

**PROCEEDINGS IN TERMS OF SECTION 29**

**HELD AT**

**DURBAN**

**ON 28 NOVEMBER 1996**

**[PAGES 1 - 62]**

PROCEEDINGS RESUMED ON 1996/11/28

(Recording commences mid-sentence)

CHAIRMAN: Before we start by swearing the witness in, we'll first have to swear in the interpreters and the transcriber. If they can just come forward one by one to be sworn in.

RECORDING MACHINE OPERATOR AND INTERPRETERS DULY SWORN IN

CHAIRMAN: Thank you very much. We'll now swear in the witness. Can you give us your full names, please.

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CHRISTIAAN HENDRIK WILLEM EARLE (Sworn states)  
(Through Interpreter)

CHAIRMAN: Good morning, Mr Earle. This is an investigative inquiry in terms of section 29 of the Promotion of National Unity and Reconciliation Act of 1995. The Commission believes that you are in possession of information which it requires in order to fulfil its obligations as set out in the Act. For this reason a notice has been served upon you calling on you to come here today to answer questions. This is an investigative inquiry and no finding will be made against you today. In terms of the Act, you are obliged to answer any questions which may be put to you even though the answer to those questions may incriminate you and if you do not or if you are unwilling to answer those questions you may be legally compelled to do so in terms of the Act and if you continue to refuse to do so, this may lead to your prosecution under the Act. --- I understand.

In terms of the Act as well - no evidence or

/information

information which is of an incriminating nature is admissible against you in a court of law except where you may be charged with perjury arising out of you giving conflicting or differing versions. --- I understand that.

You are obviously under an obligation to tell the truth, to be honest to the Commission and again if you do not - if you are not honest, if you do not tell the truth, this may lead to your prosecution for perjury?

--- I understand that.

We understand that you are appearing here today unrepresented and that you have been informed that it is your legal right to legal representation. --- That is the case.

Finally, it is an offence under the Act to wilfully mislead the Commission and if there is evidence that you have done so or are doing so this may also lead to your prosecution. --- I understand that.

Thank you very much. Those are just the opening formalities. We will now proceed, Mr Govender, thank you very much.

QUESTIONED BY MR GOVENDER:

Thank you, Mr Chairman. It's Brigadier, is that correct? --- (Speaking Afrikaans - microphone switched off) Ja, ek is 'n brigadier maar ... (inaudible) ... onder die nuwe Wet.

Brigadier, before we proceed with the - could you put your mike on, Sir. (Microphone switched off) Brigadier before we proceed just a brief ... (inaudible)

CHAIRMAN: Mr Govender, if you could put your mike on

then we can hear you.

/MR GOVENDER:

MR GOVENDER: With the both on doesn't seem to want to work, Mr Chairman

MR LAINLAX: The one keeps switching off. Okay, that ... (incomplete)

RECORDING INTERRUPTED

ON RESUMPTION:

DISCUSSION ENSUES WITH REGARD TO FUNCTIONING OF MICROPHONES

RECORDING FURTHER INTERRUPTED

ON RESUMPTION:

MR GOVENDER: Brigadier, before we proceed to the main subject of our discussion, just a brief background of yourself. In 1978, Brigadier, you were stationed at the Somtseu Road, SAP station. Is that correct? --- (Through Interpreter) That was 1978 not '87.

Sorry, I didn't get that last bit? --- '78.

Yes. --- (Interpreter: Not '87. You said '87.)

Brigadier, could you give us a brief background of when you started with the SAP and how you progressed. --- On the 12th of February 1964 I joined the SAP at Lichtenburg. Subsequently

MR GOVENDER: I'm not getting the translation.

INTERPRETER: It is just on channel 2. Channel 2. Channel 2. Can you Hear that?

MR GOVENDER: Ja, I can now. --- I was then stationed at Lichtenburg in the Transvaal. I was trained at the South African Police College and subsequently I was transferred to the Mooi River

office in the Natal region. Subsequently I wrote an exam for a promotion and in 1973 I was promoted to the rank of

/officer.

officer.

What rank was that, Brigadier? --- In 1973?

Yes. --- At that time I was a warrant-officer.

Right, continue, Brigadier. --- I was then promoted at dates which I cannot exactly remember to captain, major, lieutenant-colonel, colonel, and on the 1st of October 1994 I was promoted to the rank of brigadier. I achieved a BA Honours in police studies.

I have also completed all the other exams and have a diploma in police administration.

Now Brigadier, in 1978 were you rank of lieutenant or captain? --- It was lieutenant. I'm not sure exactly when I was promoted to captain but it would have been roughly in 1978 of '79.

Now, Brigadier, you're aware that on the 8th of January 1978 a person by the name of Dr Rick Turner was killed and I understand that you were the investigating officer in that matter. --- That is the case, Mr Chair.

Brigadier, can you tell us how you conducted that investigation and what were your findings. --- It would be difficult for me to give exact detail with regard to what I did but with regard to the murder, about twenty to one I was informed regarding the murder. It was apparently the Saturday of the murder.

I then went to the scene where I arrived at about 1 o'clock.

CHAIRMAN: Sorry, can I just ask who contacted you and advised you of the incident? --- If I remember correctly, it would have been Warrant-Officer Labuschagne of the radio control. They were the first people who were actually on the scene.

/MR GOVENDER:

MR GOVENDER: When you say "they", Labuschagne and who else, Brigadier? --- Labuschagne as well as some of the other people who worked with him.

Do you know the names of the other people? ---

No, I don't know what their names were.

How many other people were there, when you arrived at the scene? --- I can honestly not remember but Detective Warrant-Officer Aisley would have been there. He would have been the branch commander of the CID in the area and he would have been on the scene also. Shortly after my arrival a Detective Warrant-Officer Davids, who served under my command, did also arrive.

He arrived after you did? --- That is the case. He arrived after me.

Carry on, Brigadier. --- Warrant-Officer Aisley made a report to me and then I investigated the scene of the murder. The deceased was lying in the dining-room at the door which would have led through to the kitchen. He was dressed in green pyjamas.

There was a lot of blood. I then went into the room where it was claimed that he had been shot and where his two daughters were sleeping. I entered this room.

At the door which was the entrance to this room there was also a lot of blood, as well as in the passage. I spoke to the persons on the site. I believe this

would have been a Ms or Mrs Thompson, if I'm correct, as well as the daughters although they were very small at that time and they were not able to tell me much.

I investigated the scene for possible leads and Detective Warrant-Officer Aisley found a 9mm bullet casing. I then gave Warrant-Officer Davids the instruction to do questioning in the area as

/we normally

we normally do when we are on such a scene or when we arrive at such a scene. We were unable to find anything which could assist us in the investigation of the case. The body was then removed subsequently.

The house was locked up and placed under guard so that no one would be able to gain access to the house. The next morning a murder case was opened and a docket was officially placed in my care as investigative officer.

I did considerable investigations. It would be difficult for me to give you exact details on what and where but I spoke to various informants. I was unable to obtain any information that would lead me to understand what the motive would have been for the murder although I imagined that it would have been political in nature. There was however nothing to confirm this. This was a deduction I made on my own.

CHAIRMAN: Why did you make that assumption? ---

I made this assumption since nothing had been stolen or there was no robbery involved. The person was simply shot in cold blood. I was aware of the fact that in the old times he was a person of left inclination and that he was engaged in underground activities.

Surely the fact that there were two senior

security policemen present on the scene must have given you some indication that this was not an ordinary criminal act which had taken place. Why were these people on the scene? Did you speak to them? Did you ask them why they were there? Brigadier Wellman and somebody else. --- I think that they were only - they only arrived much later on the scene.

It doesn't matter when they arrived. Didn't that /give give you an indication that this was not a criminal act - an ordinary criminal act. --- That is the case. As I've already said the circumstances and my knowledge that the security branch had been watching the deceased and a number of things like that.

Did you speak to those two security policemen who were there that night? --- I cannot remember if I spoke to them that night or the next day but I did talk to them, yes, at some stage or other. This is 18 years ago. It's somewhat difficult for me to remember exactly when I spoke to them.

Well, what did they say to you? --- I can't remember everything in detail but it - basically they said that he was a person or a subject considered by them to be a person of lefting inclination and that they monitored his movements on a regular basis.

Well, in your investigation diary you say that the deceased person is a well-known figure amongst the security police. They were notified of the incident and the scene was visited by Captain Wellman and Lieutenant van der Merwe. So did you notify them? That's what you say in your diary. You said they were notified. Who notified them? --- I informed them,



Mr Chair. There was also instructions from head office that they had to assist me in every possible way.

MR LAINLAX: Sorry, you say that there was an instruction from headquarters that they should help you as far as possible. --- That is the case.

Who issued that instruction? --- If I remember correctly it would have been the head of the detective branch. I cannot remember exactly who that was at that

time but it might have been an instruction from security branch head office but I cannot remember exactly. It's quite some time ago.

