planned process."

16 MR BLOU: Yes, Mr Chair.

17 MR TIP SC: And I think that it's a kind

18 of shortfalls situation, but if, for instance, an event

19 happens that had not been foreseen, would that be

20 categorised potentially as a miss in the process?

21 MR BLOU: Can you just elaborate more, Mr

22 Chair?

23 MR TIP SC: Let me put that in a somewhat

24 better way, Mr Blou. When there is security planning in

25 the management of potential risks, then an important part

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1 of that presumably is to consider all possible,

2 realistically possible scenarios. I'll use that word,

3 because it comes up from time to time.

4 MR BLOU: Yes, Mr Chair.

5 MR TIP SC: What may happen?

6 MR BLOU: Correct, Mr Chair.

7 MR TIP SC: And if indeed there is an

8 incident, and a particular aspect of that incident or the

9 whole of it had not been foreseen, that might be thought of

10 as being a miss in the planned process, would that be

11 right?

12 MR BLOU: Yes, Mr Chair.

13 MR TIP SC: Yes. Then 4.6.3, "The

14 debriefing session must be recorded and all documentation

15 must be securely stored." That again is an important

16 requirement and perhaps I need to ask you again where we

17 come across, as we do several times in the log, that

18 debrief sessions are held, would there be places than in

19 the log where a debriefing session is recorded? The

20 details of it? Or do we find what there is in the log and

21 only in the log?

22 MR BLOU: Mr Chairman, some debriefings

23 are done and not logged, so I believe the only place where

24 debriefing records should be found should be the log.

25 CHAIRPERSON: Why were some debriefing

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1 sessions not recorder or minuted?

2 MR BLOU: It is, Mr Chairperson, when –

3 let's explain with examples, for example, if on that day

4 there has been no serious incident, we deployed and all

5 members had been to their places, and now they're about to

6 knock off, and then in that instance we're going to be

7 talking on events of the day and not necessarily log

8 records of that conversation, because there's nothing to

9 action on that.

10 CHAIRPERSON: But that's not a compliance

11 with paragraph 4.6.3, though. This refers to incidents,

12 and when you have incident, you have to have a debriefing

13 session, you must do it to establish shortcomings or

14 misses, and it must be recorded. Now, why do depart from

15 that in some cases?

16 MR BLOU: Mr Chairman, as I said earlier,

17 if there has been no incident during managing that strike

18 event, then we deem it necessary sometimes not to have a

19 record of it.

20 CHAIRPERSON: No, I understand that. You

21 see, 4.6.1 begins with the words, "after any incident." So

22 clearly, a debriefing session is only required where there

23 has been an incident. Absent an incident, no debriefing

24 session. But the question is if there has been an

25 incident, are there cases where debriefing sessions are not

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1 held? That's the first question. I'll give you the second
 2 one at the same time, because I want to hear your answer
 3 on. It seems to me you can have three situations. You
 4 could have an incident, where there's a debriefing session,
 5 and it's recorded and the documentation is secured. That's
 6 the first instance. The second case you could have is
 7 there's an incident where there was no debriefing, and the
 8 third incident is we have an incident, there was
 9 debriefing, but it wasn't recorded. So those are the three
 10 things that can happen. Am I right?
 11 MR BLOU: Correct, Mr Chair.
 12 CHAIRPERSON: Fine. Now, obviously if
 13 there's no incident, there's no debriefing, but are there
 14 cases where incidents take place and there is a debriefing
 15 and it's not recorded?
 16 MR BLOU: Mr Chairman, let me just first
 17 answer you on the first part, if I may please? If there's
 18 no incident, there will still be a debriefing.
 19 CHAIRPERSON: But this procedure document
 20 doesn't apply, so there's no obligation to record the
 21 debriefing session –
 22 MR BLOU: I understand.
 23 CHAIRPERSON: Because clearly the
 24 debriefing sessions that have to be recorded are post-
 25 incident debriefings?

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1 MR BLOU: I understand that.
 2 CHAIRPERSON: So that we can take off the
 3 table. So you leave my three cases. The first case,
 4 incident, debriefing recorded. Second case, incident,
 5 debriefing not recorded. Third case, incident, no
 6 debriefing, no recording. Right?
 7 MR BLOU: Yes.
 8 CHAIRPERSON: Right, now let's take the
 9 second case. Are there cases where there's an incident,
 10 there's debriefing and it's not recorded?
 11 MR BLOU: Mr Chairman –
 12 CHAIRPERSON: Yes or no?
 13 MR BLOU: I don't think there are.
 14 CHAIRPERSON: So the answer is, you think
 15 not?
 16 MR BLOU: Yes.
 17 CHAIRPERSON: Alright. Third case, are
 18 there cases where there's incidents, and there's no
 19 debriefing?
 20 MR BLOU: I know if there's an
 21 incident, there will definitely be debriefing.
 22 CHAIRPERSON: I see. So there'll be no
 23 case, let's get this clear, there will be no case where
 24 there was an incident, where there was no debriefing?
 25 There will be no case where there was an incident, where

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1 there was no debriefing?
 2 MR BLOU: Yes.
 3 CHAIRPERSON: And there will also be, as
 4 far as you're aware, there has been no case where there was
 5 an incident, where there was debriefing and it wasn't
 6 recorded? That's as far as you're aware?
 7 MR BLOU: Yes.
 8 CHAIRPERSON: Alright, thank you.
 9 MR TIP SC: Thank you, Chair. Mr Blou,
 10 the, just one or two further aspects of this document that
 11 I'm going to deal with. On the following page, 18, there
 12 is the important topic of the set up of a joint operational
 13 command, and that we know was put in place certainly by the
 14 afternoon of the 10th of August, in fact, there had been
 15 some operational consolidation even before that on the 9th
 16 of August.
 17 MR BLOU: Yes, Mr Chair.
 18 MR TIP SC: And that was an important
 19 facility?
 20 MR BLOU: Correct, Mr Chair.
 21 MR TIP SC: And I want to just take you
 22 to a couple of these paragraphs under 5.2, general, that's
 23 underline there, 5.2.1. "In the event of an incident it is
 24 necessary to set up an organised and equipped central JOC
 25 in order to effectively manage information and strategy."

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1 MR BLOU: Yes, Mr Chair.
 2 MR TIP SC: Then I'll look at 5.2.3, "The
 3 JOC will centralise all communications pertaining to the
 4 specific incident.
 5 MR BLOU: Correct.
 6 [10:13] MR TIP SC: And 5.2.6, "work in the JOC
 7 is an ongoing task and the centre commander will ensure
 8 that records, maps and communications logs are updated
 9 continuously and accurately."
 10 MR BLOU: Yes, Mr Chairman.
 11 MR TIP SC: Now all of those are again it
 12 seems to me very important factors in the management in an
 13 effective way of security responsibilities.
 14 MR BLOU: Indeed.
 15 MR TIP SC: And the JOC occupies a
 16 particularly important place, as is recorded here, that it
 17 is the location where all relevant information must be
 18 centralised and strategy decisions, among others, must be
 19 taken there.
 20 MR BLOU: That is correct, Mr Chairman.
 21 MR TIP SC: Not elsewhere.
 22 MR BLOU: Correct.
 23 MR TIP SC: Right, we'll also look at
 24 aspects of that in due course, Mr Blou, but the last point
 25 I want to take you to – well, let me just say, there are

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1 many provisions in the document relating to details in
 2 terms of administration and recordkeeping, etcetera. We
 3 don't have time to look at those. I think that the essence
 4 of it we have captured. Lastly I'd like you to look at
 5 page 23, paragraph 8.1.3.
 6 COMMISSIONER HEMRAJ: Mr Tip, I'm sorry
 7 to interrupt you. I just want to clarify something with
 8 the witness. Mr Blou, incident, would that cover anything
 9 that's out of the ordinary in any giving day? The word
 10 "incident," what would in your estimate qualify as an
 11 incident?
 12 MR BLOU: Mr Chairman, to me an incident
 13 is something that has occurred. For example it is, let's
 14 talk about if there's a murder; that is an incident.
 15 During the event, I referred earlier to an event, during a
 16 strike event there could be one incident that is a murder.
 17 That is how I define incident. That's how we normally know
 18 them as.
 19 COMMISSIONER HEMRAJ: Well, that's quite
 20 serious, murder. On a lower scale what would qualify as an
 21 incident?
 22 MR BLOU: Mr Chairman, for example there
 23 - let's talk about the strike as was happening during the
 24 time. There's a strike and somebody was able to, maybe to
 25 come to the JOC when they are not authorised to come to the

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1 JOC, that is an incident.
 2 COMMISSIONER HEMRAJ: Threats would
 3 qualify as an incident?
 4 MR BLOU: Yes, Mr Chairman.
 5 COMMISSIONER HEMRAJ: Throwing stones –
 6 MR BLOU: Correct.
 7 COMMISSIONER HEMRAJ: - would qualify.
 8 MR BLOU: Intimidation –
 9 CHAIRPERSON: Intimidation of any kind.
 10 MR BLOU: Intimidation.
 11 CHAIRPERSON: Violence of any kind.
 12 MR BLOU: That is correct.
 13 CHAIRPERSON: Action taken by Lonmin
 14 staff to deal with situations like that, like firing rubber
 15 bullets and doing other things of that sort?
 16 MR BLOU: That is correct.
 17 COMMISSIONER HEMRAJ: Unplanned march?
 18 An unplanned march of workers, would that qualify as an
 19 incident?
 20 MR BLOU: That is correct.
 21 COMMISSIONER HEMRAJ: Yes, thank you, Mr
 22 Blou.
 23 MR BLOU: Yes.
 24 COMMISSIONER HEMRAJ: I'm sorry to
 25 interrupt you, Mr Tip.

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1 MR TIP SC: Thank you, Commissioner.
 2 Just following on that, Mr Blou, it presents an important
 3 question. You've given some examples of incidents as being
 4 particular events that may be out of the ordinary, but
 5 specific and isolated.
 6 MR BLOU: Yes, Mr Chair.
 7 MR TIP SC: What my understanding is of
 8 this document in the context of the events of 10, 11 and 12
 9 August 2012 is that under your leadership according to this
 10 document a JOC was set up with effect from the 9th of
 11 August. It became more fully established on the afternoon
 12 of the 10th of August.
 13 MR BLOU: Yes, Mr Chair.
 14 MR TIP SC: Now that JOC was to serve an
 15 ongoing purpose, was it not –
 16 MR BLOU: Yes –
 17 MR TIP SC: - of coordinating all
 18 information, strategic and management and deployment
 19 decisions throughout the course of the industrial action
 20 for so long as it might last.
 21 MR BLOU: Correct, Mr Chair.
 22 MR TIP SC: So it's not as though a JOC
 23 gets set up because there has been an assault and a
 24 different JOC for a different assault. This is one single
 25 central location where decision-making is to be done.

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1 MR BLOU: Correct, Mr Chair.
 2 MR TIP SC: Alright, then we've got up on
 3 the screen, Mr Blou, managing the situation. Under
 4 "General" I just want to look at paragraph 8.1.3, "All
 5 situations must be closely monitored in order to determine
 6 the mood of the people" - and I underline notionally the
 7 word "mood" – "taking part in the industrial action in
 8 order to predict" – and I underline that notion – "possibly
 9 influences, consequences which may lead to business
 10 interruption or disruptions, intimidation, injury to
 11 people, damage to property via sabotage, or disruption of
 12 external services."
 13 MR BLOU: Yes, Mr Chair.
 14 MR TIP SC: Now that's a fair assembly of
 15 possible consequences, but what is critical here, it seems
 16 to me, Mr Blou, and I'd like your comment on this, is that
 17 the mood of the people taking part in the action is a vital
 18 tool in order for the security leadership to be able to
 19 predict possible influences or consequences, correct?
 20 MR BLOU: Correct, Mr Chair.
 21 MR TIP SC: And you agree with the
 22 importance of that provision?
 23 MR BLOU: Indeed, Mr Chair.
 24 MR TIP SC: Now I'm going to use that as
 25 a bit of a departure point or a launch pad to look at the

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1 situation that you had on the 10th of August at the LPD
 2 offices –
 3 CHAIRPERSON: Before you do that, Mr
 4 Tip –
 5 MR TIP SC: Yes.
 6 CHAIRPERSON: - may I ask a question of
 7 the witness? I'm sorry to interrupt you, but I think it
 8 precedes the point you're now dealing with. In 8.1.1 it's
 9 said, "Liaisons must immediately commence to establish a
 10 workable solution" –
 11 MR BLOU: Yes.
 12 CHAIRPERSON: - "in order to address the
 13 reason for the industrial actions/community unrest
 14 situations."
 15 MR BLOU: Correct, Mr Chair.
 16 CHAIRPERSON: Now what exactly is meant
 17 by liaisons?
 18 MR BLOU: It is that the responsible
 19 people, like Human Resources, Employee Relations, they must
 20 already engage with those that are starting with the
 21 community unrest or the industrial action, and the reason
 22 for that is to where possible avert the strike or the
 23 community unrest.
 24 CHAIRPERSON: The liaison then would
 25 involve employees of Lonmin on the one hand and possibly

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1 strikers or unions or –
 2 MR BLOU: Or community leaders.
 3 CHAIRPERSON: - or community leaders on
 4 the other hand. Is that right?
 5 MR BLOU: Yes, Mr Chair.
 6 CHAIRPERSON: Could it also include the
 7 police? I see the main reason for the commencement, as
 8 it's put, of the liaison is to establish a workable
 9 solution in order to address the reason, so the purpose of
 10 a liaison is basically to find the reason, is it, and then
 11 to find a solution to the reason –
 12 MR BLOU: Yes.
 13 CHAIRPERSON: - for the problem that's
 14 arising.
 15 MR BLOU: Yes, Mr Chair.
 16 CHAIRPERSON: Thank you.
 17 COMMISSIONER HEMRAJ: And what would be
 18 the situation in an unplanned strike, something that
 19 occurs, what I'm saying [inaudible] would that include the
 20 strikers being part of the liaison?
 21 MR BLOU: Commissioner, where possible
 22 the people, if for example your example of strikers, it
 23 would be them or their leadership, that liaison should
 24 happen with them under the security auspices.
 25 COMMISSIONER HEMRAJ: Yes, and the

