

RICHARD WALSH, by Mr. Spicer

1 RICHARD WALSH, resumes testimony, as follows:

2 BY MR. SPICER:

3 Q. Chief, when we left off yesterday in response to a question
4 by the Chairman, you made a comment that I want to ask you
5 about. I'll just read you the question and the answer.

6 The question was:

7 Well, before we adjourn, do I understand
8 Chief Walsh that there -- you have a
9 different procedure when you come upon a
-- what would be a serious assault than
a murder?

10 And your answer to that was:

11 Well, at that point in time, sir, I would
12 think that the stabbing was probably not
13 considered as serious as a murder would
14 have been. If we were into a murder case
15 on that night and I hope I'm answering
16 your question. If it was a definite
17 murder case and we knew it at that time
18 I think the procedures would be different.
19 I don't know, on that night, if -- who
20 could say that Sandy Seale would die. My
21 hope was even seeing him badly wounded is
22 that he was going to make it.

23 And this is -- the next part is the part I want to ask you
24 about:

25 And I feel the lapse of the 20 hours, I
think that turned the investigation of
that case all around. That's the only way
I can perceive it today.

I was wondering if you could comment for me on what you
meant by "I think that turned the investigation of that
case all around."?

A. In making that comment yesterday, I did not mean to infer

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1 | that the action on that night was not important enough to take
2 | the proper procedures. And the proper procedures would have
3 | been to secure the crime scene and so on. But I think that I
4 | answered your question that the department of 1971 most of the
5 | officers, like myself, were not properly trained in the
6 | methods and technics that should have been employed at that
7 | moment in time.

8 | Q. What, sir, would then be your answer to my question that you
9 | comment on the phrase that you gave us yesterday:

10 | And I feel the lapse of the 20 hours, I
11 | think that turned the investigation of
12 | that case all around.

12 | Could you tell me what you meant by that?

13 | A. I think the only way I can properly answer your question, is
14 | to say that the proper action was not taken at that time for
15 | whatever circumstances.

16 | Q: Well, did that -- did the fact that the proper action was not
17 | taken have anything to do with the fact that your perception
18 | at the time you arrived was that this was not a murder case?

19 | A. No, I don't think that is what I indicated. I think what I
20 | was saying is that at that point in time we did what we felt
21 | we had to do and probably in trying to do that, we didn't do
22 | things that we should have done. Also, I related to you that
23 | the two cars that were in there and the four men obviously
24 | they went to the hospital. In retrospect to leave an
25 | individual there to protect the crime scene which probably would

1 have been the proper procedure. That was not done.

2 Q. And do I take it from your answer then that what you're saying
3 is that the lapse of the 20 hours in your comment that I think
4 that turned the investigation of that case all around, has
5 nothing to do with the fact that when you arrived on the scene
6 you didn't conceive it to be a murder?

7 A. No, that is not, that is not what I meant.

8 Q. What did you mean then?

9 A. What I did mean was that possibly if it had been a murder
10 at that time, probably it would have brought other people into
11 play and the proper procedures would have been taken. Which
12 I feel in retrospect, they were not.

13 Q. Who are the proper people that would have been brought into
14 play if it had been a murder?

15 A. Well, at that point in time, the foot soldier was not the
16 investigator. The men on the streets did what -- what they
17 felt they had to do. But the investigation of crime was the
18 responsibility of the detective section at that time.

19 Q. Right. So what difference would it have made whether or not
20 it was a stabbing or a murder to whether or not the detective
21 division got involved?

22 A. Well, I can only think about in the light of today as to what
23 I might do now or what I would have ordered done. If there
24 was in the case of a murder, I personally would deploy every
25 personnel in my department that any expertise that could

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1 probably bring it to a successful conclusion. And I feel at
2 that point in time whether it was because of lack of training
3 of officers like myself, these things were not done.

4 Q. And I feel the lapse of the 20 hours, I
5 think that turned the investigation of
6 that case all around.

7 I'm still not sure, sir, whether you've answered my question
8 as to whether what that lapse of 20 hours meant in your mind
9 to turning the investigation of the case all around. But
10 I'm wondering is whether or not you think in 1971 you would
11 have approached it differently?

12 A. Probably.

13 Q. And in what respect?

14 A. I don't know exactly what you're trying to derive from me at
15 this point in time. Maybe you would explain to me exactly
16 what you want.

17 Q. Sure, well, what I would like, I guess, is just to be sure
18 that I have an answer to my question. And my question was
19 based on a comment that you made late yesterday afternoon
20 discussing the, your arrival at the scene and saying in
21 response to a question from the Chairman:

22 I feel the lapse of the 20 hours...
23 that is, the 20 hours between the time that Mr. Seale was found
24 and the time that he died

25 I feel the lapse of the 20 hours, I
think that turned the investigation of
that case all around.

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1 | And all I'm trying to do is get you to direct your mind to
2 | that phrase:

3 | turned the investigation of the case all around
4 | and ask you what you meant by that?

5 | A. Probably -- on that night I feel that we did what we felt
6 | was right to do. And I feel now that there were things that
7 | we could have done that we didn't do, whether because of
8 | lack of expertise, lack of knowledge in procedures. And as
9 | I look at the department in 1971, I would say probably those
10 | procedures were not in place. If on the night in question
11 | Sandy Seale had died immediately and I felt later on through
12 | the night that, that I could have been of more help before
13 | at eight o'clock in the morning that my services were needed
14 | or that there was more input that I could have given, I think
15 | I would have stayed. I think the other men who were with me
16 | at the time would have continued on too. But I think our
17 | problem was lack of direction from somebody at a higher
18 | level. I was one of the senior constables but also as I
19 | indicated in my testimony there was a corporal at the
20 | scene of the crime that night as well. And I think that
21 | if someone should have taken the initiative and call the
22 | plays as they should have been, it should have been somebody
23 | in a position of authority beyond me.

24 | Q. Did you have any discussion during the course of the evening
25 | with anybody from the detective division?

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1 A. No, I can't recall when I first saw a detective. I was on
2 the backshift Friday night. I went home and I went to bed.
3 I returned to the mid-night shift on Saturday. And I cannot
4 recall in my mind at what point in time other than probably
5 late Sunday afternoon on the four to twelve shift, when I
6 would be talking to Sergeant Urquhart. That is the best
7 recollection I can give you.

8 BY THE CHAIRMAN:

9 Q. Chief, Chief Walsh before we leave this issue because it is
10 quite important in my view. In 1957 if you had found, in
11 1971 rather, in 1971 if you had found the dead body of Mr.
12 Seale when you arrived at the scene, what would you have done?

13 A. At that point in time I would have immediately cordoned off
14 the area. I would have made a personal contact to the
15 Sergeant then in charge of the section. Explain to him
16 what we had and asking for him to, to take over and or to
17 advise me as what he wanted done.

18 Q. Are we entitled to assume then the procedure with respect
19 to a policeman on the beat, a foot soldier as you've described,
20 who comes upon a person who has been seriously injured as a
21 result of an assault that the procedure at that time was
22 different?

23 A. No, I didn't wish to imply that and probably that is the
24 way it has, I have been leading. But no, it was not the
25 implication that the stabbing was less important than

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1 something more serious. No, I was not saying that we had two
2 procedures. I think it was probably could have been suggested--
3 or I may suggest an error in judgement possibly on my part.