Which headquarters would that have been if it was security headquarters? --- It would have been security branch head office in Pretoria.

And you can't remember who would have relayed that information to you? --- I think, but I'm speaking under correction, that it might have been Colonel Stadler who would have been in command of the security branch in Durban at that time.

Colonel Stadler. --- Yes. Colonel Stadler.

Which Stadler is that? Herman Stadler? --- Yes, that is the right person. Herman Stadler.

And is it correct that from the way you were informed by him, as far as you can remember, it would have implied that the instruction had come from headquarters? --- That is the deduction I would have made.

Please continue, Mr Govender.

MR GOVENDER: Now, Brigadier, did you ascertain the

approximate time of death of the deceased? --- If

I remember correctly we engaged a pathologist. I cannot remember exactly but that's what we would usually have done and during the pathological investigation they would have given one an indication, if I'm correct, roughly how long before the pathological investigation the person would have died.

And did you ascertain that Brigadier, or did the pathologist inform you? --- It is possible, Mr Chair, but I believe from my own experience that it

/would  
would not have happened a very long time before I arrived there. The blood was still very wet and there was no indication that the blood had been drying so he must have been killed very shortly before my arrival.

It could not have happened very long before my arrival.

And when you arrived the deceased was dead? ---

That is the case.

And do you know, Brigadier, who summoned the ambulance that night? --- I believe it would have been myself or possibly Warrant-Officer Davids because it's normally the responsibility of the murder and robbery unit, if they do an investigation, to call in the ambulance once our investigation is completed. We do that in this way so that the ambulance staff don't take the person in such a way that some of the evidence might be destroyed. You are able to make certain deductions from the way in which the body lies in terms of what might have happened.

Brigadier, isn't it correct that in circumstances where the deceased is dead on the scene that you would

generally summon the mortuary van rather than the ambulance? --- It would be the case. That would be the procedure but sometimes the mortuary van is not available and then we do call in an ambulance.

On this occasion was the mortuary van not available? --- Mr Chair, I cannot remember. There must have been a reason why I called the ambulance but I'm honestly not able to remember what the reason would have been.

I see. Brigadier, proceed. Tell us about the investigations. --- As I've said, it's difficult for /me to me to remember what exactly I did at what particular times. After a number of months due to my own investigations and some information which I had obtained it became apparent that a particular person might have been involved, at that time referred to as a person from the Bureau of State Security, who might have been involved, a certain Martin Dollancek(?). Subsequently I spoke to his commanding officer who at that time would have been, if I remember correctly, a Colonel Steenkamp and at that time I met with him on several occasions in the evening on a variety of places, discussed the matter with him with the hope that he might have been helpful in this regard. I however received no assistance from them and at a certain point I claimed the 9mm pistol which was Dollancek's firearm because a 9mm pistol had been used to shoot the deceased. Before I continue I must just note that on the scene in the room where the two girls were sleeping and where the deceased had been shot there were bullet marks on the walls of the room. The

burglar bars was nicked. Some of the paint had been missing there and it was clear that the bullet had first nicked the burglar bars before actually hitting the deceased. As I've said, I impounded Dollancek's firearm, sent it to the forensic labs for investigation but the investigation was negative. It was impossible to link the firearm to the bullet casing and bullet point which was found on the actual scene.

Brigadier why was Dollancek a suspect in this case? --- Chair, this was because of my investigations and some information which I received from informants.

And who were these informants, Brigadier? ---

/I can I can honestly no longer remember. I used hundreds of informants at that time. I'm not able to remember anyone's name.

What was the nature of the information that you received? --- The nature of the information was that Dollancek would have been responsible for the murder on the deceased, that he would have shot him.

And any reason advanced as to why he would have shot him? --- Mr Chair, I am not able to remember if any reason had been given but I think it was, if I remember correctly, because he was very active politically.

Who was active? Dr Taylor? --- The deceased.

The deceased, yes. And you think - your information was because of his political activity he was killed. Why by Dollancek? --- That is what

the information indicated. I am unable to remember the exact contents of the information however.

MR LAINLAX: Sorry, Mr Govender ... (inaudible) ... the - you speak about information, about enquiries and so on, about informers that gave you information that led you to go and attach a firearm. --- That is the case.

Now, as a police officer you would need to have reasonable grounds upon which to do that. --- There must have been something available to me but I'm honest when I tell you that I really cannot remember. It's very long ago.

The point I'm making is, those grounds you would have had to write down somewhere or make a note of them as part of your investigation diary. That would have

/been

been normal practice. --- That is the case ... (Side A ends mid-sentence) (Side B commences mid-sentence) ... you will find however in my investigation diary that I wrote at the particular time that the matter was very sensitive and because of that I did not write down all the information which I had. In that time, that is how we had to work.

Was that official policy that you had to do that? --- I wouldn't say that it was directly told us or that we had direct instructions but that was the conclusion one came to. If I continue you will see why I say so. Once I began to investigate this matter, when I started scratching the surface and when I indicated Dollancek is a possible responsible person there would have been a lot of intimidation against

persons involved on the left in the Durban area. I think in the file which you've received from the police there would have been a letter referring to particular incidents. It was strange that after I had begun scratching and started looking in the direction of Dollancek being the suspect, the intimidation of these people suddenly stopped. So I'm convinced that I was on the right track and that Dollancek was in fact involved, or at least someone from BOSS, the section in which he had worked.

Now, you speak about certain incidents, certain other incidents. What were those incidents? And just so you can clarify for me, where were they contained?

You said they were contained in a report of some kind. --- I looked at the file yesterday which the Commission received from the police. I worked through the file and I saw that this was in fact contained in

/that that file. I remember clearly that there was a shooting at the house of Fatima Meer. There were several other shooting incidents and what you cannot see in the docket but which I can remember, there was an Anglican church where a bomb exploded in front of the church and the persons of lefting orientation, their tyres were cut during the night time. Their vehicles were damaged.

So all these things led you to suspect that there was BOSS involvement in all of this? --- That is the case, Mr Chair.

Just for the record, what was BOSS? What does BOSS mean? --- It would have been the Bureau for State Security which would have been responsible for

gathering information against persons who might have been opposed against the then regime or policies of that regime and who might have been acting or intending to act against that government or regime or policies.

Who was involved in BOSS at that time that you would have known about or that you found out about? In the Durban area. --- Do you mean people who might have joined - who've been part of that unit? All that I can remember is that, as I said, Colonel Steenkamp, if I remember correctly, would have been the commanding officer. Dollancek would have served in the unit or been attached to the unit but I cannot remember the names of the other persons. This is again too long ago for me to remember, Mr Chair.

Now, you said that as you started investigating, these random acts of intimidation or terror suddenly started stopping. --- It was quite evident to me that it had stopped. Apparently I was on the right

/track

track and I was starting to step on the right toes.

Did you go and conduct a search at BOSS's offices to go and look whether they had any other 9mm weapons there or firearms of that sort? --- I was at their offices on several occasions. They did have 9mm pistols which they used and other such like firearms but according to the ballistic section it would have been a Star firearm which had been used and they used a different kind of firearm - or different kinds of firearm to this.

Did you actually search their premises? Did you go and ask them to open their safes and check what

other firearms they may have had there? In an official capacity. --- No, I did not do an official investigation there or an official search because I trusted that Colonel Steenkamp would have assisted me and would have been helpful in the investigation should there have been anything that came to the fore.

CHAIRMAN: Did anybody within the police or the security police indicate to you that Martin Dollancek may have been a suspect worth following up? Did you get any information from any officers that Dollancek was a person who should be followed up? --- No, Chair, it would have been information I gathered during my investigation. He was not a South African citizen at that time. He was a difficult person from what I had heard.

Did you not receive information about Dollancek from Vic McPherson? --- I did speak to Vic McPherson. At that time he was with the security branch, not with BOSS and he did say to me that

/Dollancek

Dollancek was a very shady character.

Did anybody else tell you anything like that? --- As I've said, informants. Also the way in which the person acted on a daily basis, this caused suspicion. I cannot remember exactly what all he did but I had very strong suspicion that he was the guilty party.

And did you call him in for questioning or did you just examine his weapon? --- I did talk to him. I did ask him questions about this but he denied everything.



MR LAINLAX: Did you actually go and search his home or his place of residence? --- Not as far I can remember, Mr Chair, no.

Why not? --- I wouldn't be able to say why not.

Doesn't it strike you, looking back, as rather strange that here was your major suspect, you didn't even search his house or the place that he lived?

--- We found nothing on the property which I could have used as evidence. I asked him for the firearm. He voluntarily gave me his firearm.

But surely it became obvious to you that once the firearm he gave you wasn't the right one that he must have used some other firearm or - and then you would have wanted to find that other firearm if you were serious about the investigation? --- Mr Chair, I was very serious to solve this case. It was an ideal of mine to solve the case. I can, however, not remember why I did not search his house.