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1 initiative for the liaison would be taken by your office?
 2 MR BLOU: Yes. If I may qualify?
 3 COMMISSIONER HEMRAJ: Yes, please.
 4 MR BLOU: The, because at that point in
 5 time security are at the forefront of what's happening, so
 6 we would try and determine what is the issue, what's
 7 happening, even before we involve the SAPS and the Human
 8 Resources people, yes.
 9 COMMISSIONER HEMRAJ: Thank you, Mr Blou.
 10 MR BLOU: Thank you, Madam.
 11 MR TIP SC: Mr Blou, an important moment
 12 in all these developments was of course the march to LPD on
 13 10th of August and the mood of the strikers at that stage,
 14 and there are observations that have been made by you in
 15 your statement, also by Mr Sinclair in his statement – I'm
 16 going to come to them in a moment, but I want to put to you
 17 the general proposition that in a situation of industrial
 18 action of that kind when one thinks about mood, mood is not
 19 an absolute, it is a relative –
 20 MR BLOU: Relative –
 21 MR TIP SC: - concept, is it not?
 22 MR BLOU: Correct, Mr Chair.
 23 MR TIP SC: And it's important in order
 24 to properly assess the character of a mood of a large
 25 number of people at a time such as 10 August to have regard

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1 to previous perspectives that need to be taken into account
 2 in order to inform a proper assessment of the mood. Would
 3 that be right?
 4 MR BLOU: That would be correct, hundred
 5 percent.
 6 MR TIP SC: Yes, now I just want to run
 7 through half a dozen or so perspectives of that kind, which
 8 I intend to do very briefly. First of all that with your
 9 quite extensive experience in different mining
 10 environments, and also of course in your responsibility as
 11 the manager of security I take it that you've had a fair
 12 amount of experience of industrial action and that you also
 13 remain informed about trends in the country as a whole in
 14 respect of the character of industrial action?
 15 MR BLOU: Indeed, Mr Chair.
 16 MR TIP SC: And I think it's probably a
 17 commonplace observation that unfortunately in the course of
 18 say the last 10 years or so industrial action in South
 19 Africa has very often been accompanied by quite high levels
 20 of violence. Is that correct?
 21 MR BLOU: That's been noted, yes.
 22 MR TIP SC: And equally important to note
 23 that a good deal of that violence is directed towards those
 24 who do not participate in the strike.
 25 MR BLOU: Indeed.

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1 MR TIP SC: In other words people who are
 2 regarded as scabs.
 3 MR BLOU: Yes.
 4 MR TIP SC: Sell-outs. Correct?
 5 MR BLOU: Yes, correct.
 6 MR TIP SC: And that's a serious
 7 consideration, is it not, in looking at industrial action
 8 which may be looming or may be underway?
 9 MR BLOU: It is a serious –
 10 MR TIP SC: Then closer to home perhaps
 11 also there were the events earlier in 2012, quite extensive
 12 in time and quite intensive in their character, at Impala,
 13 which is of course very close to you at Lonmin.
 14 MR BLOU: Yes.
 15 MR TIP SC: And I just want to put up
 16 XX1. It is statements by Mr Gcilitshana, who's given
 17 evidence here. He was at the time the chief negotiator for
 18 NUM at Lonmin. I don't know whether you came across him at
 19 all.
 20 MR BLOU: Across him, Mr Chair, as a
 21 person?
 22 MR TIP SC: As a person.
 23 MR BLOU: Yes, I have.
 24 MR TIP SC: You have, alright.
 25 MR BLOU: I have, yes.

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1 MR TIP SC: Let us go to paragraph 7, and
 2 Mr Blou, I'm going to run through these paragraphs because
 3 it may be thought of as a convenient shorthand way of –
 4 CHAIRPERSON: How long is this process
 5 going to take? The reason I ask the question is it's just
 6 before half past 10 –
 7 MR TIP SC: Yes.
 8 CHAIRPERSON: - and I was proposing to
 9 take the first comfort break now, so if this is going to be
 10 a short process we can take it after you've done it,
 11 alternatively it might be appropriate to take it now. I'm
 12 in your hands. It's your cross-examination; you tell me.
 13 MR TIP SC: Chair, I have as I said
 14 approximately half a dozen topics. It would flow better if
 15 they're all done in one, so this would be a convenient
 16 time.
 17 CHAIRPERSON: Alright, let me ask the
 18 witness one question before we go, actually go back a step
 19 from where you are now. You referred to the need to assess
 20 the mood of the workers.
 21 MR BLOU: Yes, Mr Chair.
 22 CHAIRPERSON: I take it that includes
 23 such things as a change of mood?
 24 MR BLOU: Correct, Mr Chair.
 25 CHAIRPERSON: Now we know that on the

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1 Friday the 10th –
 2 MR BLOU: Yes.
 3 CHAIRPERSON: - they came, they wanted to
 4 present demands. We're presumably going to have some
 5 evidence, we already had some evidence already about what
 6 happened.
 7 MR BLOU: Yes.
 8 CHAIRPERSON: Now what you say in your
 9 statement, the first one that we've referred to, which is
 10 RRRR1.1, what you say on page 6 of that statement,
 11 paragraph 20, is what happened when the crowd dispersed.
 12 MR BLOU: Yes.
 13 CHAIRPERSON: And I don't think that
 14 should be put on the screen. "As the crowd was
 15 dispersing," you say, "threats from various people in the
 16 crowd were uttered" -
 17 MR BLOU: Correct.
 18 CHAIRPERSON: - "with suggestions that
 19 this was not the end of the issue and something would
 20 happen further."
 21 MR BLOU: Yes, Mr Chair.
 22 CHAIRPERSON: And then you go on to say,
 23 "I cannot point to any specific individuals who uttered
 24 such threats, but they were voices from the crowd with a
 25 level of verbal aggression which I'd not previously

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1 experienced at the mine."
 2 MR BLOU: Yes, indeed.
 3 CHAIRPERSON: "Words to the effect that
 4 management would have to deal with the consequences and
 5 would be responsible for what was to happen were uttered."
 6 MR BLOU: Correct.
 7 CHAIRPERSON: So there was clearly a
 8 significant change of mood.
 9 MR BLOU: Indeed.
 10 CHAIRPERSON: Which required an
 11 appropriate response from Lonmin.
 12 MR BLOU: Correct.
 13 CHAIRPERSON: Ja, thank you. We'll take
 14 the first comfort break, adjournment now.
 15 [COMMISSION ADJOURNS COMMISSION RESUMES]
 16 [10:54] CHAIRPERSON: The Commission resumes. Mr
 17 Blou, you are still under oath. Mr Tip?
 18 MR TIP SC: Thank you, Chair. If we
 19 could get XX1 on the screen please. Mr Blou, I am taking
 20 you just to a few paragraphs from the statement of
 21 Gcilitshana which he's dealt with in his evidence, just to
 22 sketch out in very, very brief terms, the sorts of things
 23 that were happening at Impala, and then to ask you whether
 24 you were aware of that sort of thing, and how it was
 25 brought on board, as it were, as a factor for you to bear

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1 in mind in respect of events at Lonmin.
 2 MR BLOU: Yes, Mr Chair.
 3 MR TIP SC: Thank you. Alright,
 4 paragraph 7 of this, Mr Gcilitshana has mentioned that
 5 there's a collective agreement which has been entered into.
 6 Then he says, "notwithstanding this agreement, on or about
 7 18 December 2011, Impala unilaterally granted an additional
 8 wage increase effective from January 2012, to one category
 9 of its workers being miners. No similar increase was
 10 afforded to any other categories of workers in respect of
 11 whom the wage agreement applied." Did you, roughly
 12 speaking, have an awareness of that having taken place at
 13 Impala?
 14 MR BLOU: Mr Chairman, no.
 15 MR TIP SC: Not? Alright. Then
 16 paragraph 8, "As at January 2012, the RDOs at Impala had
 17 become aggrieved by the company's decision," in other words
 18 this unilateral –
 19 MR BLOU: Yes.
 20 MR TIP SC: - increase to certain
 21 workers, "they too fell within the bargaining unit and the
 22 two year wage agreement applied to as much to the miners as
 23 it did to them. They embarked on an unprotected strike in
 24 support of a demand for a R9 000 basic wage." Were you
 25 aware of that development?

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1 MR BLOU: I was aware of the strike, but
 2 I wasn't aware of the demand, Mr Chair.
 3 MR TIP SC: Alright. Then, paragraph 9,
 4 and this is really the crux of it, as far as you are
 5 concerned, "The strike by the RDOs was characterised by
 6 high levels of violence and intimidation, much of which was
 7 directed at NUM and its members, to the point where the NUM
 8 branch offices were forcibly closed and its branch
 9 leadership had to be removed from the mine for fear of
 10 their safety. In excess of 60 people sustained injuries
 11 during these incidents, and four people lost their lives."
 12 Now you were aware of that sort of thing having taken place
 13 at Impala?
 14 MR BLOU: Mr Chair, I was aware of the
 15 violence that unfolded, but as for example, to the number
 16 of 60 and 4, I wasn't totally aware.
 17 MR TIP SC: Alright, that's fine, but you
 18 were aware that there were very serious levels of violence
 19 at Impala. It's your neighbour, really -
 20 MR BLOU: Indeed.
 21 MR TIP SC: - isn't it?
 22 MR BLOU: Indeed I was aware.
 23 MR TIP SC: And I think that there would
 24 have been some communication between the various security
 25 departments at Impala, Anglo Plats, Lonmin, during that

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1 period.
 2 MR BLOU: It was largely driven by our
 3 human resources people.
 4 MR TIP SC: I see.
 5 MR BLOU: Yes.
 6 MR TIP SC: Alright, and let me just ask
 7 you this, Mr Blou –
 8 CHAIRPERSON: You said largely driven by
 9 human resources people, I understand that. Largely implies
 10 that other people were involved as well. From a security
 11 point of view, did you people contact or communicate with,
 12 or have talks with the security people at Impala, just to
 13 find out what had happened, to get a sort of sense of what
 14 might well happen at Lonmin?
 15 MR BLOU: I personally had lots of
 16 conversations with people at Amplats, at Anglo Platinum,
 17 who would be telling me what was going on at Impala. I
 18 wasn't really in conversation with Impala.
 19 CHAIRPERSON: But you know from,
 20 indirectly as it were, from the Amplats security people
 21 what was happening on the security front at Impala.
 22 MR BLOU: Correct.
 23 COMMISSIONER HEMRAJ: And when you say
 24 you didn't know about the 60 and the 4, does that mean that
 25 you did know that there were some persons who sustained

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1 injuries and lost their lives, but you didn't know the
 2 exact number?
 3 MR BLOU: 100% Commissioner.
 4 COMMISSIONER HEMRAJ: Thank you.
 5 MR TIP SC: Thank you, Chair, thank you
 6 Commissioner. Mr Blou, then in order to move on, if we
 7 could get DDDD2, I am just jumping onto another point which
 8 was at Lonmin, and that concerned the death of Mr Dulane,
 9 DDDD2, thank you. There is, if we go to – yes, well,
 10 there's – this is the, this is part of the ICAM report.
 11 You'll see the incident, one Saturday 21 April 2012 at
 12 05:30 and it's simply noted there that "a Lonmin team
 13 leader, Mr Simlau Tala Dulane subsequently died in hospital
 14 when he was brutally assaulted by unknown employees when he
 15 and his two colleagues were on their way to work." Now, I
 16 am not dealing, this Commission is not dealing with the
 17 death of Mr Dulane, so it's not the facts of it, but I take
 18 it that you were aware of this incident and that that was
 19 at least what security personnel at Lonmin understood had
 20 happened.
 21 MR BLOU: Mr Chair, could I please
 22 request that maybe the late Mr Dulane as indicated there,
 23 do we know where the incident took place? The reason for
 24 that, I don't want to now say I know about it, but if I
 25 know where it happened, I will definitely -

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1 MR TIP SC: Yes, if I recall correctly,
 2 it was at Karee Shaft number 3. I may be mistaken but –
 3 MR BLOU: Oh, let –
 4 CHAIRPERSON: Probably because there was
 5 industrial action at Karee at the time, was there not?
 6 April 2012.
 7 MR BLOU: Yes.
 8 CHAIRPERSON: Was that when there was
 9 industrial action at Karee?
 10 MR BLOU: When there were leading
 11 indicators to an industrial action, yes.
 12 CHAIRPERSON: Alright. And what we see
 13 from this ICAM report is that he and two of his colleagues
 14 were on their way to work –
 15 MR BLOU: Yes.
 16 CHAIRPERSON: - when they were assaulted.
 17 So the indications are it was some kind of attempt, I would
 18 think, to enforce an unprotected strike by violence.
 19 MR BLOU: Yes. Mr Chairman, thank you,
 20 it – like I said, if it is the incident that had taken
 21 place in and around April, along the Karee Mine then I know
 22 definitely about it, I know.
 23 CHAIRPERSON: I am glad you use the word
 24 “incident,” because that indicates that there would have
 25 been a debriefing, which would have been, I take it, would