4 Q. Okay, thank you.

5 BY MR. SPICER:

6 Q. Chief I understand your testimony yesterday afternoon, you
7 went to the hospital, is that correct?

8 A. Yes, sir.

9 Q. And when you got to the hospital, what did you do?

10 A. I went immediately to the out-patient's department and at that
11 time I helped undress Mr. Seale. And my recollection is that
12 Doctor Naqvi appeared in the room, he was dressed in the,
13 the green attire indicating to me that probably he had either
14 come from surgery or was preparing to go into surgery. And
15 a few moments, a few moments later we left that room and Mr.
16 Seale was to be taken into immediate surgery. The only, the
17 only comment that was made by Mr. Seale who suddenly said,
18 "I can't breathe", and that was the only comment made by
19 him in the whole period of time that we were there. So we
20 were excluded from the room and preparations were made
21 to take Sandy into immediate surgery.

22 Q. Did you see anybody else at the hospital who had been at the
23 scene of the stabbing?

24 A. Yes, I at that time when I came out of the room, Detective
25 Sergeant Mike McDonald was there, Donald Marshall was there.

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1 I believe at that time he was speaking to or Donald Marshall
2 was speaking to Sergeant McDonald and we at that moment we
3 turned and we left the hospital and went back on regular
4 patrol for the rest of the night.

5 Q. Did you have any discussions at that time with either Donald
6 Marshall or Detective Sergeant Mike McDonald?

7 A. No, none whatsoever.

8 Q. Did Detective Sergeant Mike McDonald indicate that he wanted
9 to talk to you?

10 A. At that time he was busy and I felt that if he wanted to talk
11 to me later, it was simply a call to the car and I could
12 respond.

13 Q. Were any words exchanged at all or did --

14 A. No, not with Sergeant McDonald on that night.

15 Q. Nor with Donald Marshall?

16 A. Nor with Donald Marshall, sir.

17 Q. Okay. How long do you think you would have been at the hospital?

18 A. Probably ten minutes or so or ten to fifteen minutes because
19 everything was being done quickly.

20 Q. Were the officers who brought Donald Marshall there still at
21 the hospital as well?

22 A. No, I didn't see Corporal MacDonald and Howard Dean at the
23 hospital when I came out of the room but I did observe Donald
24 Marshall talking to Sergeant McDonald.

25 Q. Now when you went back on patrol for the rest of the evening,

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1 what did you do?

2 A. Well, based on the flimsy description that we had, my partner
3 and myself, we started patrolling our area and we did go to
4 different places, restaurants places that were open just
5 observing and see if anybody in the area answering the
6 description that we had. Also later on in the evening or
7 later on that night, we stopped by and spoke to Constable
8 Ambrose MacDonald who was on the Charlotte Street beat and
9 I guess we briefed Ambrose as to what we had and what had
10 happened up there. And we went down around the wharf looking
11 to see if there was any vessels in because the description
12 that was given us would have probably fit sailors coming into
13 the area from time to time. And other than that we continued
14 on routine patrol checking the beats in the city, the business
15 places and at approximately at four ten in the morning,
16 I returned to City Hospital to see if there was any
17 news of Sandy's condition --

18 Q. If I could stop you there for a second, how do you recollect
19 that it was at approximately four ten?

20 A. It was in that area of time. For some reason that time sticks
21 out in my mind that it was about ten minutes after four when I
22 went back to the Hospital.

23 Q. Is there any written report anywhere to that fact?

24 A. No, that was just something that I did on my own. I went back
25 to the Hospital just to see if there was anything new. I

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1 | went into the lobby of the City Hospital that night and Oscar
2 | Seale and his wife were sitting in the lobby of City
3 | Hospital by themselves and I spoke briefly with Mr. Seale
4 | and he asked me if I had, if I knew anything more or if I
5 | had anything to add, which I did not. And in fact the
6 | thought probably went through my mind, you know, what are
7 | these people doing here in the lobby all by themselves
8 | rather than being placed in some proper room where they can
9 | sit together and talk, and with nothing new to add, I went
10 | back on patrol and finished my shift in that manner.

11 | Q. What was your reason for going to the hospital at four ten?

12 | A. Probably a personal -- I knew Mr. Seale. I had known him
13 | for some time and I wanted to know, you know, how things
14 | were going. Maybe a little bit of a personal interest for
15 | the individual. I was born and brought up in the Whitney
16 | Pier district of Sydney and that is the area as you heard
17 | from Inspector MacDonald yesterday, where the black
18 | community, the most of them lived. I was very familiar
19 | there. I knew a lot of the people and I knew Mr. Seale and
20 | as I started to say yesterday when I was referring to Mr.
21 | Seale and I know that I didn't complete what I was going to
22 | say. I knew Mr. Seale, I knew of Mr. Seale. He was a ball
23 | player in early days and so on and people who were well
24 | respected in the community. And probably from my knowledge
25 | of these people, it was a courtesy thing I did on that night

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1 to go back. Certainly not ordered to go back. It was just
2 something I did on my own.

3 Q. Did you consider that you were fulfilling any kind of
4 investigative function when you went back?

5 A. No, I would like to indicate that I was not part of the
6 investigative team that handled this, this case. I was
7 a foot soldier at that time or better still I was in a car
8 at that time. But what I refer to as the boys out on patrol.

9 Q. Other than filing your occurrence or crime reports at the end
10 of your shift, what else did you do to convey the information
11 that you'd received that evening to anybody in the detective
12 division?

13 A. Other than the reports that were written at that time and
14 you have in your possession, nothing that I know of. In the
15 morning I went home and I went to bed. I had to work the
16 back shift again on Saturday night.

17 Q. When you went back to the hospital four ten or so in the
18 morning, were you given any advice as to what Mr. Seale's
19 condition was at that time?

20 A. No, they did not know.

21 Q. So you knew you had a fairly serious matter on your hands
22 at that time?

23 A. Yes.

24 I would now like to ask a small favour if I may. In the line
25 of questioning yesterday, I think you were pointing out that

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1 | the reporting system in the Sydney Police Department at that
2 | time was inadequate and I believe that I had to agree that
3 | that was the case. The question was, "Why was a crime
4 | situation placed on an occurrence sheet?" I wonder would it
5 | be possible to check all the material written by the
6 | officers on that night and if what I'm thinking is correct,
7 | that possibly because of lack of the proper papers, all the
8 | reports filed on that night were placed on occurrence sheets?

9 | Q. I think you can do that yourself, sir, and if you'd look
10 | through the hand-written pages that indeed were filed on
11 | that night, I think you will see that some of them are
12 | crime reports and some of them are occurrence reports.

13 | A. Now that's the question I wanted to know, thank you.

14 | Q. And that being the case, I'm wondering what the explanation
15 | for your report being filed on an occurrence report is?

16 | A. The only explanation that I could give you that was that
17 | it was on a weekend. It was a Friday night. Possibly,
18 | possibly we ran out of the proper forms and reverted to
19 | the others because I believe that several of those reports
20 | are written on occurrence sheets and I'm sure that that was
21 | not an intentional thing.