Well, wouldn't you as a police officer now trained in police science and all those things, wouldn't you concede that at the very least it was negligent that you /didn't didn't do that, now looking back with the benefit of hindsight? --- I wouldn't say it would have been negligent. There must have been some or other reason.

If there was any particular reason that I would have felt that the house had to be searched, then I would have searched it.

You see, just as a totally independent person looking at an investigation of that nature, I find it very hard to understand why you wouldn't have done

such a thing in the normal course of an ordinary investigation. --- I understand your point but as I've said this is 18 years ago and I would have had some reason why I did not search the house. Under normal circumstances I would indeed have searched the house but there must have been a particular reason why I did not search the house and I can honestly not remember what that reason would have been.

CHAIRMAN: Did you receive any indication from anybody in the police, the security police or BOSS that perhaps you shouldn't be too energetic in your investigation in that particular direction? ---

That is what I wanted to add. Once I started investigating in the direction of Dollancek, I and my immediate commanding officer, Major Groenewald, spoke to our regional detective section head and informed him of the situation. He asked us to keep him informed with regard to the investigation and to tell him what further events would have occurred in the investigation. At a particular stage during the investigation a vehicle became involved and it appeared as if the vehicle would have been used during the murder. Two women drove past shortly after

/the murder the murder had been committed. I cannot remember who they were but one of them claimed that it would have been a beige Cortina vehicle that was at the scene of the crime. The other one said it would have been a white Opel. I took much trouble. They said that the vehicle had three lights in the back which a Cortina did not have so I thought that it would probably have been the Opel vehicle. I took considerable trouble to

try and track down the owners of Opel vehicles. I went to the factory and did that kind of investigation. I was provided with a long list of Opel vehicles that would still have been roadworthy. It was impossible for me to track down all of these vehicles. While engaged in this investigation in the direction of Dollancek, the commanding officer was called in to Pretoria with the docket. I believe he would have seen the head of detective services. I do not know exactly who that would have been and he would have informed that person of the direction in which I was doing my investigation. Briefly thereafter, after his return to Durban, the docket was closed and inconclusively closed to such an extent that there would have been a legal inquest with regard to the case and before the confirmation was received from the Attorney-General's office, it would have been J56, the form, the docket was closed which was not normal procedure. It would not have been done like this normally.

So it's correct then to say that you didn't feel that you had given that docket all the time and energy that you perhaps had planned to give it, that it was closed without you having decided, "I can go no further

/with

with this docket"? --- That would have been the case. It just did not carry my agreement. I wanted to solve the case particularly because of the claims made by the family and other persons that the police was involved.

Sorry, who did you say went up to Pretoria? Was

that Groenewald? --- If I remember correctly, it would have been Major Groenewald who was our commanding officer of the murder and robbery squad in Durban.

And you don't know who he spoke to in Pretoria?

--- No, I can only deduce who it might have been. It would have been one of three possible persons. The Commissioner, the head of detective services or the head of security branch.

Do you recall who those people were at that stage at all? --- No, I can honestly not remember.

Do you know where Major Groenewald is at the moment? --- It has been some years since he has retired and as far as I can remember, he lives somewhere in the Cape but I don't know exactly where.

Do you know his first names? --- If I remember correctly, it would have been Chris.

Now, you said in your statement that you and Major Groenewald had several meetings with the security police to discuss the case. --- That is the case.

Who did you meet with there? --- Normally it would have been Colonel Stadler. There would also have been a Captain du Toit who later retired as a general and is currently on pension. There might have been other persons involved but Stadler was the commanding officer and it would have been apparent that we would

/have  
have gone to him in this kind of case.

And what was his response and his reaction and his attitude towards your investigation? --- They

had a positive attitude but that does not necessarily imply - I mean, when they were with us they appeared positive but I would not know if that was really the case behind the scenes. When we were not present, what their attitude would have been, I don't know. When they spoke to us they sounded positively. They said that they would help but in fact we received no information then that was of any help with regard to the solution of the case.

MR LAINLAX: You speak in terms of "us". Is it ... (intervention) --- Yes, I mean by that myself and Major Groenewald because we would have worked together. It was the two of you. --- That is the case, Mr Chair.

CHAIRMAN: Now - and they made remarks, Colonel Stadler as well as McPherson made remarks about Dollancek being a rather shady character and suggested to you that he may be the person you were looking for. Is that right? --- The information did not come directly from them. I had already received this information on my own but we did discuss it with them and that is why McPherson then also said that Dollancek was a shady person. Possibly Stadler would have also said something like that but I cannot remember that. We had these little meetings and I think that Stadler would have been present on each of these occasions. McPherson was also a member of security branch.

Now, you're aware, are you, that there was  
/competition  
competition and some animosity between the security  
branch and BOSS at the time? --- Certainly there

was a certain amount of tension between them as far as I know, Mr Chair. They were jealous of one another, if I can say it in that way.

Why was that and what was the nature of that? Was it competition for turf or ... (incomplete) ---

I think it would have been the case. The one person wanted to appear as if they were more successful than the other. Although they were supposed to assist each other and to support each other, this was not the case.

Brigadier Hanson, who was he at that point? ---

That was our regional detective chief in the Natal region.

Did you report to him? --- Yes, as I've already said, Mr Chair, we - myself and Major Groenewald - met with him on several occasions and discussed the matter with him.

Now, in your investigation diary in February 1978 you wrote down the following -

"Due to intensive enquiries and investigations by Major Groenewald and myself the investigation is being steered in another direction and it is of a very delicate nature. The situation has already also been discussed with Brigadier Hanson. Due to the delicate nature thereof not all possible information and leads are written down."

--- I've already referred to this, Mr Chair. It is the case.

/Can you

Can you just explain because that seems like a very strange thing to write in an investigation diary to say that the investigation is being steered - I mean, I'm not saying it's not true. It may be a true thing, but it sound to me as though, if one reads between the lines there, that you are saying something else and I want to know what you were actually saying there, that you didn't write down there. --- That is when I received the information with regard to Dollancek and that he and possibly other members of BOSS were involved. I also had information available that the firearm which had been used to shoot the deceased was of Angolan origin. I was not ever able to gain any additional information with which to track down the particular firearm.

So when you say it's of a very delicate nature, what do you mean? What did you mean? --- It wasn't intended for everyone's ears and eyes.

What did you mean by it? What did you - was does "delicate nature" mean? What does it mean? Does it mean to say there's a possibility that police or State employees were involved in this murder? Is that what you were saying? --- That is the case, Mr Chair.

So you wrote that down - when was that? February 1978. So that is what? When was this murder? It was in January '78 so by the 1st of February your investigations were leading you to Dollancek, is that right? --- That is the case.

So you wrote in your diary that the investigation is being steered in another direction. What did you mean by it's being "steered"? Who was steering it there? --- Because we had no motive for the murder

/right

right from the start, it had become clear that there might well have been a political coloration to this murder and I particularly worked in that direction to investigate the political matters surrounding the murder.

MR LAINLAX: You say it was steered in another direction. What was the first direction from which it was then steered? --- As I've said, we attempted to find a motive for the murder to understand why the murder would have happened.

You had a direction. You were proceeding in one direction and that means you'd already begun to make assumptions and something changed those assumptions and made you move in a different direction. So, you understand what I'm saying? --- Before I received the information that Dollancek might have been involved, I investigated the matter without any motive. Nothing had been taken so there wasn't any robbery involved. It was simply just a murder. Once I received this particular information, I redirected the investigation because I believed that Dollancek might have been involved. Then I was able to shape a motive.

Sorry, I have great difficulty with what you're saying because if you didn't have a motive how could you have had a direction for the investigation. You know ... (intervention) --- It often happens, Mr Chair, that cases occur, particularly murders, where you don't have any motive that you know of and as you investigate the case over time, you start to discover what the motive might have been but that doesn't



always happen. The person was killed and you don't know what the motive /might might have been.

Ja, let's not get confused in words here. Motive or no motive doesn't mean you didn't have a direction. What I'm trying to get out of you is what was the direction you were following. I understand the issue of motive. Motive's something that often only become apparent much later in an investigation. We all accept that. --- I had no particular direction when I started. I had to work and try and discover if I could find anything that would have put me en route to a motive and that would have allowed me to prove my case.

Well, then if that is the case why did you write that you moved into another direction rather than saying, "Well, we've now found a direction" which would imply that you suddenly had somewhere where you were going". --- I think we're playing with words here. What I said is what I meant. I think we're just playing with words now.

CHAIRMAN: Can you also just explain what do you mean by "it was of a very delicate nature"? What did you mean by that at the time? --- Because of the possible involvement of a BOSS member who might have been or who would have been supposed to help the State to gain information.

MR LAINLAX: Can I ask a follow-up question in relation to that? You're a policeman of wide experience now. You've had many, many years experience and you're now retired - not retired? Are you still serving? Sorry, I understood that you ...

(intervention) --- No, at the end of February I left the force as medically unfit.