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1 have been minuted, the whole matter would have been
 2 investigated, as we've seen from the document we looked at
 3 earlier.
 4 MR BLOU: Yes.
 5 CHAIRPERSON: So if necessary, I don't
 6 know if it is necessary, Mr Tip will tell us, but if
 7 necessary, those documents could be obtained and we could
 8 get all the details we require, certainly the details that
 9 were available to Lonmin at the time, that's correct, is
 10 it?
 11 MR BLOU: Yes, Mr Chair.
 12 MR TIP SC: Yes, Chair, there is in fact
 13 a dedicated portion of the ICAM report that deals with this
 14 particular incident and has time lines, but in the
 15 interests of being parsimonious about time –
 16 CHAIRPERSON: There are ICAM reports
 17 before us.
 18 MR TIP SC: There are the ICAM reports,
 19 yes. But Mr Blou, the reason why I've drawn your attention
 20 to this is the following, and I am going to put something
 21 to you, but in order to further assist your recollection,
 22 there has been evidence about this incident from, by Mr Da
 23 Costa here in the Commission, and he placed this in the
 24 context of unhappiness about the fact that certain workers
 25 at Karee wanted the Schoon tier shift system and the

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1 working in arrangements not to happen.
 2 MR BLOU: 100%. I know about that.
 3 MR TIP SC: You recall that?
 4 MR BLOU: Yes.
 5 MR TIP SC: And Mr Dulane and evidently
 6 his colleagues –
 7 MR BLOU: Yes.
 8 MR TIP SC: - were on their way to work
 9 those shifts. Now the reason why I've included it in this
 10 brief review of previous events, is that – is to ask you
 11 whether this kind of incident, was of concern to you as the
 12 security manager in the particular sense that it conveyed a
 13 message that the potential was there that when there were
 14 persons who were involved in some of industrial action,
 15 then they might take action against those who wanted to
 16 work, to the extent where there could be a death? Was that
 17 noted in those terms by you, particularly?
 18 MR BLOU: Mr Chairman, correct, it was of
 19 some serious concern that somebody lost their lives during
 20 incidents where they were going to work, yes indeed.
 21 MR TIP SC: Yes, now the loss of life of
 22 course is a great concern but I am particularly interested
 23 in what you as security manager, what you were logging as
 24 it were in your sense of what the environment was as it
 25 developed over the months that you had to manage.

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1 MR BLOU: Yes.
 2 MR TIP SC: And it's the particular
 3 perspective that you had here a demonstration that in an
 4 industrial action context the reaction of those who did not
 5 want people to work, could be violent and could in fact
 6 result in death. That's the important part of it. Do you
 7 appreciate that?
 8 MR BLOU: Correct, Mr Chair.
 9 MR TIP SC: And was that something that
 10 you took on board in your sense of what the environment
 11 was?
 12 MR BLOU: Indeed, that is correct.
 13 MR TIP SC: Thank you. And then, we can
 14 just, I'll just mention it, we don't need to go to the
 15 screen with this, on the 12th of June 2012, you were
 16 doubtless aware that there was a very large meeting of some
 17 3 000 employees at I think, Karee, which dealt with AMCU
 18 shop stewards and the fact that there were disputes about
 19 certain of the persons who had been dismissed as a result
 20 of the strikes in 2011. Were you aware of that? If
 21 necessary, we can put up a report, would it help you to jog
 22 your memory?
 23 MR BLOU: Mr Chairman, yes, I was aware
 24 of the gathering of 3 000 people at the Wonderkop on that
 25 day.

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1 MR TIP SC: Yes.

2 MR BLOU: Yes.

3 MR TIP SC: Alright, and well, that's

4 good. And again, what I – I just want to put to you an

5 aspect of that because one of the topics that was dealt

6 with at that meeting, concerned as I've indicated the fact

7 that there were ongoing disputes pending in relation to

8 attempts to reinstate some of those who had been dismissed

9 in 2011 by Lonmin.

10 MR BLOU: That is correct.

11 MR TIP SC: And the significance of that

12 is that the dismissals followed upon NUM having disbanded

13 the branch committee at Karee.

14 MR BLOU: Absolutely.

15 MR TIP SC: And what I again just wanted

16 to check with you was whether as you reflected on a meeting

17 of that kind and its content, whether you would say to

18 yourself well, there's the potential at least of a feeling

19 of anti-NUM sentiment in these sorts of gatherings, and

20 they are large.

21 MR BLOU: Mr Chairman, indeed I was aware

22 of the anti-NUM sentiment. We had received such

23 information, and hence I said earlier I was aware of a

24 gathering of some 3 000 people. However, at that point in

25 time, it did not transpire that it was AMCU. At that point

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1 in time to us the people kept referring to themselves as

2 worker representatives or worker committees to that effect.

3 So the anti-NUM sentiment yes, Mr Chairman, I was aware of.

4 MR TIP SC: Alright. It's not that

5 critical that it's AMCU, but I think just for the sake of

6 the record, let's just put up a memorandum, it will help

7 you as I said, which is ICAM file 1, tab 22, page 27.

8 CHAIRPERSON: RRRR2.3.

9 MR TIP SC: RRRR2.3, thank you, Chair.

10 No, it's not that one. Page 27 of that bundle. That's it,

11 yes, thank you. You will see there that that is – that's a

12 security memorandum, it's addressed to Graham Sinclair.

13 It's copied to you as manager of mining security from Chris

14 Tembe, 12 June. "Security brief. Karee AMCU mass meeting

15 on 12 June 2012. Attendance 3 000 employees. Venue Karee

16 Soccer Ground." And the issues, if you just go into the

17 table part of it, "issues, introduction of shaft stewards."

18 Those were the AMCU shaft stewards who were presented, and

19 then the second item if you look at the left-hand column,

20 "reinstatement of former Karee 132 employees with CCMA

21 outstanding cases, and by whom, ongoing discussion between

22 AMCU and Karee management." And then new branch committees

23 of AMCU were introduced. So, as I say, it's not critical

24 that this is AMCU –

25 MR BLOU: Thank you.

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1 MR TIP SC: - but what is important for

2 me for the moment, is simply that the reinstatement issue

3 had arisen in the context of action that NUM had taken.

4 MR BLOU: Indeed.

5 MR TIP SC: And that gave rise in your

6 mind also to something to be logged as the existence of

7 anti-NUM sentiment.

8 MR BLOU: Correct.

9 MR TIP SC: Nothing emerged from the

10 meeting itself, but it was something to bear in mind.

11 MR BLOU: Correct.

12 MR TIP SC: Thank you. Then the next

13 important development that we have, I think, because it

14 really leads directly into the mass march of 10 August, was

15 the approach to Mr Da Costa by RDOs, and I think that this

16 is what you might have had in mind a few minutes ago.

17 MR BLOU: Yes.

18 MR TIP SC: These were persons who

19 expressly disavowed any affiliation with unions.

20 MR BLOU: Yes.

21 MR TIP SC: And that was on 21 June, and

22 that is when the demand for R12 500 was presented.

23 MR BLOU: That is correct.

24 MR TIP SC: Now, we've already got

25 evidence about all the interaction and I am not going to

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1 spend any time on that, but what is important, is that in

2 the course of the exchanges between Mr Da Costa and these

3 RDO representatives, there came a point when Exco of Lonmin

4 decided that they would make ex-gratia payments as it were,

5 just to RDOs –

6 MR BLOU: Yes.

7 MR TIP SC: Are you familiar with that?

8 MR BLOU: Yes.

9 MR TIP SC: And then the body of RDOs and

10 employees generally as at 23 July 2012, they became very

11 unhappy. That was the outcome of their approach.

12 MR BLOU: Correct.

13 MR TIP SC: And we are now very close of

14 course to the events of August.

15 MR BLOU: Correct.

16 MR TIP SC: Now that Mr Da Costa has

17 described to us, and the particular point that I want to

18 extract from that, is that he has told us that the mood of

19 the people that he was dealing with, and there were a few

20 marches of large groups, not as large as the one on 10

21 August, but –

22 MR BLOU: Yes.

23 MR TIP SC: - a few hundred RDOs. You

24 are familiar with that?

25 MR BLOU: Familiar, yes.

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1 MR TIP SC: - officers. That the mood
 2 had changed from one of being respectful and quite engaging
 3 when they first came, to being – there was a tone of
 4 aggression, he said, come 23 July, so much so that he
 5 requested Lonmin Security to go onto high alert. Do you
 6 recall that?
 7 MR BLOU: I wouldn't specifically recall
 8 how Mr Da Costa would have judged and surmised the mood of
 9 the employees at that stage but I would definitely know how
 10 the mood, as I perceived it to be, at some points during
 11 the events leading up to the events in Marikana, or the
 12 events in Marikana themselves –
 13 MR TIP SC: Yes.
 14 MR BLOU: - Chairperson.
 15 MR TIP SC: That's fine, we are going to
 16 come to that, we are going to have just follow up on the
 17 Chair's questions to you before the break on the mood at
 18 that stage. I just wanted to know whether, when Mr Da
 19 Costa told us that he had made the request that security go
 20 onto high alert, as at 23 or 24 July, whether you were
 21 aware of that and that there was from a management
 22 perspective, at least a need for – in consequence of this
 23 interaction with the RDOs, a need for a higher level of
 24 alertness and vigilance in the security establishment.
 25 Were you aware of that?

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1 MR BLOU: Mr Chairman, I am aware.
 2 Security was monitoring whatever gathering and whatever
 3 march was taking place at that point in time.
 4 MR TIP SC: Alright, well, let's get on
 5 to the events of August. Very briefly, you would have been
 6 aware, I suppose, that on 8 August 2012, there was a NUM
 7 mass meeting at Lonmin?
 8 MR BLOU: That is correct.
 9 MR TIP SC: And that there was already at
 10 that stage, there were clear indications that there was a
 11 prospect of industrial action, strike action and that NUM
 12 at that meeting had spoken against participation in that
 13 strike action?
 14 MR BLOU: Absolutely.
 15 MR TIP SC: And had urged employees to
 16 continue to go to work?
 17 MR BLOU: Absolutely.
 18 [11:14] MR TIP SC: And once again I just want to
 19 ask you this, whether in the particular category of concern
 20 about sentiment between different groupings of employees,
 21 whether you as an experienced security person would have
 22 thought well, for NUM to have said we're opposed to the
 23 strike action might promote some anti-NUM sentiment amongst
 24 those who were intending to embark on the strike action?
 25 MR BLOU: Yes, that was noted by myself,

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1 yes.
 2 MR TIP SC: So you appreciated that?
 3 MR BLOU: Yes.
 4 MR TIP SC: Alright, then let us get,
 5 after that review of some of the background material I'd
 6 like to get back to the 10th of August circumstance, and –
 7 COMMISSIONER HEMRAJ: I'm sorry to
 8 interrupt you. May I just get clarity, red alert or high
 9 alert, would that encompass something more than just the
 10 monitoring of the march?
 11 MR BLOU: Commissioner, red alert would,
 12 for security it would be monitoring it. It would be
 13 setting up the JOC that has – maybe let me just go a step
 14 backwards, if you'll allow me. We're on green alert if
 15 there's no strike or no community unrest. Then when we see
 16 that tensions are building up we activate our JOC and that
 17 is now on red alert where we have got people stationed
 18 there on a 24-hour, 24/7 basis with operators monitoring
 19 surveillance as it were. Red alert would then mean that
 20 for example you are now going to have regular meetings with
 21 the management team who will be coming down sporadically to
 22 the JOC to visit, as well as you will have a manager
 23 manning that JOC, being in charge of that JOC, but security
 24 is just going to monitor the strike in order to protect
 25 Lonmin's property and people.

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1 COMMISSIONER HEMRAJ: Yes, but that's
 2 administrative arrangement. What is done on the ground in
 3 red alert situations?
 4 MR BLOU: Right, Commissioner, we're
 5 going to have our security people being deployed at the
 6 respective areas and where the hotspot is monitoring the
 7 activities. If there's a march, if there's a gathering
 8 that's taking place, we want to monitor that.
 9 COMMISSIONER HEMRAJ: Do you bring in
 10 extra security personnel?
 11 MR BLOU: We do bring them. We do bring
 12 private security persons for example, or reinforcements
 13 from other security divisions within Lonmin.
 14 COMMISSIONER HEMRAJ: And whose decision
 15 is that to do so?
 16 MR BLOU: That is my decision to my up-
 17 line report.
 18 COMMISSIONER HEMRAJ: Which is Mr
 19 Sinclair?
 20 MR BLOU: Which is Mr Sinclair.
 21 COMMISSIONER HEMRAJ: Yes, thank you, Mr
 22 Blou.
 23 MR BLOU: Thank you.
 24 MR TIP SC: On the 10th of August, Mr
 25 Blou, a very large march assembled at Wonderkop and made

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1 its way to LPD and that was all known and monitored.
 2 MR BLOU: Yes.
 3 MR TIP SC: Along the way there were two
 4 occasions when roadblocks were put up.
 5 MR BLOU: That's correct.
 6 MR TIP SC: Involving Lonmin Security and
 7 also SAPS. I think the one was at Rowland Crossing, the
 8 other was at the four-way crossing nearer to LPD.
 9 MR BLOU: Excellent.
 10 MR TIP SC: And although management had
 11 issued an instruction to security that this should not get
 12 to the office, that there should be a roadblock –
 13 MR BLOU: Yes.
 14 MR TIP SC: - the marchers in fact then
 15 simply pushed their way past those roadblocks.
 16 MR BLOU: That is correct, Mr Chair.
 17 MR TIP SC: Did that ring any alarm bells
 18 with you in terms of the mood of those marchers?
 19 MR BLOU: Mr Chair, at that point in time
 20 no. Our assessment was that this was consistent with
 21 previous marches, with previous gatherings, as a security
 22 team.
 23 MR TIP SC: Alright, so that didn't
 24 concern you, but once the marchers, or the strikers - they
 25 were by then already on strike – had assembled and had been