22 | Q. If you could perhaps look at the occurrence report on Page
23 | 5 of that Volume, sir, that's Volume 16, the one you have
24 | in front of you. I take it that is an occurrence report
25 | that if the normal practice was being followed would be

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- 1 | completed at the -- I'm sorry Page 5.
- 2 | A. That's the one.
- 3 | Q. Yes, would be handed in or filed out at the end of the shift?
- 4 | A. Yes.
- 5 | Q. And that's on an occurrence report form and then on Page 7 --
- 6 | A. That's on a crime report.
- 7 | Q. That's on a crime report. And would that not also be one
- 8 | that would have been filled in at the end of the same shift?
- 9 | A. It should have been, should have been.
- 10 | Q. Yes. So if that were the case, sir, it would appear at least
- 11 | as they were both occurrence reports and crime reports sheets
- 12 | around at the end of the shift that evening?
- 13 | A. I think if we go through here we'll notice that most of them
- 14 | are written on occurrence reports which leads me to believe that we
- 15 | might have ran out of the crime at the time. Just an
- 16 | observation, sir.
- 17 | Q. And the one on Page 11 is also a crime report and I guess one
- 18 | can't tell in what order they might have been filled out that
- 19 | following morning, can we? Sir, you'll have to give us an
- 20 | answer, we can't pick up an knob.
- 21 | A. Pardon me.
- 22 | Q. You said no?
- 23 | A. I -- repeat your question?
- 24 | Q. We can't tell the order in which the officers might have filled
- 25 | in the occurrence reports and the crime reports when they

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1 | came in the following morning?

2 | A. No, I can't give you that.

3 | Q. Now on that -- on that Saturday during the day do you --
4 | were you interrupted in your sleep at all by any of the
5 | detectives giving a call to ask what had happened the night
6 | before?

7 | A. No.

8 | Q. And the next thing that you did then was to go back on your
9 | shift the following evening, is that correct?

10 | A. Yes, sir.

11 | Q. Okay and what did you do on that shift?

12 | A. Probably just my regular patrol duties and keeping in mind
13 | what I already had known possibly and I can assume possibly
14 | looking for somebody that might answer the descriptions
15 | that we had from the previous night.

16 | Q. Who would you have been with on that shift?

17 | A. On that Saturday night, I honestly don't recall. I do know
18 | on the following afternoon with the change of shifts from
19 | the back shift to the four to twelve, that I teamed up with
20 | Constable Ambrose MacDonald. But I don't recall who I might
21 | have worked with on that Saturday night.

22 | Q. And do you remember if on that Saturday night you made any
23 | positive effort to continue to search for the suspects
24 | answering the description that you had?

25 | A. Probably just, just keeping a watch in the normal tour of my

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1 duty. But I don't think anything over and above.

2 Q. I see, and had you received any direction on the Saturday
3 evening to with respect to the descriptions?

4 A. No.

5 Q. Had you talked with anybody at the police station on Saturday
6 when you came on your shift concerning the case?

7 A. I don't recall, but certainly nobody in a position of
8 authority if that is what you're asking.

9 Q. No, what I was asking whether or not you talked to any
10 other police officers at the station when you came on the
11 shift?

12 A. I would imagine that it was probably discussed among the
13 police officers because that would be a normal thing to do.
14 But to say yes that we did or no that we didn't, I won't
15 answer that.

16 Q: No that's fine. I'm just asking for your recollection.
17 And do you recollect whether -- that if -- do you recollect
18 if during those discussions you might have had -- there
19 might have been any views expressed as to whether or not any-
20 body was a suspect?

21 A. No, no. I had no idea of any suspects at that point in
22 time.

23 Q. This is on the Saturday evening?

24 A. I had no indication of any suspects on, on Monday afternoon
25 or Sunday afternoon or Monday afternoon. On Tuesday and

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1 Wednesday that shift would be normally off following that
2 schedule.

3 Q. Okay, we'll get to Sunday and Monday. Did anything happen
4 with respect to this case with you on the Saturday night
5 when you were on your shift?

6 A. Not that I recall.

7 Q. Okay and I believe you indicated a couple of minutes ago
8 that on Sunday the shifts changed?

9 A. Yes.

10 Q. Okay and what would the effect of that be in so far as your own
11 job was concerned?

12 A. Just a change of partners that's all. Our normal duties
13 would have been the same except for a directive that that
14 we received coming to work on Sunday afternoon and that
15 directive came from the shift sergeant to keep an eye on
16 the Membertou Reserve. They felt that maybe that tensions
17 would be running high because the boy who had died was a
18 black youth and the other chap that was with him was an
19 Indian.

20 Q. Who was the shift sergeant on the Sunday?

21 A. Sergeant Lyn MacGillivary.

22 Q. And he's the chap whose now deceased?

23 A. Yes.

24 Q. Did you receive that direction in writing? Was there any
25 forum of document handed to you?

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- 1 A. No everything passed on at that time was by just instuction
2 going out keep an eye to this or do that or what have you.
- 3 Q. And you went out to the Membertou Reserve on that Sunday
4 afternoon?
- 5 A. Yes, we patrolled it. We drove in on the Reserve.
- 6 Q. And when you were at the Reserve can you tell me whether or
7 not you saw Junior Marshall?
- 8 A. Yes, my recollection is that Junior Marshall and Mr. Francis
9 came to the car and they sat in the car and it was just a
10 conversation between Ambrose who seemed to know these
11 people very, very well. Myself as I told you I came from
12 the Pier district, but Amby was well-known to the Indian
13 people and that to me was just a casual conversation that
14 probably led into the course of the events of the night
15 before or what have you or two nights before.
- 16 Q. Were -- was Junior Marshall asked to get into the police car?
- 17 A. No, no, no.
- 18 Q. So the two of them came along and got in the police car?
- 19 A. And a conversation took place.
- 20 Q. And what was the substance of that conversation?
- 21 A. Well, I think it there -- probably of many things. Don't
22 ask me what know but Amby did get back to the incident and
23 the investigation I suppose. And as the conversation went
24 on, Ambrose said to him, "Look, Junior, I know you a long
25 time, you know, somebody if you got into it with somebody

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1 | you're going to get a piece of him or what have you". And
2 | you heard the reply yesterday by Inspector MacDonald that
3 | he had "thrown a boot" as the expression was. Actually he
4 | used his foot to kick somebody and indicated the tall
5 | fella who might have been marked and that was just --
6 | whether he was or whether he wasn't whether it actually
7 | happened or not, I don't know. That was just part of the
8 | conversation.

9 | Q. Do you remember that conversation yourself?

10 | A. How can we remember, we were just sitting in the car more
11 | or less shooting the breeze as the saying goes. We were not
12 | there to interrogate anybody on the Reserve. As I told you
13 | yesterday in my statement or in my submission there that
14 | Donald Marshall was as much a victim on that night as Sandy
15 | Seale to the best of my knowledge. And I did not know on
16 | that Sunday or probably until later on in the week that
17 | Sandy Seale or not Sandy Seale that Donald Marshall was a
18 | suspect.

19 | _____
20 | _____
21 | _____
22 | *pm*
23 | _____
24 | _____
25 | _____

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1 Q. My question was whether or not you remembered -- whether
2 you remember any of the discussion between -- that took
3 place in the car involving Junior Marshall?