Ja, no, I was correct, sorry. Did you really /expect expect that BOSS or the security branch would assist you with this investigation if Dollancek was really involved? --- No, I did not really expect this. As I've already said, once I have discussed the matter with their chiefs or their commanding officers, the intimidation in the area suddenly stopped. I felt that they were not being honest with me.

Why doesn't that appear anywhere in your diary or in any of your reports. --- That is the reason why I made this particular inclusion in the diary to which the Chair had referred. I was scared that someone else would get the docket in their hands and that that might have caused trouble for my investigation of the case.

But surely anyone reading that entry would know exactly what you meant. --- That is why you would see that Major Groenewald as well as Brigadier Hanson inspected the docket and subsequent to this inscription, they made no comment because I informed them verbally what the case in fact was. I know this sounds difficult for you to understand ... (intervention)

No, I do understand. I understand fully. --- That is - as I tell you, that is what happened. Unfortunately in the past that is how we had to work.

I fully understand how you had to work in the past. We've seen hundreds of cases of that nature.

CHAIRMAN: Are you saying basically that in terms of

the hierarchy within the South African Police that those units that dealt with what was then called State security issues had precedence or dominance or supremacy within the force and that if they didn't want you to do a certain thing you, as murder and robbery or uniformed

/branch

branch or CID, then it just simply wasn't done. Is that the general feeling at the time? --- That is the case, Mr Chair.

And - sorry, when was this trip that Major Groenewald made up to Pretoria? This ... (intervention) --- I cannot remember the date but I think it would have been shortly before I made this inscription in the diary. He would have written into the diary himself. He closed the docket as inconclusive even before the finding of the Attorney-General with regard to the post mortem inquest would have been received, which is unheard of. It simply doesn't work like that. You're not supposed to do that. I believe that it would have been briefly before that, that he made the trip to Pretoria.

So how long did you have the docket then with you? --- If I remember correctly, the docket was closed ... (Side B ends mid-sentence) (Side A of subsequent tape begins) In the file there is a copy of the docket which indicates its date of closure.

Sorry, I thought you said a few minutes ago that the docket was closed shortly after this entry was made. This thing about the investigation being steered in another direction and being of a delicate nature. That was February 1978 and you said that the

docket was closed in July 1979 which means that there was another whole year and a half. --- I can't remember very clearly. I cannot remember exactly how long I carried the docket.

I just want to check up on those dates.

MR GOVENDER: Ja, the date that we have is the - the /file file was actually closed in November 1978 by Major Groenewald.

CHAIRMAN: November '78.

MR GOVENDER: That's according to the investigation diary. Page 35. Will that be correct, Brigadier? --- That might be the case. I think you would find the note in the writing of Major Groenewald himself. He would have written the information in his own handwriting.

CHAIRMAN: But what you said was that the docket was closed before the results of the inquest and before the decision of the Attorney-General. --- That is correct, Mr Chair, and that would also be clear - you can see that in the entries in the file that that was the case. I believe that it would have been a form J56, that's the form that you see from the Attorney-General which indicates the reason for death and who might be the suspect and whether the suspect was found and so forth.

And it was an informal inquest? --- Yes, and informal inquest.

Which means that no witnesses were led. --- That is the case.

So you merely made your statement available.

--- All the statements as well as my own which said

that I was unable to receive any additional information.

MR LAINLAX: Can I just clarify for the record? In an informal inquest the docket is simply perused by the magistrate who records all these statements in their as affidavit, as testimony. It's not as if people are asked to redo it. Just so we understand each other. That's correct, isn't it? --- That is correct. The

/magistrate

magistrate deals with the matter on his own of course with a prosecutor.

Sorry, there's no prosecutor involved in an informal inquest whatsoever. It's done administratively. --- That's as I've said. There would have been a prosecutor involved who would have read in the statements. The magistrate would have listened to the reading and made ... (intervention)

Let must just correct you. I've done many formal inquests. That's what happens in a formal inquest where the witness is sometimes not called. However, in an informal inquest it's done by the magistrate in his office. He simply reads the docket and makes a finding based on it. There's no prosecutor involved, etcetera. Just so you understand the difference.

--- Sorry, Mr Chair, I was confused there. You are right.

CHAIRMAN: Now, let's just try and get these dates right. You said just now that the trip from - the trip that Major Groenewald made to Pretoria was probably just before you made this entry in your investigation diary. --- No, before his own entry.

MR LAINLAX: Before his closing entry.

CHAIRMAN: I see, sorry. So you made this entry in your diary - this thing about the investigation being steered in another direction and it being of a very delicate nature only a month after the shooting, or so. A month or two. --- That might be the case. I can't exactly remember how long subsequent.

It says 1st of February '78. --- That might very well be. Since this was a person who was involved in BOSS who would have been the suspect, you had to work /in a sensitive, in a sensitive, delicate way with your investigation.

If someone would have discovered that you were involved in an investigation that would have caused difficulties for the investigation. If anyone might have discovered that you were doing investigation in this direction.

So it was actually a month. Sorry, it was about a month after the murder that you made that entry in your diary. --- That is quite possible, Mr Chair.

And the investigation was closed - the docket was closed some seven months later after Major Groenewald made his trip to Pretoria. --- That is the case, Mr Chair, as far as I can remember.

And did he discuss his visit to Pretoria with you on his return? --- He did, yes.

And what did he say or imply to you? --- I cannot remember exactly what he said but it would have implied that since a BOSS person was involved we had to stop the investigation. We had to cease our investigations. That was the impression I got from his statements.

And, sorry, what was the entry in the docket by Major Groenewald? Was there an entry? If so, which page is it on? 35? --- It's C65 if that helps you in any way.

And the J56 is the notification from the magistrate's office, is that right? --- That is the case, Mr Chair.

And that was received after - after the docket was closed. --- That is the case and that is unheard of.

MR LAINLAX: So the docket was filed then on the 16th of October 1978 by Major Groenewald. What happened

/between between then and the 5th of February 1980 when you reopened the docket? --- The docket would have been stored. Instructions with regard to murder dockets, as I'm sure you know, is that they're never destroyed. From time to time the murder docket has to be brought forward and one has to check whether the evidence is still available, whether it's still possible to gain more evidence and so forth.

You see, from your note there, it goes on to say

-

"All witnesses are still available, except A2 and A3, the daughters who are now in school overseas."

--- That is exactly what I've just said.

All right. It say -

"Various allegations have been made by journalists in newspapers. They were investigated and found to be unfounded."

So did you get an instruction that there's been all these allegations made and that you must now go back through the docket and give a report on the matter? That seems to be likely why the docket was reopened by you at that stage. --- That is quite possible, Mr Chair, but I cannot honestly remember. It's long ago.

What were those allegations being made by the newspapers? --- As far as I can remember in broad outline the claims were that the security forces or the police or someone like that was involved in the murder on the deceased.

Well, isn't that precisely what you suspected as an investigating officer? --- That is in fact what I

/believed.  
believed.

Well, why didn't you say so? --- That's a very difficult question. For someone who doesn't know how we had to work at that time why it would have been done in that way. It is possible that it would have been the case that the docket was brought forward and that might have been the reason why I would have written that the particular witnesses were no longer available. That is the kind of information that you try and extract before you continue. If the witnesses are no longer available then it doesn't help you to actually clinch the person because you can't prove anything. So the first thing you do when you bring the murder docket forward again it to check whether your witnesses are still available.

Don't duck the issue please. I'm asking you a



straight question and I want you to answer it. And I know it's a difficult question. I know it's probably difficult for you to answer all these years later but really it's clear from your entry that you were asked to look at allegations made by journalists. You've told us that you remember what those allegations were and those allegations were exactly what you yourself had suspected and yet you say and you write here they were investigated and found to be unfounded. Now, that's a direct lie. It's not what you suspected. I want to know why you wrote that there. --- I'm not trying to duck around the issue. I am not here to lie. As I've said, as you know the case was closed while the investigation was - well, the investigation was stopped. Much was written in the newspapers. We were never able to find substance for it.

/Now, after

Now, after that you appear to have been taken off the case completely. Is that right? --- I was transferred, Mr Chair.

To where? --- From murder and robbery here in Durban to Middelburg, Transvaal, and from there to the Brixton murder and robbery squad.

Any idea why you were transferred? --- If I remember correctly, there were no longer any positions available here. The murder and robbery squad here locally was at that time quite a small unit. Groenewald remained here. I did not want to return to the uniformed section and Middelburg was the only place where there was a position available for me, although it wasn't with murder and robbery, it was with the detectives.

So, just to go back to what we said earlier, you said to me, "You have to understand how we worked at that time" as to why you didn't speak about what your real suspicions were. --- That is the case, Mr Chair.

So, clearly, as a policeman working in the police at that time, it wouldn't have been the right thing to do in terms of the prevailing ethos for you to actually say what your suspicions were. You would have been branded as a traitor. --- That is the case. If today I was in the police, I would not do it in that way. I believe that we were simply used at that time to do dirty work.