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1 engaged by Mr Sinclair particularly on behalf of
 2 management –
 3 MR BLOU: Yes.
 4 MR TIP SC: - and had advised these
 5 strikers that their demands would not be entertained, not
 6 in that way.
 7 MR BLOU: Yes.
 8 MR TIP SC: There was then great
 9 dissatisfaction by them, on their part.
 10 MR BLOU: Hundred percent.
 11 MR TIP SC: And you've already in
 12 response to the Chair been referred to your statement where
 13 you record that you were very concerned about this, that
 14 there was a new tone, a new level of aggression that you
 15 hadn't seen before.
 16 MR BLOU: The game changer, Mr
 17 Chairperson, was at that point.
 18 MR TIP SC: Yes.
 19 MR BLOU: After the conversations with
 20 security, yes.
 21 MR TIP SC: Yes, alright, and because you
 22 and Mr Sinclair were between the two of you the highest
 23 positions in the security establishment, I just want to go
 24 to his earlier statement, Chair, which is RRRR2.1. There
 25 are few differences, Chair, between the one that was

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1 ultimately filed, not very many but the paragraph I'm going
 2 to go to is one such difference. It is present in the
 3 first statement, but not in the second, not in the same
 4 terms.
 5 CHAIRPERSON: Which paragraphs are you
 6 referring to?
 7 MR TIP SC: Paragraphs 31 and 32. Right,
 8 31, this is after the exchanges that I've spoken to you
 9 about, Mr Blou. "Thereafter the crowd dispersed and
 10 intimated that management would have to take the
 11 consequences and would be responsible for what was to
 12 happen." 32, "The levels of aggression and number of
 13 workers involved were unusual and very disturbing. I
 14 realised that people were joining the crowd from Karee and
 15 from other mines." So those are the words of Mr Sinclair
 16 and they convey a fairly alarming sense of the mood at that
 17 point. You agree?
 18 MR BLOU: At that point being at LPD, Mr
 19 Chair.
 20 MR TIP SC: At LPD.
 21 MR BLOU: Yes, I agree with that.
 22 MR TIP SC: At the moment that –
 23 MR BLOU: I agree with that.
 24 MR TIP SC: - that the marchers were
 25 about to return to Wonderkop and disperse –

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1 MR BLOU: To disperse, I agree with that,
 2 yes, but –
 3 CHAIRPERSON: High alert or red alert?
 4 He says he realised, well "The levels of aggression and the
 5 number of workers involved were unusual and every
 6 disturbing."
 7 MR BLOU: Yes.
 8 CHAIRPERSON: "People were joining the
 9 crowd from Karee and from other mines."
 10 MR BLOU: Yes.
 11 CHAIRPERSON: Did that lead to high alert
 12 or red alert?
 13 MR BLOU: It was still on orange alert at
 14 that point.
 15 CHAIRPERSON: So that's high alert, I
 16 take it.
 17 MR BLOU: That's high alert –
 18 CHAIRPERSON: High alert is orange and
 19 red alert is above that.
 20 MR BLOU: It's above that, that's
 21 correct.
 22 MR TIP SC: Now this is a very important
 23 moment in the history of what then develops, is it not, Mr
 24 Blou? You have both yourself and Mr Sinclair coming to
 25 this assessment of the mood of the crowd.

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1 MR BLOU: Yes.

2 MR TIP SC: It's an alarming assessment

3 and the important question that flows from it of course is

4 what you, Mr Sinclair and others in the leadership of

5 security did thereafter.

6 MR BLOU: Yes. Mr Chair, what we then

7 did was to ensure that we bring in the extra resources to

8 manage the unfolding events. We started having

9 conversations with private security people, like Protea

10 Coin Security. We engaged with our counterparts at

11 Processing to give us more security so we could manage the

12 strike and we ensured that that evening we are now going to

13 assess the situation further and see whether the people

14 have dispersed completely and that the things that we would

15 be doing henceforth would be commensurate to manage the

16 labour unrest as we saw it.

17 MR TIP SC: Let me take you to paragraph

18 21 of your statement, RRRR1.3. It reads as follows,

19 "Although the crowd had dispersed it had become apparent

20 that internally there was a need for Lonmin to establish an

21 operation centre which combined the efforts of Lonmin

22 Security and the emergency and disaster management. The

23 idea was to centralise all calls and log them in a Lonmin

24 joint central centre which would monitor the developments

25 and coordinate any responses," and then you go on to

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1 something different.

2 MR BLOU: Yes.

3 MR TIP SC: That's all that you have to

4 say about what you did and what you decided, correct?

5 MR BLOU: Correct.

6 MR TIP SC: And if we can have a look at

7 Mr Sinclair's statement, which is FFFF1 – I'm afraid that I

8 don't have a paragraph reference, but if we can just scroll

9 through, but I can just summarise it whilst Craig is having

10 a look for that. Mr Sinclair mentions the dispersal and

11 the next thing that he deals with in his statement are

12 events on the 11th. He has nothing to say at all about any

13 interaction or discussions or decisions immediately after

14 the dispersal of the strikers. Yes, thank you, just go up,

15 go to 10 August. Yes, paragraph 28, "Thereafter the crowd

16 showing displeasure and displaying aggressive behaviour

17 dispersed and intimated that management would have to take

18 the consequences and would be responsible for what was to

19 happen. The behaviour and number of workers involved were

20 unusual and not something I had previously experienced,"

21 and then he goes on to Saturday 11 August. So in his

22 statement, as I said he says nothing about any discussions

23 or decisions.

24 Now I want to raise something general, in general

25 terms with you, but particularly in the context of the

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1 situation that afternoon, the early afternoon of 10 August.

2 MR BLOU: Yes.

3 MR TIP SC: Because what is not apparent

4 from your statement, certainly not apparent from Mr

5 Sinclair's statement, also not apparent from the entries in

6 the log as I read them, is that there was interaction and

7 discussion between you, Mr Sinclair, and the others in the

8 leadership of the security, along the lines of doing the

9 predicting that the procedures memorandum or document

10 requires that you assess in order to predict the

11 consequences, and I want to focus on that.

12 MR BLOU: Ja.

13 MR TIP SC: Prediction seems to me to

14 require that you and your colleagues should have sat there,

15 you should have compared notes; 'I thought that they looked

16 very aggressive, what did you think? I too, I thought it

17 very disturbing. What do we think that they may do next?'

18 MR BLOU: Okay.

19 MR TIP SC: What are they going to do?

20 They've been turned away by management. What are the

21 likely scenarios, and I want to use that word "scenarios"

22 deliberately.

23 MR BLOU: Yes.

24 MR TIP SC: What are the scenarios, and

25 once we identify the possible scenarios we can then make an

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1 assessment of the risk profile relating to those different

2 scenarios and then make an informed assessment of what the

3 security capacity is in respect of them –

4 MR BLOU: Yes.

5 MR TIP SC: - what deployments are

6 possible, whether they would be effective deployments and

7 questions of that sort.

8 MR BLOU: Yes.

9 MR TIP SC: And why I particularly raise

10 that for your consideration, and I'd be glad if you'd

11 comment in a moment, is that I'm going to suggest to you

12 that one of the scenarios that a brainstorming session of

13 that kind would very likely have produced had it taken

14 place in the way that I describe, is that the one scenario

15 would be well they may take action against people who

16 continue to work. They may take action against NUM because

17 NUM has set itself in opposition to our strike.

18 MR BLOU: Yes.

19 MR TIP SC: And anyone who opposes our

20 strike is a problem for the efficacy of our strike, that

21 sort of thing, and that had there been that kind of

22 examination and prediction process –

23 MR BLOU: Yes.

24 MR TIP SC: - then the march to the NUM

25 office on the morning of the following day might not have

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1 been that unexpected. You follow the drift of what I'm
 2 putting to you?
 3 MR BLOU: I follow, yes.
 4 MR TIP SC: Alright, and if you could
 5 give us your comment –
 6 CHAIRPERSON: Before you give us your
 7 comment can I just ask you a further question linked to the
 8 one that you've been asked? Were you in contact in any way
 9 with NUM officials? Did you know that NUM was minded to
 10 escort those who wanted to work to the shafts, to protect
 11 them to enable them in fact to go to shafts? Did you know
 12 that that was what NUM was going to do?
 13 MR BLOU: Mr Chairperson, I did not know
 14 beforehand that NUM had plans to escort them. It became
 15 apparent during that evening and the next morning on
 16 Saturday.
 17 CHAIRPERSON: Yes, so it became apparent
 18 already on the Friday evening?
 19 MR BLOU: Yes.
 20 CHAIRPERSON: I take it, it was also
 21 foreseeable that the strikers wouldn't like that.
 22 MR BLOU: Correct.
 23 CHAIRPERSON: So that would increase the
 24 risk of an attack by them on the NUM office on the Saturday
 25 morning.

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1 MR BLOU: Yes.
 2 CHAIRPERSON: Thank you.
 3 MR TIP SC: Thank you, Chair. Mr Blou,
 4 yes, on that specifically and generally what, why there
 5 does not seem to have been that kind of engagement where
 6 scenarios are identified, evaluated and decisions taken on
 7 that basis, is that something that you can assist us with?
 8 MR BLOU: Mr Chairman, after the strikers
 9 had dispersed we received later in that afternoon
 10 information that they wanted to target employees that are
 11 not participating in their strike. We had posted members
 12 of security on the evening of Friday. I know for a fact,
 13 though I was not there, I was informed that towards the
 14 Rowland Shaft four-way crossing there were members that
 15 were coming from the Wonderkop side walking, because it's
 16 close by and they normally do this, that had been coming to
 17 work and they were being intimidated and that security had
 18 to intervene themselves by protecting these members that
 19 wanted to come to work. I was informed of such an
 20 intervention, that SAPS were also called out.
 21 As to whether NUM themselves were going to escort
 22 people, like I said to Mr Chairman, I didn't know
 23 beforehand. I learned afterwards. The attack on the NUM
 24 offices, were we aware that it was going to be attacking
 25 the NUM offices –

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1 CHAIRPERSON: No, the question isn't
 2 whether you were aware that it was going to happen.
 3 MR BLOU: Yes.
 4 CHAIRPERSON: Whether you were aware that
 5 it was something that might well happen, in other words on
 6 this prediction exercise that Mr Tip spoke to you about was
 7 it considered as something that might well happen?
 8 MR BLOU: Mr Chairman –
 9 CHAIRPERSON: Not necessarily would
 10 happen, but might well happen.
 11 MR BLOU: Yes. We had never experienced
 12 before any attack on specifically for example NUM offices.
 13 Our considerations were that whenever there were strikers
 14 or community people, they would attack Lonmin property and
 15 intimidate people. Therefore our strategy was immediately
 16 to protect our immediate areas in the vicinity and I can
 17 make examples such as the power stations, the Andrew Saffy
 18 Hospital, but there has never been any attempt in
 19 specifically going and attack NUM. But there were
 20 dissatisfaction on NUM even as early as 2011.
 21 CHAIRPERSON: Did you know that the NUM
 22 office had been attacked at Impala? Remember Mr Tip took
 23 you to that –
 24 MR BLOU: Yes.
 25 CHAIRPERSON: And you told us you weren't

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1 directly in contact with your opposite numbers at Impala.
 2 MR BLOU: Ja.
 3 CHAIRPERSON: But you were indirectly via
 4 your opposite numbers at Anglo Plats. You remembers?
 5 MR BLOU: Ja.
 6 CHAIRPERSON: Did you know that the NUM
 7 office had been attacked at Impala by the strikers who were
 8 busy with various striking activities.
 9 [11:34] MR BLOU: Mr Chairman, I did not know at
 10 that point in time. On that Friday afternoon, Friday
 11 evening I had no knowledge, not at all.
 12 CHAIRPERSON: One question I should have
 13 asked you earlier. Did you have this brainstorming session
 14 that Mr Tip refers to that seems to be mandated in the
 15 procedure document that we looked at where you get together
 16 and try to predict what's likely to happen, did you
 17 actually have such a session?
 18 MR BLOU: Correct.
 19 CHAIRPERSON: How long did it last?
 20 MR BLOU: Normally those briefings would
 21 not last for more than an hour and this is where we would
 22 have concentrated on the areas that we knew were likely to
 23 be targeted.
 24 CHAIRPERSON: So did you have one for an
 25 hour on this occasion? Never mind what happened normally.

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1 MR BLOU: Yes.

2 CHAIRPERSON: On the afternoon of the 10th

3 did you have a briefing session for an hour or more?

4 MR BLOU: Or less, an hour or less.

5 CHAIRPERSON: Well what was it, can you

6 tell us? Are there minutes of the briefing session that

7 you had?

8 MR BLOU: Mr Chairman, I'm afraid, as has

9 been shown earlier, our record keeping was not the best at

10 the time.

11 CHAIRPERSON: Does that mean you had a

12 session, you can't tell us how long it lasted and there

13 should have been records kept but there weren't. Is that

14 what you're telling me?

15 MR BLOU: That would be my submission,

16 yes.

17 CHAIRPERSON: Never mind your submission,

18 that's your evidence.

19 MR BLOU: I beg your pardon, my evidence,

20 yes.

21 CHAIRPERSON: Thank you.

22 COMMISSIONER HEMRAJ: Were there any

23 plans and areas of deployment that were put up on your

24 board. Was that stored at all, was that recorded, a plan

25 of action?

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1 MR BLOU: Commissioner, there were

2 discussions as to where we would deploy and if my

3 recollection serves me correctly we knew exactly how many

4 deployments we would have where. And to that, like I said,

5 we would use boards, we would use white boards and surface

6 plans to plot on them where we are going put which

7 resources.

8 COMMISSIONER HEMRAJ: And those would be

9 recorded and stored somewhere.