4 A. Not to much other than it came true clear from them -- from
5 Bernie Francis. Donald Marshall, or Junior as we call him,
6 he didn't answer the question directly that he disliked
7 MacIntyre. I think it was Bernie Francis that came up with
8 that and said: "Look the boys are not going to tell
9 MacIntyre anything." And my understanding of it was -- and
10 as I started to say yesterday and I didn't completely get
11 my point across. It wouldn't make a difference who it was.
12 The man that they were referring to was the man who was
13 in charge of criminal investigation in this city and had
14 been for a long period of time. Who had sent a lot of
15 men to penitentiary and so on. He -- look he was not
16 loved. And I'm certainly not saying that he was. Maybe
17 some people -- they disliked him because of the nature of
18 the man doing his job and sending people to gaol and if
19 a crime happened any -- he was the man. He was the man
20 in charge. So everything seemed to fall back to the
21 officer that was probably doing his job. It could have been
22 me. It could have been anybody. But at this point in time
23 they said: "Look, the boy -- they wouldn't tell MacIntyre
24 the time of day."

25 Q. Do you have any recollection of whether on that visit to Membertou

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1 MR. CHAIRMAN:

2 Mr. Spicer, before we continue --

3 BY MR. CHAIRMAN:

4 Q. I have to ask you, Chief Walsh, when questions are put to
5 you will you please answer the questions precisely and
6 try and resist lengthy dissertations. We as a Commission
7 are concerned with the facts and it's difficult for us
8 to separate the chaff from the wheat if we are faced with
9 lengthy answers to short questions that can be dealt with
10 accordingly.

11 A. Yes, sir. I will do that.

12 BY MR. SPICER:

13 Q. Do you remember during the conversation with Junior Marshall
14 -- can you characterize his attitude at all?

15 A. Well, very soft-spoken person. Very young, you know.

16 Q. I think you may have made a comment that -- to this effect
17 that at that time on the Sunday, did you have any information
18 that Junior Marshall was a suspect?

19 A. No, sir. I did not.

20 Q. Do you think if -- you indicated a couple of minutes
21 ago that -- that the event had been a subject of conversation
22 around the station.

23 A. It would - it would have to be a conversed by the men on
24 shift. I would be part of our job and certainly it would
25 have been talked about.

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1 Q. Sure. And would you have participated in those conversations
2 to some extent?

3 A. Probably.

4 Q. And do you think that if Junior Marshall had been a suspect
5 that it's likely that that information probably would have
6 come to your attention?

7 A. He could have been a suspect in somebody else's mind but
8 he certainly wasn't a suspect in mine and I had not been
9 given any direction that he was considered to be a suspect.

10 Q. My question was whether or not you think it would be likely
11 that if he was a suspect you would have picked that up by
12 being part of these conversations around the station?

13 A. Probably those men wouldn't know that he was a suspect.

14 Q. No, but my question was, sir, if it was -- if you --
15 if it was subject to conversation around the station and if
16 Junior was a suspect --

17 A. Yes. I -- yes.

18 Q. -- do you think it's likely that that would have come to
19 your attention?

20 A. Yes, definitely but it did not.

21 Q. On the occasion that you went to Membertou that you've been
22 referring us to, were road blocks being set up?

23 A. No, sir.

24 Q. Can I have volume 19, please? Chief I just -- if you could
25 pick up volume 19 and turn to page 124.

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1 Now, you'll see an entry below that line about two-thirds
2 of the way down the page which we believe to be a note
3 from Corporal Carroll in 1982 to which I referred Ambrose
4 McDonald to this yesterday. You may have heard it.

5 O.S.P. also advised Chief John MacIntyre of
6 Sydney P.D. had just called stating Inspectors
7 Richard Walsh and Ambrose McDonald now remember
8 responding to a call at Membertou Reserve when
9 road blocks were being set up to prevent trouble
10 on the Reserve prior to Marshall's arrest at which
11 time Marshall was present and was asked by McDonald
12 what he was doing while Seale was being stabbed.
13 He replied that he had kicked 'the queer' behind the
14 ear or in the head or words to that effect. Chief
15 MacIntyre wanted that noted for the record.

16 Can you think when the occasion would have been, if there
17 was one, when you might have responded to a call at Membertou
18 when road blocks were being set up?

19 A. I certainly don't recall it. Are we talking 1971 or 1982?

20 Q. '71, sir. The note is '82 but I think it's -- refers to
21 : -- refers to 1971.

22 A. No, I certainly don't recall any road blocks being set
23 up at Membertou.

24 Q. Okay, and on the occasion that you went out there
25 on the Sunday, that was not the case?

A. That was not the case.

Q. Do you remember later in 1982 or at any time advising
Chief MacIntyre of this conversation with Junior about
kicking 'the queer'?

A. No, I have no recollection of that.

RICHARD WALSH, by Mr. Spicer

1 Q. Or speaking to the Chief about -- Chief MacIntyre?

2 A. No, I have no recollection.

3 Q. If Marshall was not a suspect on the Sunday, why do you
4 think there would have been a thought or consideration that
5 there was going to be reprisals against the Indian
6 community by the Black community?

7 A. I don't have the answer.

8 Q. Do you have any idea at all?

9 A. No, I could only surmise that something must have lead somebody
10 in some position of authority to have the men instructed to go
11 out to the reserve but I didn't have anything -- foundation
12 for that.

13 Q. You were --

14 A. I only did as I was directed.

15 Q. Right. When you were directed to go to the Membertou Reserve
16 on the Sunday, did you inquire why it was that you were
17 being asked to go?

18 A. All I could say is that I probably did ask -- you know,
19 why. Somebody must have felt that there could be a problem
20 at a later time for whatever reason. I don't know. All I
21 know is that we carried out the directive.

22 Q. When you came back from your trip to Membertou, did you speak
23 to anybody in the detective division?

24 A. No, sir. I --

25 Q. Had you not during that time that you were at the Membertou

RICHARD WALSH, by Mr. Spicer

1 Reserve been -- had a conversation with Junior during which
2 he described certain -- certain of the events?

3 A. Yes, we had the conversation and I think that you were
4 told that it was turned over to Sergeant Urquhart by
5 Inspector McDonald. I don't -- Ambrose McDonald. But
6 I don't recall having a discussion with the detectives on
7 that evening. I can not place in my mind when I first saw
8 a detective talk to him after that Friday night or
9 early Saturday morning.

10 Q. Would you have any recollection of being involved in turning
11 over the information you picked up at Membertou on Sunday
12 to Sergeant Urquhart?

13 A. No, I can't recall that either. Although I heard the
14 testimony evidence of Inspector McDonald yesterday.

15 Q. Did you make any notes of those -- of the conversations
16 that you had with Mr. Marshall?

17 A. No, I did not.

18 Q. Did you consider the information that Mr. Marshall was
19 giving you to be fairly important?

20 A. I don't know if I put any real value on it myself although
21 I -- Inspector McDonald told him that it could be very
22 important if it in effect that it did happened. But beyond
23 that I don't know and I don't recall.

24 Q. But in any event you didn't make any notes of it?

25 A. No, I did not.

RICHARD WALSH, by Mr. Spicer

1 Q. Do you remember at any time being -- being questioned by
2 members of the detective division concerning your knowledge
3 of the events surrounding the stabbing?