What other ways were you used to, as you put it, do the dirty work? --- This is a very good example where I was not able to do my work properly. I am

/convinced

convinced that if I was allowed to do my work properly and if I was left with the docket without it having been closed, that I might have been able to solve it.

Now, Major Groenewald never told you who instructed him to close the docket. --- It is possible, as I have said, that he might have told me but I can honestly not remember because it's long ago.

It must have been someone in Pretoria at the head office.

MR GOVENDER: Brigadier, you agree - you admitted now that the investigation that you've conducted was not the best - it was not the investigation that you would have liked to have conducted. Is that correct? ---

No, it is not the way I would have liked it to have been done.

Yes. If you had the opportunity to conduct it again, you would have done it better. Is that correct? --- That is the case. If I did it in these days, it would have been an entirely different matter.

Now, when you visited the scene of the killing, you had ascertained at that point in time who the deceased was, isn't that so? --- That is the case.

And you knew he was a political activist of the left as you said earlier on. --- That is the case.

And you've also said that you, at that time, concluded that he's probably one of the people who have been killed as a result of a campaign being conducted by the security forces, as you've named a number of incidents that took place and he would have been one of those victims of that campaign? --- That was my inclination to believe so, yes.

So at the very outset of your investigations you /knew knew that you would be constrained because you suspected the killing would have been done by the very SAP, a branch that you come from. --- Not right from the start but very shortly from the start. Shortly after the murder in fact.

Now, the reason I ask these questions, Brigadier, is simply that at the time when you had received certain exhibits from certain other people at the scene before you had arrived, would you have been constrained in the type of questions or the investigations you have done on the scene itself?

--- No, at the scene of the murder on that particular evening I spoke to everyone that I could

speak to.

Now, obviously at that point in time you had been a very experienced investigator. --- That is so, Mr Chair.

And you had attended a lot of murder scenes prior to that. --- That is the case.

And you had some working knowledge of the state of a deceased or bodies that you found at the scene by your observation over a period of time, isn't that correct? --- On the scene of a murder I would consider this as a very important part of the investigation where what you find on the actual scene is very important.

Now, would you examine the body just to find clothes and probably ascertain the time of death and so forth? Just a cursory sort of investigation? ---

No, that's why I said that normally we would have involved the State pathologist who would have come out to see what wounds would have been involved, what injuries and possibly what firearm might have been used, /or what or what other weapon might have been used, how long previous to that time it would have occurred.

Brigadier, are you familiar with the term rigor mortis, the medical term? --- I know the term.

Do you know what it means? --- It's when the body become stiff. In Afrikaans it's called "lykverstywing".

Are you familiar with the concept that rigor mortis sets in after a prolonged period. The longer the body's left to remain after the death the rigor mortis ... (intervention) --- It only takes place

after a long time and then the body also becomes purplish.

That lividity, isn't it. Well, purplish is a concept of lividity where the blood drains to one side of the body that's is being supported on the ground. Isn't that correct? --- Yes, Mr Chair.

Now, did you observe Dr Turner's body on that day? Did you notice that rigor mortis had set in?

--- No, as far as I can remember it had not yet occurred.

As far as you can remember. --- That is the case.

You see, the reason I ask you that question, Brigadier, is because the ambulance driver that was summoned by the name of Bigar(?) has indicated in a statement that his observation when he was summoned to the scene that rigor mortis had already set in. ---

I cannot remember exactly by what time rigor mortis would occur but it would be after a number of hours. I cannot remember exactly how many hours. We never remove the body before we have very thoroughly investigated the actual scene of the crime. We would not allow anyone on /the scene the scene of the crime apart from people who should be there with regard to the investigation, proper experts and so forth.

From the family or from the witnesses themselves - of course you would have questioned them - did they indicate approximately what time Dr Turner what shot at? --- If I remember correctly the two girls did indicate a time because apparently he was reading to them. He heard a knocking at the door. He went to

their room. It would have been around 10 o'clock at night, if I remember correctly.

So he was shot around 10 o'clock at night?  
(Inaudible) --- About ten or quarter past ten, thereabouts.

And you were summoned only at quarter to one, is that correct? --- If I remember correctly, yes.

MR LAINLAX: Just for the record, the investigation diary says about 0100 you were notified by radio and you arrived there at 1.25 just so we're not confusing you. That's what the investigation diary records. So that's probably correct. --- That's entirely possible. The radio station would first check and protect the scene and then they would call in murder and robbery because it was long distances that were involved.

CHAIRMAN: Let's have a short break. About 15 minutes, okay, and we'll carry on with the same line of questioning afterwards.

SHORT ADJOURNMENT

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/ON RESUMPTION:

ON RESUMPTION:

CHRISTIAAN HENDRIK WILLEM EARLE (Warned still under oath)

QUESTIONED FURTHER BY MR GOVENDER:

Brigadier, if your estimation is right, if he was killed around 10 o'clock, by 1 o'clock there is a possibility that rigor mortis would have set in. ---

It is possible, Mr Chair, but I cannot remember that

kind of detail any longer.

Now, Brigadier, was there any member of BOSS present at the scene at any stage? --- No, Mr Chair.

Do you know for sure or you wouldn't know if there was a member of BOSS there? --- I did not see any one of them there that evening at the scene.

MR LAINLAX: Sorry, can I just come in one second. I'm inferring from what you're saying that you knew all the members of BOSS and that knowing all the members of BOSS you didn't see one of them there. Is that correct? --- I knew some of them but in a case like a murder case you do not allow anyone at the scene. You are the officer in command there. If there are any unwanted persons there, you chase them away.

But sorry, just a follow-up question before you continue, Mr Govender, why would they have been an undesirable person at the scene? They were policemen like you. --- They trample your scene, they destroy the leads which could possibly help you and that's why we do not allow unwanted people there.

Brigadier, when did you receive those exhibits, the 9mm cartridge from Sergeant Esaul(?) I think it was, yes. --- I found the cartridge and the point that

/evening

evening from Warrant-Officer Aisley.

At the scene? While you were attending the scene he handed that over to you? --- Yes, at the scene it was given to me.

Are you quite sure about that, Brigadier? ---

Yes, I'm 100 per cent sure.

The reason I ask you that question, Brigadier, is because Dr Turner's wife, ex-wife, Barbara Follett, has indicated that she in fact found the bullet itself the next day and handed it to a policeman that she doesn't know the identity of. --- The point of the bullet. Is that what you're talking about?

Yes, that's right, yes. --- I doubt it. As far as I can remember that same evening I got it from Aisley. I am nearly convinced of that.

You got both the cartridge and the point of the bullet on that night? You're quite sure about that?

--- Yes, that is correct, Mr Chair.

Brigadier, did you know that - do you know the neighbour Tubb? Did you interview the neighbour Jack Tubb at any stage? --- Possibly not myself but, as I said, when we investigate such a scene, Warrant-Officer Davids is a member of my personnel. I sent them around to make some enquiries at the neighbours.

I could possibly also have spoken to them but I'm not able to tell. It is possible however that he spoke to them.

But does the name Jack Tubb ring a bell in this investigation? --- I cannot remember at this stage, Mr Chair.

You see, Brigadier, in a newspaper article subsequent to the killing, Jack Tubb was reported as

/saying

saying that he was walking in his garden immediately after the incident with his 9mm gun in his hand. He was seen by some of the policemen on the scene and he was told what had happened and he was asked to leave.



Do you know anything about that? --- No, I don't know anything about that.

Now, if you had seen him with a 9mm gun walking in his garden, what would you have done? --- I would have questioned him.

And would you have taken his 9mm gun for ballistic examination? --- Yes, if it was under suspicious circumstances at the scene, most probably yes.

But no report was made to you that he was seen walking with the gun in his garden? --- Not as far as I can remember. As I said, it is possible but I can't remember.

Do you remember how many policemen were at the scene? You said earlier on that Lieutenant Labuschagne and Esaul(?) were at the scene when you arrived. Subsequently, while you were there, do you know how many policemen and their identities that arrived at the scene? --- I believe, I do not say that it is the case, but it is how we work each and every time, I summoned some of the members of the murder and robbery squad and I'm sure that that is why Davids was there. We did summons some more people.

Do you know their identities? --- No, unfortunately not. I can't remember.

It is possible that there were people there that you wouldn't know or know who they were? --- No, if I did not know them I would not have allowed them at the /scene, scene, as I have already said. (Side A ends) (Side B commences mid-sentence)

... he had received a call around 1 o'clock and

he attended the scene at ten past one. --- That's possible. I cannot comment on that .

And in taking your estimation of the possible time of the killing at 10 o'clock, it would seem an unusually long time from 10 o'clock to 1 o'clock before any police authority received a complaint of that nature. --- Yes, it is a relatively long time span but I do not know why the time was that long. As far as I know the two daughters were very shocked as well as the other lady was there. It think it was Miss Thompson, if I remember correctly.