10 MR BLOU: That is correct.

11 COMMISSIONER HEMRAJ: And they would be

12 available if necessary.

13 MR BLOU: If necessary, that's correct.

14 COMMISSIONER HEMRAJ: Thank you, Mr Blou.

15 MR TIP SC: Mr Blou, I think it would be

16 helpful dealing with this particular topic to get EEEE19.1

17 back on the screen, that's the log.

18 COMMISSIONER HEMRAJ: Yes but before

19 that, Mr Blou, there was a request from NUM for security at

20 a meeting they were having on the late afternoon of the 10th

21 and that request was declined. You say so in paragraph 22

22 of your statement.

23 MR BLOU: May I just go there please,

24 Commissioner? Is that the one involving Larry Dietrich or

25 -

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1 COMMISSIONER HEMRAJ: Yes that's right,

2 Mr Dietrich, yes. It's on page 20 of the bundle that's

3 been given to us.

4 CHAIRPERSON: RRRR1.3, paragraph 22.

5 MR BLOU: Yes, Ms Commissioner?

6 COMMISSIONER HEMRAJ: Were you aware of

7 the refusal of that request?

8 MR BLOU: I only became - if I can just

9 refer to that paragraph if I may. As it states there,

10 Commissioner, that per the email shortly after 7pm there

11 was a decline and this is after the meeting would have

12 taken place at 5pm.

13 CHAIRPERSON: That's what I couldn't

14 understand. They asked you at 4 o'clock for security

15 presence. The meeting was going to be at 5:00 and at 7

16 o'clock Mr Dietrich said your application is declined. I

17 mean what's the good of that? If they're going to have a

18 meeting at 5:00 what's the point of telling them two hours

19 later after the meeting was supposed to take place that

20 their request is declined? I mean that's not a business

21 like way of doing things is it?

22 MR BLOU: Mr Commissioner, I note that,

23 but I really wouldn't know. I see that Mr Dietrich would

24 have responded at 7pm and that is all on email.

25 MR TIP SC: Let us proceed with EEEE19

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1 please. We are looking for 10 August 13:58. Yes that's

2 it, thank you. Mr Blou, you'll see there if you look at

3 the second column, 13:55 the group dismissed from Wonderkop

4 stadium, correct?

5 MR BLOU: I note that.

6 MR TIP SC: So this particular march has

7 come to an end and three minutes later at 13:58 there is

8 the debrief by Mr Sinclair. Now this is one of the

9 meetings that I asked you about because your initials don't

10 appear there and you thought that you hadn't attended it.

11 And it now becomes quite important to be certain whether or

12 not you were there and if you weren't there you should

13 perhaps tell us why you were not there. Because this is

14 now three minutes after the end, it is the moment as I said

15 earlier, where the evaluation, the scenario's

16 identification that talk about what might happen, the

17 contingent planning, etcetera should take place. It would

18 be surprising would it not if you were not present?

19 MR BLOU: Mr Chair, I wish to comment as

20 follows. I'm not really going to be 100% in reminding

21 everything that would have happened at the time. However,

22 there were meetings that were held and either chaired by Mr

23 Sinclair or myself or other members of the security

24 management team. And on a basis of my name not appearing

25 there I take it that I probably would not have attended

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1 this specific meeting. There would be nothing wrong if I
 2 hadn't attended it, it would simply be that I was probably
 3 busy with other tasks.
 4 MR TIP SC: Well that's – I'm just going
 5 to press you a little on that because I want to underline
 6 what I said to you that you're the security manager at
 7 Lonmin. You're the person who is charged with all the
 8 functions in the procedures document that we dealt with
 9 earlier.
 10 MR BLOU: Correct.
 11 MR TIP SC: It's your responsibility in
 12 fact to see to it that there is the process of prediction
 13 and the process of decision and strategy making, etcetera,
 14 is it not?
 15 MR BLOU: Correct.
 16 MR TIP SC: And we are to repeat three
 17 minutes after the group has dispersed, surely it was
 18 incumbent on you to be part of that discussion.
 19 MR BLOU: That is incorrect, Mr Chair.
 20 If we looked, for example, at the procedure it said the
 21 manager, mining security or such appointed person and there
 22 are many instances where if I could not make it myself,
 23 somebody else would be there and in this instance I note
 24 that it was Mr Sinclair. I have mentioned also that there
 25 are many instances that I would probably be busy with other

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1 tasks.
 2 MR TIP SC: All right, well I can't
 3 imagine a more important one than the one that I've
 4 described, but let's look at what is actually noted here in
 5 the log. There's identification of various sections,
 6 presumably with representatives present and then just above
 7 where you see 13:58 there's an entry saying "There was no
 8 good communication between management and workers." Do you
 9 see that?
 10 MR BLOU: I see that yes, Mr Chair.
 11 MR TIP SC: I want to ask you about that,
 12 but let me just interpose a question. You've told us that
 13 one of the purposes of having this log is that you can jog
 14 your recollection or understanding of what took place. You
 15 were at the very next meeting at 15:10, correct?
 16 MR BLOU: Yes, Mr Chair.
 17 MR TIP SC: Just an hour or so later, so
 18 you could have looked at this log to see what had been
 19 discussed previously.
 20 MR BLOU: Yes, Mr Chair.
 21 MR TIP SC: Yes, all right. Mr Blou, I'm
 22 going to ask you about the position of management, but I'm
 23 just going to scroll very quickly down all these items.
 24 You see the next one "Management are not going to tolerate
 25 disruptions. The workers must follow procedure and no work

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1 no pay rule will apply. Those who do not report for duty
 2 will be dismissed. Workers participating in the illegal
 3 march they will all be dismissed." That they will be
 4 dismissed. "Management can't make decisions sitting in the
 5 office, they must allow people on the ground to make
 6 decisions." And I'll come back to that as well and then it
 7 says "Arthur and Ludick to communicate about the access.
 8 SAPS asked if security have information committees and they
 9 were informed that Crime Intelligence was on the ground
 10 gathering information. Security and E and DM are not to
 11 address the media. The media must follow the right
 12 channels. PW to organise the third RU from Protea." What
 13 is an RU incidentally?
 14 MR BLOU: It loosely translates to a hard
 15 skin vehicle. It's a response unit.
 16 MR TIP SC: Response unit, thank you.
 17 "PW the command structure for the weekend" and then
 18 "briefing on the 11th of August at 8:30." Now looking at
 19 all those entries what is on my reading I believe not to be
 20 found there's any indication of a discussion about
 21 scenarios and what the strikers may do and what we need to
 22 plan for and what deployments need to be made, etcetera.
 23 So that it is for me a question that is important but is
 24 nowhere addressed in that record of the discussion. Can
 25 you assist us with that?

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1 MR BLOU: Mr Chairman, I know that I have
 2 said this is a memory jogger, but when you do a log of this
 3 nature you are not going to be recording every action that
 4 you take. For example, where it says PW to organise the
 5 third RU from Protea obviously he's going to have actions
 6 behind the scenes that he will do. And secondly where it
 7 says PW command structure for the weekend, that is an
 8 indication that the deployment for the weekend will be
 9 discussed and that it will be PW who's going to be the
 10 command structure really. I don't know how to put it maybe
 11 in more simpler terms, maybe, Mr Chair, I don't whether you
 12 are following me or not following me. But what I'm trying
 13 to say here I know that for a fact that there are a lot of
 14 things that we did during this time and that are not on
 15 this log sheet.
 16 MR TIP SC: Well I'm not going to recycle
 17 the topic, but I just want to put to you one fairly broadly
 18 phrased proposition which is that to record that PW is to
 19 organise another reaction unit from Protea is a specific
 20 step and that is the sort of thing one would expect to see.
 21 But when one is talking about what is likely to be, the
 22 circumstance that we will need to deal with over the
 23 weekend that should surely have found its way into being
 24 recorded. If I may add without becoming too burdensome
 25 with the length of my question to say well PW as the

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1 command structure is to say well he's going to be the
 2 person who will react to whatever happens. Isn't that the
 3 effect of it?
 4 MR BLOU: I understand, yes.
 5 MR TIP SC: Am I right?
 6 MR BLOU: Yes.
 7 MR TIP SC: And I'm putting to you very,
 8 very specifically that it is a grave shortcoming that PW
 9 Botha, we're talking about, who's a senior security
 10 officer, he's not a manager, that he should be left to make
 11 up his own mind as to what should take place rather than
 12 that the senior management, you and Mr Sinclair and the
 13 others should have worked out what the likely scenarios are
 14 that Mr PW might have to confront and what he should then
 15 do. If any of those eventualities in fact presented
 16 themselves. Would that not have been a more effective way
 17 and in accordance with the requirements of the procedures
 18 document?
 19 MR BLOU: Mr Chairman, let me perhaps
 20 just correct first before responding. Mr PW Botha is not
 21 the senior security officer, he's a security superintendant
 22 and there's a vast difference between the two. And indeed
 23 security superintendants assume a penultimate role before
 24 they can be managers, so from there if they are promoted
 25 they become a manager. They are entrusted with certain

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1 decision making capabilities and that recording in that log
 2 means that he would be the person on the ground for the
 3 weekend supported by the security management team. That is
 4 what is meant by that and really I am noting that not
 5 everything that we would have done would have been put in
 6 the log sheet. Not every decision that we would have taken
 7 would have been put on that log sheet.
 8 COMMISSIONER HEMRAJ: Mr Blou, given your
 9 comments about the numbers being unusually large and the
 10 threats and the unusual mood and behaviour of the crowd
 11 there appears to be no recording of the seriousness of the
 12 situation nor any appreciation of whether bringing in one
 13 hard skin vehicle would be sufficient if there were any
 14 eventualities. There seems to be no recording of that at
 15 all.
 16 MR BLOU: Commissioner, in hindsight I
 17 believe we should have recorded it more specifically to
 18 talk to these issues, but if PW was to bring an additional
 19 hard skin, at the time we had had two and it would have
 20 meant that our mine is divided into three areas, Karee,
 21 Western and Eastern that we would deploy one hard skin per
 22 area. Noting the unusual behaviour when these strikers
 23 dispersed, but we believed at the time the places that
 24 would likely be targeted would have been the Lonmin
 25 infrastructure and the people that would want to report to

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1 work. And our capacity augmented by the additional
 2 resources we would get we believed at the time would be
 3 sufficient to cover all areas. I do note, however, that
 4 those specific discussions were not logged and I say in
 5 hindsight we should have logged those –
 6 CHAIRPERSON: Not only not logged, they
 7 weren't minuted either.
 8 MR BLOU: Weren't minuted.
 9 CHAIRPERSON: And we went through that
 10 before, but it should have happened.
 11 MR BLOU: Yes.
 12 CHAIRPERSON: There's no explanation as
 13 to why it wasn't done.
 14 MR BLOU: Noted, Mr Chair.
 15 CHAIRPERSON: You agree with me there's
 16 no explanation to why that wasn't done.
 17 MR BLOU: I wouldn't know, the only thing
 18 I can think and this is now two years later, I may be so
 19 wrong, but for me is to state to the Commission what I
 20 think would have happened and that perhaps the entries that
 21 were supposed to be made were not made and I cannot tell
 22 for what reasons.
 23 CHAIRPERSON: There's just no
 24 explanation.
 25 MR BLOU: Exactly.

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1 CHAIRPERSON: Isn't that so? It should
 2 have been, it wasn't done, no explanation. All those three
 3 points are correct aren't they?
 4 MR BLOU: It should have been done, it
 5 wasn't done.
 6 CHAIRPERSON: And you don't know why.
 7 MR BLOU: And I don't know why it wasn't
 8 done.
 9 CHAIRPERSON: So there's no explanation.
 10 MR BLOU: Yes.
 11 CHAIRPERSON: Thank you.
 12 COMMISSIONER HEMRAJ: Your comment that
 13 the arrangements were sufficient as at this point in time,
 14 when did that opinion change? When was the first time that
 15 it would be clear to you that these arrangements might not
 16 have been sufficient?
 17 MR BLOU: Commissioner, when we saw the
 18 sort of sustained action and particularly on the Sunday
 19 morning, that is where we realised that we were dealing
 20 with a distant strike
 21 [11:54] which would have been the Sunday the 12th.
 22 MR BLOU: Sunday the 12th, yes.
 23 COMMISSIONER HEMRAJ: Yes, thank you.
 24 MR TIP SC: Mr Blou, we'll have to debate
 25 at some stage why Sunday the 12th is referred to you in that

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1 way when Saturday the 11th was also an event that was
 2 unprecedented, wasn't it, in terms of your security
 3 history?
 4 MR BLOU: Yes, Mr Chair.
 5 MR TIP SC: We'll come to what should
 6 have happened with that.
 7 MR BLOU: Yes.
 8 MR TIP SC: But let us for the moment
 9 just continue with this log whilst we have it on the
 10 screen. The second briefing that is referred to there at
 11 15:10, you can see it all, you were present there certainly
 12 and the only items that are discussed – we don't even need
 13 to look at the details – are three comments about buses.
 14 MR BLOU: Yes.
 15 MR TIP SC: That's all. Otherwise
 16 nothing whatsoever in respect of security arrangements or
 17 deployments.
 18 MR BLOU: Yes.
 19 MR TIP SC: Now if you go down a little
 20 further you will see just as an example at 16:30, this is
 21 now very shortly after the conclusion of that debriefing
 22 there is the first recorded instance of a report concerning
 23 intimidation at Wonderkop, and as it happens it's in the
 24 vicinity of the NUM offices.
 25 MR BLOU: Yes.