4 A. No, I can't recall that.

5 Q. You can't recall that ever happening? Is that --

6 A. I'm not saying it didn't happen. I might have been spoken to
7 as to my thoughts on that night but I just can not recall.

8 Q. I see. Can you tell us whether or not it would have been
9 usual for you to have -- have been interviewed by the
10 detective division in the event that you'd been involved
11 in a serious occurrence?

12 A. Yes, I think there would be dialogue between the two.

13 Q. That would be the normal practice?

14 A. I would think that there was something to be gotten that the
15 detectives wanted. They would probably sit down and talk to
16 you and ask you what happened.

17 Q. Had that in fact been your experience with respect to other
18 events?

19 A. I remember conversing on other cases. I can not be specific.

20 Q. Sure. To your recollection, as least, as it in other cases
21 you had had conversations with the detectives. Can you
22 tell me whether or not that was a formal procedure or whether
23 it just happened as you were passing in the hall or how those
24 conversations would come about?

25 A. I think there would be informal meetings in the hallways as you

RICHARD WALSH, by Mr. Spicer

1 say but if a detective wanted to see you for some reason
2 he would probably have sent for you. And at that time
3 he would make known what he wanted.

4 Q. And that in fact occurred to you with respect to other events?

5 A. In different cases. I have no doubt that I conversed with the
6 detectives on this but where and when I just can not recall.

7 Q. Do you recollect who you would have spoken to?

8 A. I think I would probably have spoken to both officers in the
9 investigation. I don't recall speaking to Michael McDonald but I
10 think I would probably have spoken. I recall talking to
11 Sergeant Urquhart. I just can't recall.

12 Q. After your Sunday shift at Membertou did you have any
13 further involvement with the stabbing during that week?

14 A. No, other than -- other than what we might have done on
15 our own maybe out of curiosity or what to look
16 around to see if there was something dropped in the park
17 area. A weapon of some kind.

18 Q. Did you, in fact, do that?

19 A. Yes. Not a systematic search but I did take a look at it
20 more or less out of curiosity to see if well maybe something
21 is there. Maybe there is something we can find.

22 Q. Do you remember when you did that?

23 A. I would think it was on -- possibly on the -- probably part
24 of Sunday afternoon, part of Monday afternoon because we
25 were on the evening shift.

RICHARD WALSH, by Mr. Spicer, by The Chairman

1 BY MR. CHAIRMAN:

2 Q. This was after Sandy Seale had died --

3 A. Yes, sir.

4 Q. -- and you knew he was dead?

5 A. Pardon me?

6 Q. You knew --

7 A. Yes, on Saturday night at approximately eight o'clock I had
8 known that he had died.

9 Q. And then you say the next day more of out of curiosity
10 you wandered through the park seeing if you could find
11 some evidence?

12 A. Looked through the park to see what might have been around.

13 BY MR. SPICER:

14 Q. Were you directed to do that by anybody?

15 A. No.

16 Q. Are you able to tell us whether you were -- you or any of
17 the other foot soldiers who were criticized by the detectives
18 for your conduct at the scene of the stabbing?

19 A. No, I never felt that I was criticized for my conduct at the
20 scene of the stabbing. The only point that bothered me was
21 the fact the Sergeant MacIntyre felt that I should have
22 gotten a dying declaration that night which I pointed out
23 in my view, was impossible.

24 Q. When did you have that discussion with Sergeant MacIntyre?

25 A. That would be sometime after but when I can't say. I can't

RICHARD WALSH, by Mr. Spicer

1 say how many days after. Some time after the
2 event that came up.

3 Q. On the Monday, Tuesday and Wednesday of the week following
4 the stabbing would you have been on the -- what shift
5 would you have been on?

6 A. I was on the four to 12 shift. Off Tuesday and Wednesday
7 and came back on the four to 12 shift on Thursday, Friday
8 and Saturday.

9 Q. All right. If I could just direct --

10 A. And sometime -- if you're asking about contact with the
11 detectives. I don't know the night -- the time that
12 Donald Marshall was arrested but on that evening whether
13 it was Thursday or Friday, and I don't recall, I did have
14 a conversation with Sergeant MacIntyre. He showed me the
15 indictment and he said to me: "Walsh, isn't that a fearful
16 document to have to serve on anybody." That's the best
17 that I can recall. Whether that was Thursday or Friday,
18 I don't know.

19 Q. On the Monday, Tuesday and Wednesday when you came on your
20 shift at four o'clock, would you -- would there be general
21 discussion around the station about how things were going
22 with this investigation? At this point of course it was a
23 murder. Would it have been chit chat around the station?

24 A. I suppose it would be chit chat but on Tuesday and Wednesday,
25 sir, I -- we were not on duty. Those were our days off.

RICHARD WALSH, by Mr. Spicer

1 Q. All right. Well, then on the Monday?

2 A. It would have to be a topic of conversation. It was top
3 priority at that time.

4 Q. Sure. And do you remember during those discussions whether
5 or not by that point in time, that is by Monday whether Junior
6 Marshall was a suspect?

7 A. No, sir. I did not know.

8 Q. Are you telling me that -- that you didn't hear anything
9 to that effect during your discussions?

10 A. I did not know because I was not talking to the detectives
11 pertaining to the case as to what they had. Usually it was
12 the question of what you can give them. It's not what they
13 were going to tell you. They were not going to tell you where
14 they were, how far they had advanced. If information
15 came, it came from the bottom up. It did not come from
16 the top down.

17 Q. What about amongst the people, as you put it at the bottom?
18 Was there discussion about the case amongst yourselves?

19 A. I know that we were would have discussed the case but I can't
20 say with certainty what was said.

21 Q. Right. And do you recollect whether or not any of the other
22 foot soldiers, as you call them, would have expressed any
23 views as to whether or not Junior was a suspect on the --
24 by the Monday?

25 A. I don't know.

RICHARD WALSH, by Mr. Spicer, by The Chairman

1 Q. Don't recollect?

2 A. I don't recollect.

3 Q. Just go back to the -- volume 16 again Chief. That's the
4 other volume. You've got 19 there. To page 90.

5 Have you seen that telex before us?

6 A. No, sir. I've never seen that telex.

7 Q. That's a telex which we would understand would have been
8 sent by the R.C.M.P. on May 30th. And about half way down
9 in which we're referring to the incident.

10 Circumstances presently being investigated by
11 Sydney P.D. Investigation to date --
12 that is May 30th --
13 reveals Marshall possibly the person responsible.

14 Can you help us at all with whether or not, to your knowledge,
15 there was anybody in the Sydney P.D. who by May 30th thought
16 that Junior was a suspect?

17 A. I don't honestly know. And I did not -- I did not know at this --
18 at the time.

19 Q. Does it surprise you to see that today sir?

20 A. I think it was referred to yesterday. It's not a surprise
21 today.

22 Q. No. But was -- does -- Is the fact that such a statement
23 would have been made --

24 BY MR. CHAIRMAN:

25 Q. Was it a surprise to you yesterday when you heard it?

A. No, I think somewhere in reference down through the years,

RICHARD WALSH, by Mr. Spicer

1 My Lord, -- It's difficult now to separate after all the
2 media coverage, all the conversations and so on as to
3 where and when you ascertain what might have happened. Yes,
4 in the past I -- I -- somewhere this item came up but I
5 don't know when or how. But at this point in time on the
6 date I did not know that this document existed.