And did you investigate why that delay was? --- Yes, I gathered or I suspected that the police was called very late because the people were so shocked.

Was that the only reason they were called late, Brigadier? --- Yes, it was what I suspected. I could not find any other reason.

You see, one of the daughters have actually said in a statement that in fact they attempted to call the police but the telephone was dead for a long time.

--- That could be possible. I will not be able to say definitely.

You were not furnished with that information at that time? --- (Speaking English) No.

Is this the first time you're hearing that information? --- Ja, that's correct. I didn't know about it at all.

You did take a statement from the children, didn't

/you?

you? --- Yes, I can't remember if I took their statements but I did take statements. Their

statements were taken. I can't remember if I did it myself or if somebody else perhaps did it.

And you say that you - is it - are you saying that this information that the phone was dead for some time was not communicated to you or that you didn't know about it. Oh, sorry, can I put that - that the children didn't say that to whoever took the statement from them? --- Not as far as I can remember. They could possibly have said something like that but I can't remember that they did say that.

If they did, would you have investigated that?

--- Definitely.

This Usher(?) person that you talk about, you say that Major Groenewald and yourself were satisfied that Usher had nothing to do with the murder. --- You probably mean Aisley, is that right?

CHAIRMAN: It was Dick Usher who stayed in the back cottage. --- Yes, we also checked out his movements.

MR GOVENDER: And you were satisfied that he had nothing to do with this? --- Yes, that's correct.

Did you know subsequently that Jack Tubb was an informer for the security branch? --- No, I was not aware of that. They were working underground to a large extent. They did not share their information with you. That's the security branch.

Was there any effort made to prevent you from investigating in the direction of Jack Tubb? --- No. No, definitely not. Not as far as I can remember.

You've indicated in your diary, Brigadier, that you

/received

received a letter from a station commander in Kroonstadt. --- Yes, I can remember something in that line although I can't remember exactly what the content of the letter was.

From Major du Plessis in Kroonstadt? --- Yes, I know there was something from Kroonstadt but, as I say, I can't remember exactly.

Well, the letter alleged that white men were responsible for the deceased's death? --- Yes, that's possible. As I said, I can't remember but it is possible that that was part of the information.

And did you investigate that angle? --- Yes, but we could not find anything of a positive nature in this regard as far as I can remember.

Well, what was the nature of the allegations that this major was making from Kroonstadt? Did you perhaps go and see him and take a statement from him and ask him how did he come to this information? ---

No, I can't remember what the content of the letter was.

Yes, the content of the letter summarised in your unit that white men were allegedly involved in the killing, but this came from Major du Plessis in Kroonstadt. Did you meet with Major du Plessis to discuss this? --- If I remember correctly, I did go to Kroonstadt but we could not move any further. We could not find anything. It was only mentioned that it was two white people. That's all I can remember and I don't believe there was anything more to it.

How did the major come to this information? ---

I think it was from somebody who was in prison who

gave the information. I am speaking under correction.

/And did

And did you visit that person in prison? ---

I believe so, if he was still there but as I say I cannot remember, it's very long ago. I saw many people regarding the case. It is possible. I don't know. I cannot give you an honest answer. But if his name had been mentioned, I would definitely have visited him or seen him.

Brigadier, what I want to know from you is simply this, that in your investigation on this angle, did you find that you were not going to get any further or were you prevented from continuing this line of investigation? --- Do you mean the Kroonstadt thing?

Kroonstadt, yes. --- No, I was not prevented from investigating it.

So you are saying then your investigations didn't lead you any further in that direction? --- No, definitely not.

Now, Brigadier, you're saying at the point where Major Groenewald went to Pretoria, was summoned to Pretoria, and after he came back the file then was closed. --- Yes, it was concluded.

What I want to know is did you personally protest against that type of action? --- No, I did not complain about that because he was the person who was above me. He was in charge of me. And I believed that it was commands he got from Pretoria.

So you didn't question it? --- Well, I concluded and I gathered that it was how we worked in the past and that we were not supposed to work further

on the case.

So did that confirm your suspicions that this whole /incident incident was something that was planned and engineered by people higher than you? --- I would not say people above me or higher than me but people who were part of the security forces and that they wanted to protect this and not to have it known.

So that is one of the possible reasons that you didn't then question this any further. Is that right?

--- That is correct, Mr Chair.

Brigadier, I want you to just clear up something for me. According to your statement that you made as part of your investigative diary, you are designated - this is made on the 6th of March 1978 - you are designated a lieutenant. Is that right? --- I do not understand the question about the lieutenant. I was a lieutenant at that stage?

You were a lieutenant at that stage. ---  
(Speaking English) A lieutenant?

A lieutenant, okay. Now, the entries in your investigative diary in the period prior to that, in say, for example, the 3rd of January '78, your rank as indicated in your diary is captain. --- Yes, while I was busy with the case, I was promoted to the rank of captain and shortly afterwards I was the commanding officer of the murder and robbery squad.

Ja, well, what I want to find out, Brigadier, is your statement that was signed on the 6th of March says that you're still a lieutenant but your investigative diary in January '78 indicates that you were a captain. When exactly did you become a captain?

--- Do you have the diary which I wrote myself or the translated part thereof?

/The translated

The translated part. --- I do not know. Perhaps it could be a mistake on the part of the typist or was that my mistake. If I could just see my original - the original section that I wrote because I can't remember the date I was promoted to captain.

Just have a look at that, Brigadier. --- I see that I did sign as lieutenant. Possibly - what's the date of that entry?

The date of that entry is the 20th of January '78. And all subsequent entries have been signed as captain. --- I definitely signed all the further entries as lieutenant so I suspect it must have been a typing mistake.

Just one last question, Brigadier, the exhibits, the cartridge and the bullet itself was handed to you by Esaul. In his statement he says he found the cartridge at the door of the Turner house and the bullet was found amongst the bed-clothing inside. Did you have that information when he handed it to you? Did he tell you that? --- Yes, that's why I said I was nearly convinced that I did receive the point of the bullet as well as the cartridge on the scene that evening and not later on as was alleged.

Now, considering the angle at which the firing of the gun was done through the window, I understand that the door was on the left-hand side to the person who had fired the shot. Now, according to Esaul, the cartridge was found at the door itself, at the step of the door, Now, in terms of weaponry and if the gun

was fired at the angle, would that cartridge have landed at the door or would it have moved further to the right? --- It

/is difficult is difficult to tell. It depends on the weapon where the cartridge would have fallen. Perhaps it bounced away from a pillar or something but the window was broken, if I remember correctly. It was some of these bay window type of windows. It was at the side of the window from where the shot was fired. It went through the window. It bounced against the burglar bars and it was found at the other side of the bed.

I'm referring, sorry, Brigadier, to the cartridge, the shell itself, it was found outside the door? --- That's correct.

MR LAINLAX: Sorry, Mr Govender, he's trying to explain that from the nature of the path of the bullet through the thing, he's trying to estimate from how the bullet travelled roughly where the person who fired the shot must have been standing. That's what he's trying to explain.

MR GOVENDER: Okay, Brigadier, from that explanation and the position of the door and the window, where would it be likely for that shell to have fallen?

--- On the porch. I would say more to the side of the steps if the person was right-handed. Even if he had been left-handed. Away from the front door.

Away from the front door? --- Yes.

So the fact that it was actually found, as indicated, at the door itself, you're saying it's possible that it could have hit on to something and landed at the door? Is that what you're saying? ---



Yes, that's what I'm saying. It could have hit something and bounced back. That's highly likely. Because a 9mm pistol's cartridge is thrown quite far.

/You did

You did investigate that aspect of it did you, Brigadier? --- Yes, I believe that I did look into it but it could not bring me much further in the investigation because I did have the mark on the window and the two marks in the room so I could gather from that that it was fired from the side of the front door.

The policeman Esaul, was he also from the radio control? --- No, he was the detective in command of the unit of Bellair in whose jurisdiction the address of the deceased falls. It is in the jurisdiction of the Bellair police station.

So he was a detective investigating ... (incomplete) --- Yes, he was a very good detective.

CHAIRMAN: Ja, I don't think that avenue's really worth pursuing, the question of how the bullet got where it was. I'm very familiar with these premises and the door is very, very close to the bay window and it's quite understandable how the shell could have ended up, I think, by the door. It could have been moved there by the person himself. It could have been kicked by one of the investigating policeman. I want to just ask a few questions about three different issues, Brigadier. Did you have anything to do with investigations into David Beelders? --- No, it seems that these person's names were brought up long after I did not have the docket any more and when I

left the police station.

Are you aware that he was convicted of a shooting incident in Cape Town some time after the Turner murder? --- No, I am not aware of that.