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1 MR TIP SC: And as you know - we don't
 2 need to work through them all – there are throughout the
 3 evening and even into the night other records of reports
 4 of intimidation, acts of violence and the like.
 5 MR BLOU: Yes.
 6 MR TIP SC: Correct?
 7 MR BLOU: Yes.
 8 MR TIP SC: As well as, as the
 9 Chairperson raised with you earlier, the very important
 10 fact that there are a number of reports of NUM members and
 11 officials escorting persons to work.
 12 MR BLOU: Yes.
 13 MR TIP SC: And you've already fairly
 14 acknowledged that that was likely to seriously displease
 15 those who were on strike.
 16 MR BLOU: Yes, Mr Chair.
 17 MR TIP SC: They would be angered by it.
 18 MR BLOU: Yes.
 19 MR TIP SC: Now what I want to ask you is
 20 as events of that kind unfold, as reports of that kind
 21 unfold, or come in to the JOC and are recorded, was there a
 22 system for a person such as yourself to be kept up to date
 23 with events like that? Because on the face of it where you
 24 have intimidation, acts of violence, NUM doing escorting
 25 functions, there must surely be an increase in the prospect

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1 of violence.
 2 MR BLOU: Yes.
 3 MR TIP SC: Now would that be reported to
 4 you telephonically? Would somebody get hold of you to say
 5 this is what is happening, what do we do to modify our
 6 situation; do we need specific arrangements in place, or do
 7 you just leave everything on a reactive basis?
 8 MR BLOU: Mr Chair, yes, they were
 9 communicated to myself and I would communicate upwards
 10 through, for example we've mentioned Graeme Sinclair here,
 11 and I know he would also be communicating upwards, but
 12 these events as they unfolded that evening, in my mind and
 13 in our mind at the time they were consistent with events
 14 that had been happening, like at the Karee area where
 15 people were being intimidated for not, or rather for going
 16 to work against the will of the worker committees at the
 17 time, and the strategy we put in place was to deploy
 18 security on the ground, as we have done there on this
 19 particular day. For example we had security deployments
 20 where we knew within that area of Wonderkop, Rowland Shaft
 21 – or let me rather say the Western Platinum Mine, we were
 22 covering that what, to what we believed at the time was
 23 sufficient.
 24 CHAIRPERSON: [Microphone off, inaudible]
 25 to prevent intimidation?

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1 MR BLOU: They were sufficient in our
 2 mind, Mr Chair, to protect the people that work for Lonmin
 3 that want to go to work.
 4 CHAIRPERSON: Yes.
 5 MR BLOU: As well as the property.
 6 CHAIRPERSON: In other words to prevent
 7 intimidation and protect your property.
 8 MR BLOU: Yes.
 9 CHAIRPERSON: And did you get any reports
 10 later as to how, in the course of the Friday evening, early
 11 Saturday morning, as to how successful those attempts to
 12 prevent intimidation had been, whether people were still
 13 intimidated and didn't go to work, or whether everybody who
 14 wanted to go to work was able to do so because there was no
 15 intimidation, or no successful intimidation? Did you get
 16 any reports about that?
 17 MR BLOU: Mr Chairman, yes, we got
 18 reports that towards Wonderkop, towards Rowland Shaft from
 19 Wonderkop people were intimidated. Security intervened;
 20 they repelled those that intimidated and people were able
 21 to go to work.
 22 CHAIRPERSON: I see. Mr Tip, when we
 23 reach a suitable stage we'll take the tea adjournment, but
 24 it's in your hands to tell me when that will be.
 25 MR TIP SC: Now would be fine, thank you,

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1 Chair.

2 CHAIRPERSON: Well, Mr Tip has decreed

3 that we'll take the tea adjournment now and so we will.

4 [COMMISSION ADJOURNS COMMISSION RESUMES]

5 [12:27] CHAIRPERSON: The Commission resumes. We

6 took a bit longer over the tea adjournment than we had

7 anticipated, but we had a very important housekeeping

8 meeting and agreement has been reached on the allocations

9 of times in respect of the expert witnesses, which was a

10 very worthwhile exercise. I want to congratulate the

11 parties concerned on the fact that agreement has been

12 reached in this way. But that doesn't concern you, Mr

13 Blou; what concerns you is that you're still under oath.

14 MNTUNAYE HENRY BLOU: Thank you, Mr

15 Chair.

16 CHAIRPERSON: And Mr Tip has got a few

17 more questions to ask you.

18 MR BLOU: Thank you, Mr Chair.

19 MR TIP SC: Thank you, Chair.

20 CHAIRPERSON: A few or a good many, I'm

21 not sure which.

22 MR TIP SC: Well Chair, I did notice that

23 qualification with some anxiety.

24 CHAIRPERSON: I've qualified the

25 qualification.

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1 CROSS-EXAMINATION BY MR TIP SC (CONTD.):

2 Mr Blou, perhaps it may be useful just to get EEEE19 up on

3 the screen again, but let me, whilst that is being done I

4 just want to take up something that you said shortly before

5 the break when there was some discussion about the

6 foreseeability or otherwise of NUM offices being attacked.

7 MR BLOU: Yes.

8 MR TIP SC: And you said well, that, you

9 know, that sort of thing hasn't happened in the past, so we

10 didn't foresee it, essentially to that effect, correct?

11 MR BLOU: Yes, Mr Chair.

12 MR TIP SC: Now what I want to debate

13 with you is the question of whether Lonmin, and your

14 department in particular, in that circumstance could rely

15 on what has happened in the past in order to govern its

16 arrangements, and you do that in your statement on a few

17 occasions and we'll look at some of them.

18 MR BLOU: Okay.

19 MR TIP SC: And again what I'm going to

20 echo, Mr Blou, is the requirement of scenario planning –

21 MR BLOU: Yes.

22 MR TIP SC: - of prediction, on the basis

23 of a particular assessment of a particular mood –

24 MR BLOU: Yes.

25 MR TIP SC: - at a particular time,

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1 especially in the circumstance where as at 10 August you

2 had in the first place an unusually large number of people

3 in a march, correct?

4 MR BLOU: Yes.

5 MR TIP SC: And secondly a mood involving

6 levels of aggression that had not been encountered before

7 and that both you and Mr Sinclair found very disturbing,

8 very worrying.

9 MR BLOU: Yes.

10 MR TIP SC: Now when you've got that, can

11 you sit back and say well we'll conduct our security

12 arrangements in the manner that we've always conducted them

13 and that will be good enough? Don't you have to do a lot

14 more?

15 MR BLOU: Mr Chairman, I believe that

16 when you look at a situation like what we were faced with

17 you will obviously devise your strategy to what you believe

18 will be sufficient to counter whatever threat that comes to

19 the operation and people. So we really planned around

20 those. We did not foresee that the strike would turn out

21 the way it did.

22 MR TIP SC: Let me examine a particular

23 facet of this. I can understand, let me make it clear,

24 that where your concern is that there may be small pockets

25 of strikers who tangle with small pockets of those who want

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1 to go to work, well that is something that you deal with in

2 the way that you are accustomed to.

3 MR BLOU: Yes.

4 MR TIP SC: You deploy a detachment of

5 security people and they take whatever action is

6 appropriate to deal with it.

7 MR BLOU: That is correct.

8 MR TIP SC: That's correct, but when one

9 looks at a different dimension of it, namely that there

10 might be a large gathering of strikers and not small

11 pockets, then that requires different planning, does it

12 not?

13 MR BLOU: It does, Mr Chairman.

14 MR TIP SC: And I want to get the benefit

15 and for you help the Commission at that level. You see,

16 whether one says well, we anticipated that there might be

17 attacks on Lonmin facilities –

18 MR BLOU: Yes.

19 MR TIP SC: - or whether one says we

20 anticipated that there might be an attack on a NUM office

21 doesn't really affect the principal question, which is what

22 arrangements did you put in place to deal with a large

23 gathering, another march, wherever it might be intending to

24 go and whatever it might be intending to do.

25 MR BLOU: Yes, Mr Chairman, and indeed

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1 even the NUM office is a Lonmin property. Also our
 2 security is still and was at the time concerned with
 3 protecting the property as well as the people of Lonmin and
 4 that whatever public gathering would take place or issues
 5 that would be flowing out of that public gathering, for
 6 example public violence, that in our mind has always been a
 7 matter for the South African Police Services to deal with
 8 and you would see, Mr Chairman, that we had consistently
 9 engaged them in that period, or tried to engage them in
 10 that period in other instances.
 11 MR TIP SC: Mr Blou, what you've said now
 12 is of course a very important matter and I've got no doubt
 13 that my learned colleague Ms Baloyi for SAPS will ask you
 14 questions about that in due course, but I want to ask you a
 15 general question about the place of SAPS in your planning,
 16 and it also goes back to the question of scenarios and
 17 prediction and what I want to put to you for your comment
 18 in general terms is this; that even when you are seeking to
 19 secure the intervention of appropriate SAPS personnel, SAPS
 20 vehicles –
 21 MR BLOU: Yes.
 22 MR TIP SC: - then you need to be able to
 23 tell them what it is that you expect. Isn't that so?
 24 MR BLOU: Yes.
 25 MR TIP SC: So your scenario planning is

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1 not something that is necessary merely because Lonmin
 2 Security need to have done it, but it's necessary also to
 3 tell SAPS what you expect and what they should be there to
 4 deal with.
 5 MR BLOU: Yes.
 6 MR TIP SC: That didn't happen, did it,
 7 as at the 11th of August?
 8 MR BLOU: Mr Chairman, we contacted the
 9 SAPS throughout, for example on the 10th that morning, on
 10 the 11th that day, we contacted them, attempted to contact
 11 them to give them events as they were unfolding.
 12 MR TIP SC: Yes, but what I'm really
 13 after is this theme again - perhaps I should call it that -
 14 of the scenario planning.
 15 MR BLOU: Yes.
 16 MR TIP SC: You see on the 10th of August
 17 you had information that there was to be a large gathering
 18 and that gathering would move to the LPD office, correct?
 19 MR BLOU: Mr Chairman, information on 9th
 20 of August that the gathering would move on the 10th to –
 21 MR TIP SC: Correct, thank you.
 22 MR BLOU: That's correct, yes.
 23 MR TIP SC: Yes, so you had it in
 24 advance.
 25 MR BLOU: Yes.

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1 MR TIP SC: And that was a definite
 2 prospect.
 3 MR BLOU: That is correct.
 4 MR TIP SC: And you were able to go to
 5 SAPS with a definite prospect.
 6 MR BLOU: That is correct.
 7 MR TIP SC: And SAPS was able to react
 8 and it did so by providing amongst other things four
 9 Nyalas.
 10 MR BLOU: That is correct.
 11 MR TIP SC: Which is a very significant
 12 security presence.
 13 MR BLOU: Yes.
 14 MR TIP SC: Plus soft-skin vehicles and a
 15 large number of SAPS members.
 16 MR BLOU: Yes.
 17 MR TIP SC: Now that I want to translate
 18 into the question that I've put to you, again for your
 19 comment, which is that to go to SAPS in a meaningful way
 20 and to say this is what we have to deal with, required you
 21 and Mr Sinclair and the other management of security
 22 directly after the dispersal of the march on the 10th of
 23 August to say these are the things that we foresee could
 24 happen; this is the largest number of marchers we have had,
 25 the level of aggression is the most intense that we have

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1 experienced.
 2 MR BLOU: Yes.
 3 MR TIP SC: And we think that they may
 4 attack Lonmin facilities.
 5 MR BLOU: Yes.
 6 MR TIP SC: We think they may attack NUM
 7 offices, doesn't matter what they do –
 8 MR BLOU: Yes.
 9 MR TIP SC: - precisely, but they may do
 10 so also in large numbers and if they do move in large
 11 numbers we, Lonmin, cannot deal with it.
 12 MR BLOU: Yes.
 13 MR TIP SC: Did you convey that to SAPS?
 14 MR BLOU: Mr Chairman, correct. Even on
 15 Friday morning the 10th, as you've alluded to earlier, we
 16 had had an unusual experience – also I must mention – where
 17 SAPS' response was unusually slower than we knew them to
 18 be. I'll give an example. At the Rowland four-way
 19 crossing we had had SAPS presence, but at that stage it was
 20 only the Marikana SAPS, who are normal crime prevention
 21 officers, not able to deal with issues of public violence.
 22 For that you need POP, Public Order Policing service and
 23 the like. Now we had engaged with them and then obviously
 24 better reinforcements, Mr Chairman, as is mentioned that
 25 four Nyalas. Then that day we were with the SAPS at LPD