7 BY MR. SPICER:

8 Q. When it first came to your attention that somebody had
9 indicated on May 30th that Junior Marshall was a suspect --
10 when that information first came to your attention, was
11 that a surprise to you then?

12 A. Yes. Yes. To try and refresh my memory on this. I don't
13 know if I knew about this document until sometime in 1982.
14 Maybe it was at that point in time that I realized that
15 this --or there was some reference to a document that a
16 message being sent. But I certainly was not aware of it.

17 Q. Do you remember how this document first came to your
18 attention then, if that was in 1982?

19 A. Probably during the -- during the involvement of the
20 Mounted Police leading up the the release of Mr. Marshall.

21 Q. Do you have any recollection as to how it would have come
22 to your attention specifically?

23 A. Probably in conversation. I did speak with Mounted Police
24 officers. I was interviewed by Officer Wheaton and James
25 Carroll. I don't know. I honestly don't know.

RICHARD WALSH, by Mr. Spicer

1 Q. To just take you back for a second to pages two and three
2 of this volume. And if you'll see on the typewritten version
3 of this report in the second line of the last paragraph. It
4 says: "After apparently being felled by stab wounds" and
5 if you flip over to the handwritten version of that on the
6 next page, on the right hand column --two, three, -- fourth
7 line down. You'll see in the handwritten version it says:
8 "After being felled by three stab wounds." Can you assist
9 us at all on --

10 MR. ROSS:

11 Which volume is this, please?

12 MR. SPICER:

13 Volume 16.

14 MR. ROSS:

15 Thank you.

16 BY Mr. SPICER:

17 Q. Can you give us any assistance as to whether or not there
18 was at the time three stab wounds or one stab wound or if
19 you know how it came to be that there was three in the
20 handwritten version and that word is deleted in the typed
21 version?

22 A. No, I would have no knowledge of how many times Sandy
23 Seale had been stabbed. I think that would have to be
24 a medical determination. I certainly wouldn't feel qualified
25 to even make a guess on that.

RICHARD WALSH, by Mr. Spicer

1 Q. Well, sir, it does state three stab wounds in the police
2 report. Whether or not it was later to be a medical
3 determination. I'm just wondering how it came to be that
4 the police officer writing that report would have written
5 three stab wounds.

6 A. I don't know.

7 Q. That's not your handwriting?

8 A. No, sir.

9 Q. Did you read that report at the time that it was written?

10 A. I don't recall.

11 Q. Do you have any recollection of how many stab wounds that
12 were yourself?

13 A. No, I don't know. It's something I don't know even until
14 this day.

15 Q. I see. Would it be unusual for a change to be made from
16 the handwritten version of a crime report to the typed version?

17 A. Normally the report is filed and submitted exactly as written
18 unless the author would want to make a change or delete
19 something but I hadly think so.

20 Q. So, it would be unusual?

21 A. I'd say it would be unusual, yes.

22 Q. Can you think of any reason why it might have occurred in
23 this case?

24 A. No, I can not.

25 Q. Did you have any involvement other than as you've recounted so far

RICHARD WALSH, by Mr. Spicer

1 with the investigation into this incident?

2 A. No, sir.

3 Q. And after Donald Marshall was charged on June the fourth and
4 up until the time of his trial, do you recollect whether or
5 not you had any discussions with the members of the detective
6 division?

7 A. I don't recollect and I don't know any reason why I would
8 have because I was never called as a witness in the initial
9 trial.

10 Q. I understand that. Is your recollection then that between
11 the time of him being charged and the time of the trial
12 to the best of your recollection you had no discussions with
13 anybody in the detective division concerning the incident?

14 A. I don't recall any.

15 Q. Did you think that was unusual?

16 A. I always felt that it was unusual that I was never called
17 to the initial trial but however it happened.

18 Q. My question was whether or not you thought it was unusual
19 that you weren't spoken to by anybody in the detective
20 division between the time Junior was charged and the time
21 of the trial?

22 A. Oh, I might have been spoken to as to my reports on that
23 night but I don't even recall that.

24 Q. Yes. And did you think -- do you think that was unusual since
25 you were one of the officers on the scene?

RICHARD WALSH, by Mr.Spicer

1 A. Oh, I would have to agree. Yes, it was unusual.

2 Q. Did you make any attempt yourself to go forward and talk
3 to anybody in the detective division between the time Junior
4 was charged and the time of his trial?

5 A. I probably talked to these men but I just don't recall as
6 to where and when and what the nature of the conversation
7 was. It would seem terribly unusual that in that period
8 of time that nobody would have spoken to me or I would
9 not have spoken to them but I just don't recall at what time.

10 Q. Were you aware in November, 1971 that a re-investigation
11 of the incident was taking place at that time?

12 A. No, I don't think I was aware of that. I was to learn that
13 some time later that different things had happened. But
14 I would like to make a point if I may. I am --

15 Q. Sure.

16 A. -- learning more from this Inquiry than I've ever known
17 because there are certain things I never knew and I still
18 probably don't know.

19 Q. But your recollection is that at least in November of
20 1971 you didn't have any knowledge at that time that a
21 re-investigation was taking place?

22 A. No, sir.

23 Q. Have -- did you have any involvement over the years sir
24 with the use of polygraphs?

25 A. No, none whatsoever.

RICHARD WALSH, by Mr.Spicer

1 Q. Did you have any understanding in 1971 as to their use
2 as an investigative technique?

3 A. No, I would have no idea. I was never trained in polygraph.
4 I knew very little about it.

5 Q. Did you understand that they were being used at that time?

6 A. I could have but I really don't know. I never had any
7 interest in polygraph. Up until that -- later years.

8 Q. Chief I'm going to show you an exhibit which was marked
9 yesterday. Exhibit 34. Is that your handwriting?

10 A. Yes, it is.

11 Q. Can I -- and bear with me for a second. I just have to
12 find another copy. Could you tell us what that is, Chief?


13 A. I believe at one time -- relating to a document, Chief
14 MacIntyre, who was my Chief -- I was an Administration Officer
15 -- he gave me some documents to go over and give him my
16 personal observations which I considered to be really not
17 part of my duties but just a personal thing between -- for
18 his information more or less.

19 Q. And do you remember what the document was that you reviewed?
20 Just take a second and have a look.

21 A. Three?

22 Q. Three. One to three. Okay?

23 A. I'm --
24
25



RICHARD WALSH, by Mr. Spicer

- 1 Q. Perhaps I can help you a bit, Chief, the evidence, I believe,
2 yesterday was that the document that was reviewed may have
3 been the transcript of the 1982 re-hearing which is contained
4 in volume three. I'll just show you that and whether that
5 will help your recollection at all. That's the transcript
6 of the 1982 hearing for the Appeal Division.
- 7 A. So that is the document that I was asked to take a look at
8 and give some thoughts on to Chief MacIntyre at the time.
- 9 Q. Well, I'm asking you whether or not you recollect that that
10 was, in fact, the document that you were asked to review?
- 11 A. By the dates on it, I would say yes.
- 12 Q. Okay, and do you recollect whether or not you were asked to
13 review the entirety of the transcript?
- 14 A. I think it was just a casual thing as I thought, to read it over
15 and see if there was anything in that that might come to mind
16 or so on.
- 17 Q. Do you recollect whether you were asked to review the
18 testimony of each of the witnesses or just some of the
19 witnesses or --
- 20 A. I think it was just a thing of browsing through it and then
21 saying, well, you know, how do you feel about it or do you
22 have any observations or so on. Like I say to you, I think
23 that was a private thing between two or three men.
- 24 Q. And who would the two or three men have been?
- 25 A. Chief MacIntyre and Inspector McDonald and myself.