Now, we have had a meeting with the person who drove the ambulance to the Turner house on the night of

/the murder.

the murder. He was at Congella Fire Station and he was called out by the police to go and fetch the body in the ambulance and he went into the garden and he saw a lot of people walking around there. Police, CID, he recognised one of them, Yseler(?), because he'd been at school with him and he asked the police - he doesn't know who he asked but he asked the police who was this person. You know, for him it was quite unusual that there was a white person that had been shot and he asked some of the policemen there why - what had happened and who this person was and the reply that he got was that Mr Turner was a communist and his banning order was about to be lifted and that's why he was shot. We've got a sworn statement from that ambulance driver. Did you speak to him at all? --- No, I can't remember having spoken to him but his story sounds a bit far-fetched to me.

Who would he have spoken to on that night that would have given him such an answer? --- His task and his duty was to speak with one of the investigating officers on the scene to tell him what had happened and he must leave the scene as quickly as possible.

Ja, I know what his job was but who would be have

spoken to? He said he'd spoken to some of the policemen who were there. Who could he have spoken to? How many policemen were there? --- I have no idea with whom he could have spoken. At the stage when he left, I think the uniformed people had already left. In other words only the detectives were left there and I doubt that they would have left it like that and that they would have said that to him. I really doubt his story.

/He also

He also said that one of the policemen told him that one of Turner's friends or associates had been shot and killed in Kwamashu that night or the night before. Do you know anything about that? --- No, I have no knowledge of that.

So did you become aware during your investigations that a police informer, an informant, had been killed - a black person living in Kwamashu had been killed the night before Turner's murder?

--- No, ... (intervention)

Is this the first time you've ever heard about that? --- Yes, I do not have any knowledge of that.

Somebody by the name of Steven Mtshali. --- I know that there was an informant who I personally told at a certain stage, I do not know exactly when. I can't give a definite answer to that.

Sorry, what about an informant? What did you tell an informant? --- I do know about an informant. He also gave me information a couple of times, a person who was killed in Kwamashu but I do not believe that we are talking about the same

informant whom this person was talking about. I do not have any knowledge about this. Not as far as I can remember.

So when you say you know an informant in KwaMashu, who are you speaking about? --- He was an informant who worked for me.

Jam just helping you generally with solving your murder cases and your criminal cases. --- That's correct.

What was his name? --- I can't remember. I can only remember his nickname was Sweetie.

/Okay,

Okay, so you've never heard of Steven Mtshali?

--- Not as far as I can remember, Mr Chair.

Okay, now, the third thing I want to ask you about is do you recall having a meeting last year with Dr Turner's eldest daughter? --- Yes, if that is the event in Krugersdorp. At that stage there I spoke with one of them. She is living in America. I can't remember exactly which one it was. I can't remember.

Her name is Jan Turner. Do you recall what you said to her? I'd like you to think about that quite carefully. --- I told her - she wanted to know about the circumstances surrounding his death. She wanted to know if we had arrested somebody and if we had suspects. It did not tell her that we were suspecting the security or BOSS people. It could result in further implications or problems. I knew about the Commission that was about to commence or was at that stage already going on and that the event would definitely come before the Commission. That is why it would not have been right for me to discuss

this with other people beforehand.

So it's correct then when you spoke to her that you said that you were convinced that there was no political motive for the murder? --- That is the case but I did not withhold it from her on purpose. I was aware of the Commission. I've always been more than willing to come and tell the truth to the Commission.

You see, I've got - I have an extract from your investigation diary, as you know. You write in your diary -

"Despite daily investigation and inquiries ..."

/Do you

Do you see where I'm reading? Stephen Mtshali, CR115/1/78. --- (Speaking Afrikaans) Ja, ek sien dit, mnr die Voorsitter.

So in fact you did investigate that link. ---

(Through Interpreter) It is possible that I did investigate this link. I forgot about it. It is difficult for me to remember everything.

Do you remember why you concluded that - you said it seems rather a large coincidence, as you put it, or a big coincidence that the two things could be in any way connected. The shooting of Dr Turner and the murder of this informant. --- Let me just quickly refer to this.

Also, it seems it was an attempt to shoot him. Maybe he wasn't killed. --- Yes, I see I did write that he was a State witness in a certain case for the State and it is very likely that it would have been the reason. Possibly he was also a left-wing person.

I can't really remember.

Okay, so as you recall he was a State witness, not an informer. Because if he was an informer ... (intervention) --- Yes, he was a State witness according to my knowledge.

MR LAINLAX: (Inaudible) ... something else. Just one angle I'd like to try and follow up. It has to do with all these death threat phone calls. Do you remember there was a whole issue about that? --- Yes, I remember that, Mr Chair.

You knew that the Turner's phone was being tapped at the time. --- Yes, I am aware of that.

So there would have been a recording of that phone

/call.

call. --- There ought to have been, yes.

And it would have been possible to trace that phone call through the normal post office channels to who had made it. --- Yes, I can't remember exactly what the circumstances surrounding the tape were because .... (Side B ends mid-sentence) (Subsequent tape begins mid-sentence) ... wanted to hear what was said that that was my job. That was what I did always in this kind of case.

Did you actually hear the call? Did you listen to the tape? Did you try and trace where it had come from? --- I believe I would have tried to listen to it but I can't remember if I did listen to it or not.

I know there was a certain stage when we listened to tapes a lot. I don't know if it was in this case of a different case. I can't remember to be honest. I do not want to mislead the Commission but I can honestly

not remember.

You see, if you just look back in your diary above that entry before the entry of Mtshali. It would have been the paragraph before that. You had a discussion with Stadler and Wellman. The entry's dated 13/1/78. So it's probably just - if you go back a page the next date entry is 13/1/78. --- Yes, I see that, Mr Chair.

Now, they could give you no clues or guidelines.

--- Yes, I see that. I remember that I did say that. I didn't remember it now but now that I see it I do remember.

At least also handwritten records of telephone calls made to the deceased with, amongst other things, the death threat. --- Yes, that they gave it to me.

/Now, do

Now, do you see what you've written there? "It appears that it was also a white man that phoned."

--- Yes.

"He also said that the ANC accepted responsibility" and then in brackets "security branch style". What did you mean there by writing that?

--- I wrote also that the ANC accepted responsibility at that time. Is that what you're talking about? Just repeat your question please.

Is there nothing in your own writing with brackets there? I haven't actually read that portion myself so ... (incomplete) --- After "verantwoordelikheid" it's got ... (incomplete)  
(Witness adds in Afrikaans: "Aanvaar" nee.)

Okay, that must be a comment that someone else

inserted in the document. --- I see what you mean however but that's not my handwriting. I suppose this would have been persons who checked the docket after I already left.

CHAIRMAN: But do you have any comment to make on that when Wellman or Stadler said that the ANC accepted responsibility for the death threat? I mean, did you believe that the ANC would send a death threat to Dr Turner? --- I doubt that since after all they worked for the same cause. I very much doubt whether that would have been the case.

MR LAINLAX: So clearly they were trying to mislead you? --- Certainly. Most definitely. That is in fact why I said that I did not trust them.

Okay. I just want to take you back. Who was Dan Matthee? --- Dan Matthee was the chief detective /stationed stationed in Pinetown which would have been a different district of the police. The murder and robbery squad covered the entire greater Durban area regardless of the particular district. If I remember correctly he was the chief detective in the Pinetown area.

What was he doing there? This wasn't his district. --- I think in fact that Bellair did resort under his ... (inaudible) ... Hanson would have been at a higher level than he would have been. So I think Bellair would indeed have been covered by him.

So Matthee was a detective at that time? --- That is the case, Mr Chair.

Did he go on to work for the security branch? --- Not as far as I know. I think he retired



subsequently. He still lives here in Durban in fact.

So there's obviously then nothing suspicious in his being present. He would have been the officer - probably duty officer at that time or something of that nature for that area. --- Since murder and robbery always would have sent an officer - in that particular case that was myself - we would just have informed them what was happening. We would have phoned them or in some other way informed them.

But he actually was at the scene. --- That very night?

Ja, he was there. When you arrived he was there.

--- That is possible, Mr Chair. I wouldn't be able to deny it but I can't remember exactly who all would have been there on the scene. So it is possible that he might have been there. That cannot be excluded.

Sorry, if I read the diary correctly - it's

/confusing

confusing but in fact one - there's an entry by Eiseler(?) right in the very beginning and I'm reading from the translation, you understand, so it's possible that there might be a confusion there. But if you look at the investigation diary Bellair station, Durban -

"On the front verandah I picked up cartridge, etcetera. Lt Earle arrived at 2 o'clock. I handed these exhibits over to him. DCI officer Col Matthee also arrived at the scene.

Investigation being continued."

--- Wat wil u van my weet? (Not translated)

Now, then you look at the next entry, it's

obviously done the following - or the next day probably, then gives a fully report of what happened?

--- Yes, that's what I wrote myself.

That's your own writing. There you see that a little while later Lt Col Matthee from Durban also turned up. --- Yes, I'm also looking at the typed section.

So the point I'm asking is your recollection is he was from Pinetown and he was uniform for that area, not a detective per se. --- No, he would have been in the detective section. He was in fact in command also later at the murder and robbery squad.