| | |
|---|---|
| <p style="text-align: right;">Page 36208</p> <p>1 when the members were dispersing. We were there with the 2 large contingent of the SAPS. That evening we were in 3 conversation, Friday the 10th evening, conversation with 4 members of the SAPS, giving them all the necessary 5 information to prepare as we were getting information, and 6 Mr Chairman, it will be, also be able to be proven on 7 telephone records and so on the attempts we were doing to 8 ensure that the SAPS were aware of what is to unfold. 9 MR TIP SC: Mr Blou, let me put to you a 10 specific question in respect of the position as at Friday 11 afternoon, the 10th of August, and into the evening. 12 MR BLOU: Yes. 13 MR TIP SC: Did you and your colleagues 14 in Lonmin Security identify the possibility that there 15 might be another large gathering of strikers in the course 16 of the early morning of Saturday? 17 MR BLOU: Mr Chairman, we got information 18 that because the workers, we know when they dispersed had 19 said they are not going to go to work, so we knew that they 20 would be gathering in a form of strike and do the normal 21 things that they do on a strike, that is to gather and so 22 on. 23 MR TIP SC: That's a bit vague. Normal 24 things that they do on a strike, what is that? 25 MR BLOU: That they would be toi-toing,</p> | <p style="text-align: right;">Page 36210</p> <p>1 MR BLOU: Mr Chairman, yes. If there a 2 match – a march, I beg your pardon, if there's a march that 3 is governed by the Gatherings Act and when that happens our 4 role is to make sure that we inform the South African 5 Police Services, so yes, we knew about it. 6 MR TIP SC: Well, that is a response that 7 has built into it a large time delay, doesn't it? 8 MR BLOU: I don't understand clearly, Mr 9 Chair. 10 MR TIP SC: Well, if SAPS are not 11 actually on Lonmin premises – 12 MR BLOU: Yes. 13 MR TIP SC: - for you to inform them that 14 there is an illegal gathering – 15 MR BLOU: Yes. 16 MR TIP SC: - would require a good deal 17 of time for SAPS to organise itself to mobilise its 18 personnel and its vehicles and to get out to Lonmin. 19 MR BLOU: Yes. 20 MR TIP SC: In the meantime you have a 21 march which is going somewhere, and doubtless has arrived 22 there long before SAPS arrives there, correct? 23 MR BLOU: Yes. 24 MR TIP SC: Well, the question is now 25 what, if anything, did Lonmin Security plan in respect of</p> |
| <p style="text-align: right;">Page 36209</p> <p>1 they would have a gathering and just, because when they 2 don't go to work they're not just sitting at their homes. 3 They gather and make a presence. So we expected those 4 things, yes. 5 MR TIP SC: Yes. 6 COMMISSIONER HEMRAJ: And they would 7 march as well? 8 MR BLOU: Of course that they would march 9 as well, yes. 10 MR TIP SC: Well Mr Blou, the question 11 from Commissioner Hemraj is an important one. 12 MR BLOU: Yes. 13 MR TIP SC: Because that they would march 14 as well adds a very, very important dimension to this. 15 This is not just people gathering and toi-toing and support 16 each other and so on. 17 MR BLOU: Correct. 18 MR TIP SC: This is a march which is 19 going to go somewhere by definition. 20 MR BLOU: Yes. 21 MR TIP SC: Now the question that I put 22 to you was whether you and your colleagues had as at 10 23 August in the afternoon or the evening specifically planned 24 for the eventuality that you would have another large march 25 on Saturday morning, the 11th of August.</p> | <p style="text-align: right;">Page 36211</p> <p>1 what it would do if there were a march, or was the only 2 plan that you would get hold of SAPS and tell them there 3 was a march? 4 MR BLOU: Mr Chairman, the plan was that 5 Lonmin would protect its property and its people to the 6 best of its capacity with the available resources it had. 7 However, and as I've explained, issues of public gatherings 8 we would expect the SAPS to fulfil their constitutional 9 mandate and to deal with those. Now obviously if they 10 hadn't arrived we have got limitations where we can 11 operate. We are not allowed to play as a paramilitary 12 organisation for example now and police public spaces. Our 13 jurisdiction is only within our property and that is where 14 we're expected to ensure that we as best we can look after 15 that while we wait for the SAPS who will come and take 16 control, even at our property, Mr Chair. 17 COMMISSIONER HEMRAJ: But Mr Blou, at 18 late evening on the 10th it must have been foreseen that 19 there might be an unplanned march – 20 MR BLOU: Correct, Mr Chair. 21 COMMISSIONER HEMRAJ: - the following 22 day. 23 MR BLOU: Correct, Commissioner. Even 24 that was apparent when we were with the members of the 25 SAPS. On the late evening on Friday we were with members</p> |

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1 of the SAPS, and I'm sure some of them would have testified
 2 to that effect. If they hadn't then – or let me rather say
 3 we were with members of the Marikana SAPS on the Friday
 4 evening and we share information as to what is going to
 5 happen the next day. So we expected them as well to know
 6 what was to unfold the next day.

7 MR TIP SC: I need to repeat a question,
 8 forgive me, Mr Blou, but –

9 MR BLOU: No problem.

10 MR TIP SC: - did you say to the members
 11 of SAPS that you are talking about now on the course of the
 12 Friday evening that you anticipated that there would be
 13 large marches again on the following morning, perhaps
 14 fairly early and that the level of aggression that had been
 15 seen at the point of dispersal might be present and that
 16 they should be ready to deal with that?

17 MR BLOU: We did that, Mr Chairman.

18 MR TIP SC: And what did they say?

19 MR BLOU: I want to repeat what I said
 20 earlier. SAPS during that time were unusually – they, I
 21 don't know whether they did not anticipate that the events
 22 would have turned as they did, as we now know. We were
 23 with members of the, of SAPS, particularly at Marikana. We
 24 shared with them and what we did say to them was we
 25 anticipated the strike to continue the next day. However,

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1 we would see how the seriousness thereof would be, but we
 2 definitely communicated with them throughout, Mr Chairman.

3 MR TIP SC: In other words if I followed
 4 you correctly what you said to SAPS in the course of the
 5 Friday evening was that you expected more activity, but you
 6 would have a look and see what happened and you'd let them
 7 know in due course. Is that right?

8 MR BLOU: Not entirely, Mr Chair.

9 MR TIP SC: Please correct me.

10 MR BLOU: We would anticipate what would
 11 happen at our operations and we would certainly revert to
 12 them, yes.

13 MR TIP SC: Yes, you would, in other
 14 words you would monitor the situation on Lonmin premises.

15 MR BLOU: Hundred percent, yes.

16 MR TIP SC: And if there was suddenly a
 17 large gathering that was heading somewhere with ill intent
 18 you would then get hold of SAPS and let them know.

19 MR BLOU: 100%, Mr Chair.

20 MR TIP SC: And then the question is of
 21 course what in the meantime, and let me make it specific so
 22 that you can deal with a specific instance, which is of
 23 course the 11th of August and the fact that there was an
 24 attack by people who on Lonmin Security information –

25 MR BLOU: Yes.

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1 MR TIP SC: - were intending to burn down
 2 the NUM office and the Lonmin Combi.

3 MR BLOU: That is correct.

4 [12:47] MR TIP SC: Now we also know that the
 5 only Lonmin security presence that was in the picture in
 6 the course of those events was two security officers, Mr
 7 Dibakoane and Mr Motlogeloa.

8 MR BLOU: That is correct.

9 MR TIP SC: Nobody else.

10 MR BLOU: That is correct.

11 MR TIP SC: They were manifestly were
 12 unable to contain the situation, correct?

13 MR BLOU: If I may just explain. Upon
 14 noticing the crowd they went to the NUM offices to go and
 15 protect the people which was now the NUM people who are
 16 also Lonmin people. That is what they did, Mr Chair.

17 CHAIRPERSON: What do you mean protect,
 18 what do you mean by protect? Went to protect the people,
 19 how were they going to protect them?

20 MR BLOU: The strategy was to tell them
 21 that people are intent on coming and burn these offices, so
 22 please vacate these offices.

23 CHAIRPERSON: That's right. So they were
 24 going to protect them by doing what they endeavoured to do
 25 according to their evidence, telling them that they must

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1 leave.

2 MR BLOU: Yes.

3 CHAIRPERSON: For their own safety.

4 MR BLOU: For their own safety.

5 CHAIRPERSON: That was the form of
 6 protection, the only form of protection they could provide,
 7 it wasn't really protection, it was a warning that they
 8 should leave.

9 MR BLOU: Yes.

10 CHAIRPERSON: That's all they could do.

11 MR BLOU: That's all they can do, thank
 12 you, Mr Chair.

13 MR TIP SC: And Mr Blou –

14 CHAIRPERSON: They could do nothing to
 15 protect the offices from being burnt down.

16 MR BLOU: They were not able –

17 CHAIRPERSON: Nor could they do anything
 18 to protect the Kombi, I think it was, from being burnt. Is
 19 that right?

20 MR BLOU: Yes, Mr Chair.

21 CHAIRPERSON: What sort of protection is
 22 that?

23 MR BLOU: It's to give advice that – at
 24 the mines there's this thing called you have a right to
 25 withdraw from an unsafe condition, it was on that basis.

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1 CHAIRPERSON: Yes, I understand that, but
 2 they weren't really equipped in any way, they were intended
 3 to be equipped in any way to actually protect the physical
 4 office.
 5 MR BLOU: No they were not –
 6 CHAIRPERSON: Or the physical Kombi.
 7 MR BLOU: Yes.
 8 CHAIRPERSON: All they could do was to
 9 tell the people to leave.
 10 MR BLOU: Yes.
 11 CHAIRPERSON: Ja.
 12 MR TIP SC: And Mr Blou, of course the
 13 position is that as you've already remarked the NUM office
 14 is Lonmin property, but from the perspective of NUM, my
 15 client, an extremely important element in this is that in
 16 that office are contained all its records, all its
 17 membership records, all its records of grievances that it
 18 is handling. Everything in fact that sustains the life of
 19 a union was in that office. You would accept that I
 20 suppose.
 21 MR BLOU: I would imagine so, yes.
 22 MR TIP SC: And for NUM to be placed in a
 23 situation where the members present on the day had to make
 24 a decision as to whether they would abandon all that or try
 25 to defend the office was a situation that they should never

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1 have been placed in. Would that be fair?
 2 MR BLOU: That is so, yes, Chairperson.
 3 MR TIP SC: You see I just want to
 4 explore a little further what you said here. There are two
 5 questions. The first is was it in fact the instruction to
 6 the security officers Dibakoane and Motlogeloa that if
 7 there were a large march their duties were solely to go to
 8 wherever that march was heading and to inform the people in
 9 that vicinity to flee? Was that the instruction?
 10 MR BLOU: Mr Chairperson, we had always
 11 done that. Let me make an example. Close to Wonderkop –
 12 CHAIRPERSON: Before we get to the
 13 example, the answer to the question, I take it, is yes that
 14 was the instruction. You're entitled to explain why that
 15 was, but let's get clarity. You were asked a question was
 16 that in their instruction and the answer, I take it, is
 17 yes.
 18 MR BLOU: Yes.
 19 CHAIRPERSON: You now want to explain why
 20 that was so.
 21 MR BLOU: Yes, yes. Close to the
 22 Wonderkop stadium we have offices there which we call
 23 Western Platinum offices. They're right next door to the
 24 Wonderkop stadium. On numerous occasions when we had
 25 anticipated a strike and the like, maybe a gathering, we

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1 would take the decision to let those people vacate and that
 2 is still the norm even to this day. So that instruction
 3 was consistent with what we were accustomed to.
 4 CHAIRPERSON: Apart from the people who
 5 worked there what was in those offices? Were there records
 6 and so forth which made the functioning of an organisation
 7 like a trade union totally impossible if they were
 8 destroyed.
 9 MR BLOU: In the NUM offices, Mr Chair –
 10 CHAIRPERSON: No, no, no, we know what's
 11 in the NUM office, these offices you're talking about near
 12 the Wonderkop stadium.
 13 MR BLOU: These are Lonmin offices, these
 14 are technical offices. So there would be all sorts of
 15 Lonmin property and equipment and the like, yes.
 16 MR TIP SC: I want to be very clear about
 17 what you're saying, Mr Blou. This question of the
 18 instruction. Now it goes back to the issue of planning.
 19 MR BLOU: Yes.
 20 MR TIP SC: Are you telling us that all
 21 your security officers are instructed as a matter of
 22 standing practise that if they encounter a large group then
 23 they must get to wherever that large group is heading and
 24 instruct the people in that building whether it's the
 25 Andrew Saffy hospital or a NUM office or a Lonmin office to

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1 get out and go away, jump in their cars and flee? Is that
 2 a standing protocol?
 3 MR BLOU: Mr Chairman, to say it is a
 4 standing protocol and how we enforce is really, Mr Chair,
 5 for me to say this is what practise is. So I'm going to
 6 have to make examples to make this point clear.
 7 CHAIRPERSON: That is the standing
 8 practise?
 9 MR BLOU: But not the only practise.
 10 CHAIRPERSON: Well you can qualify in a
 11 minute, but that is the standing practise.
 12 MR BLOU: Yes.
 13 CHAIRPERSON: You're going to explain and
 14 you're going to give us the qualifications.
 15 MR BLOU: Yes.
 16 CHAIRPERSON: All right.
 17 MR BLOU: Now in the instance of, as I
 18 mentioned earlier, the Western Plat technical offices, that
 19 usually what should take place. As I've said that go
 20 there, assess the situation, people should vacate. There
 21 are other examples, one would think of other mineshafts
 22 where had done those to say the people are best to evacuate
 23 and that their lives are protected. So that was sort of
 24 general practise that we had.
 25 MR TIP SC: I'm putting my question at a

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1 slightly more direct level, Mr Blou.
 2 MR BLOU: Yes.
 3 MR TIP SC: I'm talking about a standing
 4 instruction, is it a standing instruction to all your
 5 security personnel that if they encounter a large group
 6 then that is the remedy. They don't try to do anything
 7 else other than to instruct those in the path to flee.
 8 MR BLOU: Mr Chairman, that is why I said
 9 that is not the only thing because if while you are doing
 10 that and that is to go and tell the people to evacuate, but
 11 you should be mindful of your own life. You should do so
 12 being mindful not to put your life at risk. So it is just
 13 not the only thing that they should do and let people
 14 vacate. Let me make, not an example, but let me paint a
 15 picture of a clear incident that has happened. At Karee
 16 there was somebody that was trapped in a hostel and in that
 17 instance we had had no choice to go and extricate that
 18 person. So while on example 1 we wanted people to evacuate
 19 but on example 2 we had had to extricate the people, his
 20 family so that we could save their lives.
 21 CHAIRPERSON: If I understand you to say
 22 – let me put it in simple terms. Assuming someone is
 23 employed as a security guard or whatever the title is at
 24 Lonmin and he's not quite sure what he's got to do. So he
 25 goes to you or Mr Sinclair or somebody and he says look