RICHARD WALSH, by Mr. Spicer

- 1 Q. All right. It's that that I want to ask you a couple of
2 questions about some of the things in Exhibit 34. If you
3 look at it you'll see that you have adverted to the testimony
4 of James MacNeil and Patricia Harriss and Donald Marshall.
5 There's no reference in your comments to the testimony, for
6 instance, of Maynard Chant. I'm just wondering why -- if
7 you can indicated to us why, perhaps, there'd be no comments
8 concerning his testimony. At the time that you conducted this
9 review, sir, are you able to tell us whether or not Chief
10 MacIntyre expressed any views to you concerning Donald Marshall's
11 guilt or innocence?
- 12 A. I think what was distrubing the Chief at that time was that
13 the Appeal Court in 1982 was going to review the Donald
14 Marshall case and that he was not being called, and I think
15 what was distrubing him was that all the players of the
16 initial investigation in 1971 were not being called into
17 testify?
- 18 Q My question was whether or not the Chief expressed any views
19 as to Donald Marshall's guilt or innocence?
- 20 A. I would think that Chief MacIntyre still feels that Donald
21 Marshall was the guilty party. I would think that that is
22 his feelings.
- 23 Q. You think that's still his feelings?
- 24 A. I would think probably it is. I honestly don't know.
- 25 Q. Do you know at the time though in 1982 whether or not he

RICHARD WALSH, by Mr. Spicer

1 | expressed that view to you?

2 | A. I don't -- I won't say that he put it in words, but I felt
3 | that that's exactly where he was leading, that he still
4 | felt that in 1971 he had gotten the right person, and he
5 | had taken it to the Courts and so on. I think that's still
6 | his feeling.

7 | Q. There's a paragraph on the first page of that, Chief, which
8 | is described as "observation". If you just wanted to read
9 | through that, I just want to ask you a question about it.
10 | Okay?

11 | A. All right.

12 | Q. About halfway through that I think you're referring to Donald
13 | Marshall. You say:

14 | "I would suggest that he had been coached
15 | as to the evidence he would give, but
16 | was unable to..."

16 | Is that:

17 | "...play the role."?

18 | I'm not sure I can read your writing there.

19 | A. Yes, "unable to play the role." The only conclusion the Court
20 | could arrive at is that the actions of this man were not
21 | consistent with those of a man trying to proclaim his
22 | innocence to the world. However, I was, as I said at that time,
23 | just relating to the document for his benefit. I have my own
24 | views but certainly I'm not going to be able to express them
25 | here at that time.

RICHARD WALSH, by Mr. Spicer

1 Q. Oh, I wouldn't count on that.

2 MR. CHAIRMAN:

3 Don't act on that assumption, Chief. Your views are relevant
4 and we welcome them.

5 BY MR. SPICER:

6 Q. What was it Chief that would make you indicate that you would
7 suggest that he had been coached as to the evidence he would
8 give, any recollection?

9 A. That's probably knowing Donald Marshall. He wasn't well
10 educated. He seemed at the time, as I indicated eariler
11 today, very shy. You heard Inspector McDonald yesterday
12 of putting his head down when he answered and so on. I think
13 in the initial trial he was cautioned probably nineteen or
14 twenty times by the -- even the Judge himself to speak up and
15 so on. This boy was not well educated and he was not in
16 a position where he could -- he could even defend himself
17 at that point in time. As I look back over the years -- If
18 I answer too long I may be cut off, but there were many
19 problems with the whole thing.

20 Q. If I could just come back to my question for a second, what
21 was it that would make you suggest that he'd been coached
22 to give the evidence?

23 A. I think because of his lack of education and so on and
24 probably in a crowd of that type in a foreign atmosphere
25 that he was unable to cope. It would be different if he were

RICHARD WALSH, by Mr. Spicer

1 among his peers where he could answer and speak freely, but
2 I think that he felt probably at that point in time as a
3 young man, intimidated and so on, and he just did not get
4 his point across or he was not able to speak freely and defend
5 himself.

6 MR. CHAIRMAN:

7 This is in 1982 we're speaking of now when Donald Marshall, Jr.,
8 was not that young.

9 THE WITNESS:

10 I was referring to the initial trial there, Your Honour, when I
11 made those comments.

12 BY MR. SPICER:

13 Q. And I think, Chief, that your comment there in Exhibit 34,
14 when you're suggesting that he'd been coached, would that not
15 relate to the testimony that you gave in 1982, and the question
16 I'm asking is why you would have thought that he would have
17 had to have been coached -- that he had been coached?

18 A. There has been so many -- There has been so many things
19 said and so many words written, so much media coverage, so
20 many times before the Courts --

21 MR. CHAIRMAN:

22 Chief, I'm going to have to remind you that you're to answer the
23 questions. You're not even coming close to answering that last
24 question. The question put to you is why do you think in 1982
25 when Donald Marshall, Jr., appeared before the Court of Appeal that

RICHARD WALSH, by Mr. Spicer

1 he had been coached.

2 BY THE WITNESS:

3 A. Because I don't think that he would have recalled the
4 evidence that he had given earlier unless somebody refreshed
5 his memory and brought him up-to-date. It's as simple as
6 that.

7 BY MR. SPICER:

8 Q. Do you suggest at all, however, that the evidence that he gave
9 in 1982 was untrue?

10 A. I don't know if -- whether the evidence in '82 was untrue and
11 in '71, untrue. I just don't know.

12 Q. And your comment that he would have to have been coached is
13 directed to what you would assume to be his inability to
14 recollect. Is that correct?

15 A. I would think so, yes.

16 Q. And why would you assume that he was unable to recollect?

17 A. As I said, Donald was not well educated unless during the
18 years he has upgraded himself which I don't know. He's always
19 seemed to be a shy person and I don't feel that he could
20 relate back to 1971 and put it all together.

21 Q. Do you think that his testimony in 1982 reflected a person who,
22 in fact, was able to put it all together to use your words?

23 A. I don't think so.

24 Q. No. How would you characterize his testimony in 1982?

25 A. I think he was probably as confused there as I am today on

RICHARD WALSH, by Mr. Spicer

1 some of the questions that I just don't recall and I don't
2 know when or where or what was said and how it was said
3 to whom and in what context.

4 Q. In the second half of your observation paragraph you say:

5 "The only conclusion the Court can arrive
6 at is that the actions of this man were
7 not consistent with those of a man trying
8 to proclaim his innocence to the world".

9 What would have made you make that comment?

10 A. Because I don't think that he was coming across forceful
11 enough to satisfy a Court and I would attribute that to his
12 lack of education and his lack of ability to speak in public
13 and so on.

14 Q. Further on on that page, Chief, in connection with the
15 testimony, the paragraph relating to James MacNeil. You
16 say:

17 "Mr. Edwards did not persue..."