So why would he have come out there? --- Exactly as I said, it was his district. He didn't have to come out but if you want first-hand information, if you really care about your work, you would have gone to the scene of the crime like this.

I mean, to my thinking it was an unusual murder,  
a

/white  
white man being shot in this way. He may not have known that there was security force involvement and he probably came out because it was an unusual instance.

--- Any murder or large robbery, the chief detective for the district would have come out to the scene of the crime. It was quite common at that time.

Okay. Did you have any dealings with Andy Taylor ever in relation to this matter or any other matter?

--- It all depends on what you mean by "dealings". I'm sure I told him about it, asked him if they wouldn't be able to gain any information about it.

When you say you picked him up, did you question

him? --- No, I certainly did not question him. I just informed him of the case and asked him that they should use their Informants to see if they couldn't get information about the matter.

You see, Andy Taylor was a member of BOSS at that time. --- No, I don't think you're correct. I in fact doubt it.

Was he security branch? --- He was definitely not a member of BOSS. He would have been a member of security branch as far as I recall.

Do you recall discussion it with him and him giving his opinion on it? --- I cannot remember it in detail, Mr Chair. I saw him quite often. He came to the club on occasion. One would talk about your cases and so forth but I cannot remember on what particular incidents I would have discussed the particular case with him. It could even have been at the office.

If one looks at page 29 - your pages are different, sorry. It would probably be the second page of that

/translation.

translation. If one looks at the top on the fifth line you say -

"It is possible that the murder originated from personal revenge but in my opinion it is politically aligned taking into account the circumstances and the life that the deceased led."

--- I see that, Mr Chair.

Now, clearly you had considered that as a possible line of investigation, personal revenge.

What prompted you to look at it from that angle? ---

Again, due to the particular life of the deceased and his activities.

Who would have wanted to take personal revenge against him? --- Possibly "revenge" is not quite the right word. Maybe somebody just wanted to take him out or get rid of him.

You see, there're two separate motives here that you offer and then you choose one rather than the other. And so what I'm trying to understand is why did you think of the one first and then exclude it because the other one seemed more probable? --- Mr Chair, if I could read through the entire docket I might be able to give you a proper answer but just at a glance I cannot tell you why I stated it like that. There must certainly have been a reason for that.

Okay. Mr Govender, is there anything else you want to follow up? I just want to just check something and then come back.

MR GOVENDER: Colonel Taylor at that time was a sergeant, wasn't he, in '78? --- It's possible, Mr Chair, but I cannot remember. He might have been a /sergeant sergeant or warrant-officer.

Was he ever a suspect in this killing? --- Not at all. Not while I was handling the case.

You didn't receive any information possibly that he was a suspect, from anyone, any source? --- Not at all, Mr Chair. Not in any way.

Were you ever approached, Brigadier, by any member of BOSS or the security force in relation to your investigations? --- Yes, as I said earlier in

my testimony, I think it was Colonel Steenkamp, their commanding officer. I met with him on several occasions in the evening in various different places in town.

Okay. By any member of BOSS? --- Not as far as I can remember. Not that it is entirely impossible but I cannot recall any such other person. I doubt it though since after all I was suspecting one of their people and I didn't want any of them to talk out. I don't think so.

Did anyone make a request to you that you should stop with the investigation at any point? --- As I've already said, after Major Groenewald went to Pretoria ... (intervention)

No, Brigadier, I'm aware of that. I'm talking about approaching you personally. --- No.

MR LAINLAX: You spoke about these other instances, the attacks on other people's houses, shooting at other people's houses and so on, did you follow up any of those dockets to try and get, say, ballistics evidence in those matter and compare them with the ballistics evidence in this matter and try and put together a profile. --- Yes, I did as far as I can remember.

/There  
There was one case I remember at Mayville, there was also a shooting incident but the evidence just disappeared. The cartridge and the bullet point disappeared. It is also mentioned in my diary. I did check that.

Now, if you look at the summary, on the 23rd of January 1978. --- Which page is that on?

It will be the fourth page - or the fifth page, I beg your pardon. It's the page that in the middle lists all the photographs. --- Ek het dit.

Okay. If you come down just below the photographs, you'll see that on the 23rd of January -

"4 9mm bullet cartridges received from Inanda detectives to be sent to ballistics for comparative purposes. These cartridges were found at the scene of a murder in which ..."

I'm assuming it means -

"... two church groups from Inanda were involved."

--- Let me just quickly check. Yes, all places where 9mm pistols were found I did receive that and I sent it for comparison. In this case there were two groups who were apparently fighting against each other.

Okay. Now, clearly, looking back, and having an awareness that Dollancek might have been involved or BOSS might have been involved they would never have been stupid enough to leave that firearm lying around in a place where you might come across it? --- No, they would definitely not have done that.

And if they were going to hold on to that firearm,

/they

they would obviously put it somewhere quite safe.

--- Yes, or they would have gotten rid of it. They would have thrown it away or something like that.

Would they have had access to lots of firearms of that nature? --- I believe so because as I said

they were working underground in Angola and Namibia and there were many problems there. I do not think it was a problem. I did have information that the weapon the deceased was shot with came from Angola and I could not get anything to corroborate that. I don't think it would have been a problem to find such a weapon.

Mr Govender, are there any other issues you want to canvass?

MR GOVENDER: Yes, one issue on that same page, Brigadier, Southley(?), Mr Southley, was a possible suspect as some stage. At the bottom of that page. Southley, Southee(?). --- Yes, I see that, Mr Chair.

How did he become a suspect in this matter? ---

I can't remember. Let me just check if I didn't write something here. If you can just give me a minute. I think it was in regards to somebody - somebody called all the people by the name of Turner in Durban and Southee was apparently - as we made enquiries from people, him or his brother were at university together with the deceased. As I said, it's so long ago that I unfortunately can't help you in this case.

MR LAINLAX: It's interesting that on the following page Usher tells you that the deceased had an interview with Dollancek. He says it was known to all of them that Martin was a member of BOSS. --- Yes.

So clearly Dollancek had befriended this group in /some some way or other. --- It is possible. He possibly met them or infiltrated them to get

information.

To get to know the lie of the land properly and prepare his reconnaissance for his mission if there was such a mission? --- It is possible. It's not really possible to answer the question but it can't be excluded.

You see, the reason I'm raising this is there was a lot more than just speculation there for you to see the connection with Dollancek. --- Yes, as I said, it is possible but I can honestly not remember. It is very long ago. I do not want to mislead the Commission and tell the Commission things that I am not definitely certain of.

Okay. I've no further questions at this stage. Carry on, Mr Govender.

MR GOVENDER: Mr Chairman, I don't have further questions but I'd just like to ascertain from the Brigadier that would you be able to refresh your memory for much of these that you can't remember, like the incident that you've been asked about now, if you had a copy of your investigative diary and if you can remember we can arrange mutually to meet again and discuss some of the things that you remember. --- Yes, I believe - I don't have a problem with that although the diary I wrote is not comprehensive or complete. I did look at it yesterday. We will have to ascertain what was the problem. I think there are about six pages missing.

Yes. Do you perhaps know what happened to those pages, Brigadier? --- I don't have any idea. It ought to be in the docket because these dockets are

/locked



locked up and there are copies made thereof. Perhaps these pages were not copied or were not bound into this copy.

Can you perhaps remember what were those pages perhaps? --- No. I would also like to see them. Perhaps there's something one can use. Perhaps there's nothing in them. I don't have any idea what was contained in them.

Apart from the investigative diary, is there any other source that you can get further information to help you remember this investigation? ---

Detectives usually keep a notebook in which you write everything down but it is 18 years ago. They destroy these notebooks after three years if it is full and it would definitely not be available any more. And if I am transferred, I leave it behind at the place where I had been. I do not take it with me. Can I say something, please?

Yes, sure. --- If I could perhaps get the docket, the original docket, so that I can go through it. I am sure I will be able to get a better picture.

I do not know if I am able to get it from the murder and robbery people. I will come again, I don't have a problem with that but I will not be able to do it today. As you see it's a very thick thing. I will have to cross-reference and so on. I tried yesterday but I could not do everything I wanted to do.

Well, Brigadier, we'll make efforts to get the docket as such and if you think you can be of assistance to us we'll let you have a look at it in the future. For the time being there is no further questions that we want to ask the unless the

Commissioners have any further questions.

CHAIRMAN: No, not at this stage. Thank you very much, Brigadier or Director. We will call upon you again and arrange a mutually convenient date for us to meet and you can look at the original docket and if there're further questions we would like to put to you then we can do it at that stage. --- In other words, you would help me to get the docket. They would not just give it to me. I will not allow it to get lost. You don't have to be worried about that.

We will also get hold of the Attorney-General's file on this matter and the inquest. --- That can also perhaps help me and then I can help the Commission.

Thank you very much, Brigadier.

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/PROCEEDINGS