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1 here, what do I do if I come across a large group of
 2 strikers marching somewhere to a particular place, what
 3 must I do? How do I handle the situation. So the answer
 4 he's given, if I understand you correctly, is the
 5 following. Go to the place that they're heading for and
 6 warn the people there that they must get out for their own
 7 safety. And if there's any danger for you you'll do your
 8 best to keep out of danger yourself which presumably means
 9 if you can't get to the place to which they're heading
 10 without being hurt yourself you don't even go there. Is
 11 that effectively what the person would be told?
 12 MR BLOU: Mr Chair, yes that would be to
 13 put it in a nutshell. Obviously we have various procedures
 14 that govern that broad statement, but to summarise that
 15 would be okay, yes.
 16 COMMISSIONER HEMRAJ: Mr Blou, to send
 17 two security officers when there's a threat of burning down
 18 a building is to use but a fraction of Lonmin's resources,
 19 security resources. Now was it not open to you or whoever
 20 was in charge of security to direct more resources to that
 21 area to deal more effectively with what was happening?
 22 MR BLOU: Commissioner, I can only think
 23 that those that would have given that instruction would
 24 have seen it best that it is best to protect the NUM office
 25 from – I beg your pardon, it is best to protect the people

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1 from going and attack either the people in the NUM office
 2 rather let those people be evacuated.
 3 CHAIRPERSON: If you only had two people
 4 who had a soft skin vehicle that's all they could have done
 5 isn't it?
 6 MR BLOU: Indeed, Mr Chairman.
 7 CHAIRPERSON: So one can't criticise the
 8 security officers concerned for only doing that, apart from
 9 the fact that that would have been an instruction. But
 10 there wasn't much else they could have done was there?
 11 MR BLOU: Nothing else, Mr Chairman.
 12 CHAIRPERSON: Now what to the TRU that
 13 was going to come from Pretoria that was discussed the day
 14 before in this occurrence book entry at 15:10 the day
 15 before? What happened to that hadn't that come yet?
 16 MR BLOU: Mr Chair, if I remember
 17 correctly it arrived on Monday the 13th.
 18 CHAIRPERSON: The TRU I know it was your
 19 own vehicle.
 20 MR BLOU: The RU.
 21 CHAIRPERSON: Sorry the RU, yes. It was
 22 coming from Pretoria or something wasn't it?
 23 MR BLOU: Yes because it was a Protea
 24 Coin –
 25 CHAIRPERSON: Oh I see it was under

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1 contract to you, you could summon it if you had to.
 2 MR BLOU: That's correct.
 3 CHAIRPERSON: Is that right? But it only
 4 came on Monday.
 5 MR BLOU: That's correct.
 6 CHAIRPERSON: So that wasn't any good on
 7 the Saturday morning.
 8 MR BLOU: I think it came on Monday.
 9 CHAIRPERSON: But didn't you have some of
 10 your own as well?
 11 MR BLOU: We had, Mr Chairman, on Sunday,
 12 we had two of Protea Coin.
 13 CHAIRPERSON: Oh also from Protea Coin.
 14 MR BLOU: Security didn't have their own.
 15 CHAIRPERSON: Oh I see. Am I correct in
 16 thinking therefore, that on Saturday the 11th there was no
 17 hard skin vehicle at all on the premises of Lonmin?
 18 MR BLOU: Mr Chairman, there was.
 19 CHAIRPERSON: There was?
 20 MR BLOU: One was at Karee and one was at
 21 Wonderkop where this gathering had taken place.
 22 CHAIRPERSON: Oh I see. So why couldn't
 23 that vehicle have been used to assist then in protecting
 24 the NUM office?
 25 MR BLOU: I'm not sure by the people on

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1 the ground, Mr Chairman, because those vehicles were also
 2 used by our members on the 12th for example. So I'm
 3 particularly sure of the judgment that was made on Saturday
 4 not to use that vehicle.
 5 CHAIRPERSON: Well you see we know from
 6 entries that were subsequently excised from the copy of the
 7 occurrence book that we were given that already on the
 8 Friday night rubber rounds had been fired at some of the
 9 strikers.
 10 MR BLOU: Yes, Mr Chairman.
 11 CHAIRPERSON: Because it was believed
 12 that they were intimidating some of the people who wanted
 13 to go to work.
 14 MR BLOU: Yes, Mr Chairman.
 15 CHAIRPERSON: And they were effectively
 16 dismissed by that weren't they?
 17 MR BLOU: That is correct.
 18 CHAIRPERSON: Right, well was there any
 19 reason why attempts could not have been made to disperse
 20 who were on their way to the NUM office on the Saturday
 21 instead of leaving the NUM office if necessary to be burnt
 22 down and all the records of NUM?
 23 MR BLOU: My response and it's an
 24 opinion, Mr Chair, I wasn't on the ground there, I would
 25 just say those two security persons saw that they would not

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1 be able to disperse that crowd –
 2 CHAIRPERSON: No, no, no I think we've
 3 agreed that we can't criticise the two security people.
 4 MR BLOU: Okay.
 5 CHAIRPERSON: They could only do what
 6 they did.
 7 MR BLOU: Yes.
 8 CHAIRPERSON: But the question is whether
 9 there shouldn't have been more people, whether it was
 10 appropriate to only have these two security people who
 11 could do very little except warn the people. To only have
 12 those two people there to deal with the situation. That's
 13 the point. Now how do you respond to that?
 14 MR BLOU: I do not think if a crowd of
 15 3000 was to be dispersed that that would have been
 16 effective. I honestly don't think that the capacity was
 17 enough to disperse a crowd of 3000 because the one that was
 18 dispersed on Friday evening were just pockets of people,
 19 yes.
 20 CHAIRPERSON: I understand thank you.
 21 Sorry, Mr Tip.
 22 MR TIP SC: Thank you, Chair.
 23 CHAIRPERSON: It's almost 1 o'clock.
 24 MR TIP SC: Yes, I see that, may I put
 25 just two questions?

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1 CHAIRPERSON: You can put two questions
 2 and then you'll continue on Monday.
 3 MR TIP SC: Thank you, Chair. Just two
 4 questions, Mr Blou, first of all once it became apparent on
 5 the 11th of August that there was a gathering in the
 6 vicinity of the Wonderkop stadium and the information came
 7 out that the intention was that they would march to the NUM
 8 office and burn it down, that was a serious development was
 9 it not?
 10 MR BLOU: Correct, Mr Chair.
 11 MR TIP SC: Was that conveyed to you by
 12 JOC or anyone else?
 13 MR BLOU: Mr Chairperson, I only became
 14 aware afterwards, after the march had taken place.
 15 MR TIP SC: In other words nobody
 16 conveyed it to you.
 17 MR BLOU: No, no, Mr Chair.
 18 MR TIP SC: Was there no practise in
 19 place or instruction from you that if something of that
 20 order should start developing that you were to be informed
 21 immediately so that you could exercise the duty that you
 22 had in terms of the procedure to decide what should be done
 23 about it?
 24 MR BLOU: Correct, that was the case.
 25 MR TIP SC: They should have and didn't.

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1 It was a breach on their part.
 2 MR BLOU: Yes.
 3 MR TIP SC: And the second question is do
 4 we understand then from what you have said about the
 5 position on the 11th of August that as far as Lonmin
 6 security was concerned there wasn't even a possibility that
 7 extra personnel might be deployed in the Wonderkop area to
 8 stop this march?
 9 MR BLOU: Mr Chair, can you just
 10 elaborate a little bit?
 11 MR TIP SC: Yes I will. Forgive me, I
 12 know it was a bit cryptic. You said that of the two, there
 13 were two security persons, officers there and they saw that
 14 their only function was to try and persuade the NUM people
 15 to leave, correct?
 16 MR BLOU: Correct.
 17 MR TIP SC: Now you've told us that that
 18 is what they should do because that's the instruction,
 19 correct?
 20 MR BLOU: Correct.
 21 MR TIP SC: Does that mean that at that
 22 time as far as Lonmin security and the managers and the
 23 people in the JOC were concerned they didn't even consider
 24 sending extra personnel there to try to contain and stop
 25 this march?

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1 MR BLOU: Mr Chair, the people that saw
 2 this march were on patrol. Because it was a weekend so
 3 people were stationed to patrol. Now they saw it and I
 4 suppose they probably would have relayed it to the JOC and
 5 I think that the decision that would have been made at that
 6 point in time was do not try and disperse a crowd that
 7 large, rather go and warn the people to vacate the offices.
 8 MR TIP SC: You're speculating.
 9 MR BLOU: I'm definitely speculating
 10 because I wasn't there, Mr Chairperson.
 11 MR TIP SC: Thank you, Chair.
 12 CHAIRPERSON: I just want to ask you one
 13 question before we go and that's paragraph 24 of your
 14 statement dealing with the events of Saturday the 11th of
 15 August. You say you got to the office at 7:30 and you went
 16 to brief your colleagues and you'd received reports from
 17 the Midland Bus Service. Then you say you went home at 9
 18 o'clock, 9am, you deal with what had happened earlier
 19 though. There'd been information about threats being made
 20 to burn down the NUM offices and you say this "I had
 21 earlier in the day made calls to both the local Marikana
 22 police station and the Rustenburg cluster of the SAPS for
 23 increased police presence in order to monitor the situation
 24 developing at Lonmin. I was concerned at SAPS response."
 25 When did you make those two calls? The one to the Marikana

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1 police station and the other to the Rustenburg cluster of
 2 SAPS?
 3 MR BLOU: Mr Chair, it would have been
 4 between – while I was at work that was between the time
 5 that I had knocked on and the then went home again.
 6 CHAIRPERSON: Between 7:30 and 9:00.
 7 MR BLOU: Yes.
 8 CHAIRPERSON: So how long would it have
 9 taken the Rustenburg cluster of the SAPS to get to Lonmin
 10 assuming they'd set about coming as quickly as they could?
 11 MR BLOU: Give or take maybe an hour,
 12 maybe 50 minutes.
 13 CHAIRPERSON: Okay and the Marikana
 14 police station people?
 15 MR BLOU: Maybe 10 minutes.
 16 CHAIRPERSON: I see. I understood you to
 17 say they really could only provide what I understand as
 18 visible policing. Govender and his people.
 19 MR BLOU: 100% yes.
 20 CHAIRPERSON: They couldn't do much by
 21 way of protecting the office. That would have had to have
 22 been done by the POPS, is that right?
 23 MR BLOU: Yes.
 24 CHAIRPERSON: And they would have been
 25 the ones that would have come from Rustenburg?

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1 MR BLOU: That is correct.
 2 CHAIRPERSON: I see, thank you.
 3 COMMISSIONER HEMRAJ: And these two phone
 4 calls were before you received the information about the -
 5 wanting the march to burn the NUM offices. These two phone
 6 calls to the police, because you phoned to monitor the
 7 situation.
 8 [13:07] MR BLOU: That is correct. Sorry,
 9 Commissioner?
 10 COMMISSIONER HEMRAJ: Was there a phone
 11 call to inform the police that there was now this march to
 12 burn down the NUM office, after you received the
 13 information?
 14 MR BLOU: Commissioner, I can't really
 15 remember specifically, but I do know that there were
 16 telephone calls to the SAPS to the situation that was
 17 turning since the Friday, that was playing itself out at
 18 Lonmin.
 19 CHAIRPERSON: I understood you to say in
 20 your statement that you left at 9 and then during the
 21 course of the day you received a call that there was this
 22 information about the people going to burn the office. Is
 23 that right? So by the time you left at 9, am I reading
 24 your statement correctly? By the time you left at 9 to go
 25 home –

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1 MR BLOU: Yes.
 2 CHAIRPERSON: - you hadn't yet heard that
 3 there was this intention to burn down the NUM offices. Is
 4 that correct? Am I right?
 5 MR BLOU: Yes, Mr Chairman.
 6 CHAIRPERSON: So but somebody, I mean
 7 somebody else who was there at the JOC, the Lonmin JOC,
 8 obviously received that information and would have been
 9 able to have contacted the police to ask them to come. But
 10 you can't tell us whether, what happened in that regard.
 11 Is that correct?
 12 MR BLOU: That's correct, Mr Chair.
 13 CHAIRPERSON: Alright. You yourself did
 14 nothing about it because you received the information when
 15 you were at home.
 16 MR BLOU: Mr Chairman –
 17 CHAIRPERSON: That's what you say, isn't
 18 it? You say, "I drove home at 9 o'clock and during the
 19 course of the day I received this call from the EDM."
 20 MR BLOU: After –
 21 CHAIRPERSON: Were you at home by the
 22 time you got the call?
 23 MR BLOU: Yes.
 24 CHAIRPERSON: Did you think of phoning
 25 the police –

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1 MR BLOU: Yes.

2 CHAIRPERSON: - asking them –

3 MR BLOU: Yes, Mr Chair.

4 CHAIRPERSON: So did you, from your home?

5 MR BLOU: I did, because we –

6 CHAIRPERSON: What time was that?

7 MR BLOU: I just don't know now, but if I

8 had looked at the records it would –

9 CHAIRPERSON: You don't mention that in

10 your statement. All you say in your statement is you had

11 made phone calls to the police – I beg your pardon, I'm

12 wrong. In paragraph 25 you say, "Upon hearing the

13 gathering of the group," that presumably is the information

14 you got from EDM, you say you "further communicated with

15 SAPS and advised them of the developing situation." That's

16 the position, is it?

17 MR BLOU: That's correct, Mr Chair.

18 CHAIRPERSON: Whether they came or not,

19 how they responded, that's something you can't tell us from

20 your own knowledge.

21 MR BLOU: Yes.

22 CHAIRPERSON: Alright. Thank you. 9

23 o'clock Monday morning.

24 MR BLOU: That is correct, thanks.

25 [COMMISSION ADJOURNED]



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