18 Is it "this evidence"? Sir, it's the fifth line. It is:

19 "...this evidence, but the appearance
20 of Donald Marshall today at twenty-
21 nine years of age with short hair and
22 neat appearance is in complete contrast..."

23 I guess it is.

24 "...to the seventeen year old youth with
25 long hair to his shoulders in 1971 and
26 after eleven years it would be virtually
27 impossible for anyone to identify any
28 person".

29 What is that comment getting at, the difference between the years

RICHARD WALSH, by Mr. Spicer

1 and the length of his hair?

2 A. As I recall I was making the point to -- to the Chief at that
3 time was that the Donald Marshall that we see on television
4 neatly dressed and a very nice looking boy is certainly not
5 consistent with my recollection of Donnie in 1971 when he had
6 long hair and--a kid kicking around I might say.

7 Q. Do you think that appearance would have had -- would have been
8 any kind of contributing factor to his conviction?

9 A. No, no, what I was saying here is that I couldn't understand
10 if MacNeil didn't know him and only saw him in the dark in
11 1971 how could he now in '82 say, yes, that is the man, not
12 similar to the person that he saw back in 1971. That's all
13 I'm saying.

14 Q. Did you attend the 1971 trial?

15 A. No, sir, I did not.

16 Q. You did not. So you didn't see Mr. Marshall --

17 A. No, I did not. Wait, let me go back. I did not attend the
18 trial and I did not see -- I did not -- I was not at the
19 trial but I do recall that I might have been present when
20 Donald was brought in on the initial trips to Court.

21 Q. But you might have been present at the preliminary hearings,
22 is that what you're saying?

23 A. No, not the preliminary hearing, but at some time when he was
24 brought before the Courts, whether it was to --

25 Q. An arraignment?

RICHARD WALSH, by Mr. Spicer

1 A. While arraigned, yes. I might have been there at that time
2 but I had no contacts with the Courts in the following -- in
3 the case or anything.

4 Q. On page two of Exhibit 34 there's a paragraph which is
5 entitled "Chief", and it says:

6 "After reading the evidence very carefully
7 I see nothing that could reflect on the
8 investigation conducted in 1971 or on the
9 police officers who conducted the
10 investigation".

11 You see nothing in the entire transcript that would cause you
12 to think that there could have been criticism of the Sydney
13 Police Department?

14 A. I would have to go over the whole thing again to read it and
15 commit it to memory before I could answer that question.

16 Q. Your recollection or your view at the time though in 1982 was
17 that there was nothing in there that could cast a dispersion
18 or dispersions on the conduct of the Sydney Police Department?

19 A. Obviously I must have been leaning that way in the report that
20 I read because that is exactly what I put here on paper.

21 Q. At the end of that paragraph, Chief, you say:

22 "It is not possible now to shift the burden
23 of perjury to any other source but
24 themselves".

25 Why would you say that?

A. I feel that you're the master of your own destiny. We make
mistakes and I think that we get trapped by them.

Q. I'm sorry. I've lost you there. I -- Can you explain to me

RICHARD WALSH, by Mr. Spicer

- 1 | how that's an answer to that comment that it's not possible
2 | now to shift the burden of perjury to any other source but
3 | themselves. Would "themselves" be the witnesses?
- 4 | A. If people lied in 1971 that created this whole scenario that
5 | has turned out to be a complete tragedy, then I feel that those
6 | individuals for whatever reason must live with what has been
7 | done. I think that's where I was coming from.
- 8 | Q. I see. Would it be your recollection that this review
9 | contained in Exhibit 34 was made by you before the judgement
10 | was rendered by the Appeal Division but after the transcript
11 | was available?
- 12 | A. I don't know what time -- I can't say before or after. All I
13 | know is that I was given a transcript by the Chief and asked
14 | to browse through it and see what I might come up with, but
15 | I thought this was a personal thing just between a couple of
16 | men. Certainly I'm surprised to see it here today. I just
17 | thought this was something between a couple of people, you
18 | know, give me your observations, give me an opinion, and it's
19 | only an opinion.
- 20 | Q. I'm sorry, and why does it surprise you that it shows up here
21 | today?
- 22 | A. Because I thought what we were -- it was just his feelings --
23 | Knowing his feelings on the case, knowing the problems with
24 | the whole thing down through the years, I just -- He just
25 | asked for an opinion and I gave him an opinion, but I certainly

RICHARD WALSH, by Mr. Spicer

1 | didn't feel that I would be before a Royal Commission or
2 | an Inquiry.

3 | Q. After you gave the Chief this opinion did you then discuss it
4 | with him?

5 | A. Probably, yes. Probably in general conversation. I don't know
6 | how many times that we discussed this Marshall case but it
7 | was almost an ongoing thing for over two years when the media
8 | picked it up and it was continual day by day by day.

9 | Q. When you say "we" discussed it, you're talking about yourself
10 | and Chief MacIntyre at the time?

11 | A. I'm saying Chief MacIntyre, Inspector MacDonald, and myself
12 | because we were very close in the operation of the Department
13 | in those last years. We had been promoted and that brought us
14 | in contact with our Chief and so on. That's what I'm saying.

15 | Q. During that two-year period though did it seem to be an
16 | important matter to the Chief?

17 | A. Yes, it's always troubled the Chief and still does.

18 | Q. Has he expressed to you why it troubles him?

19 | A. I don't know how to answer that. It troubles the man, the
20 | whole thing. I don't know. I think that's a question that
21 | he's going to have to answer. It does trouble him. It
22 | troubled him and it affected the man on the job because the
23 | news media were continually badgering him and wanting to
24 | talk to him and his answer was standard, "I can't make
25 | any comments because it's before the Courts". "It's not

RICHARD WALSH, by Mr. Spicer

1 completed". "I can't say anything". I think what he used
2 to say to me is, "My God, I can't get a chance to defend
3 myself". I think that is the point.

4 Q. Okay. Just so we're clear on this, I don't want you to
5 assume what Chief MacIntyre may feel. All I'm trying to get
6 from you is whether or not he'd express to you the reasons
7 for which he was troubled over the years.

8 A. I think he was troubled because of the whole case and I still
9 feel, and I can't speak for the man but I still feel that he
10 thinks that he got the right man, back in 1971 and I don't know
11 if you're going to shake him, or maybe he has changed his
12 opinion. I don't know.

13 Q. Can you -- Can you recollect any times when he would have
14 indicated to you why he was troubled?

15 A. Because -- I feel that -- I can probably answer that by
16 saying if you were continually being bombarded day after
17 day after day with no opportunity to say anything in
18 rebuttal that it would trouble you too, and I think that's
19 why he was troubled.

20 Q. The only point I'm trying to get at Chief is I'm only trying
21 to elicit from you whether or not you can help us at all by
22 telling us actual times and if you can, the substance of
23 the conversation, times when the Chief would have expressed
24 that -- the view that he was troubled to you?

25 A. No, I can't do that. The times that we discussed this were

RICHARD WALSH, by Mr. Spicer

1 too numerous. It always came up in conversation. It was
2 something that we could never seem to get away from.

3 Q. And your general feeling as to why he was troubled you've
4 already expressed to us?

5 A. Yes, that he felt like somebody trapped. "I can't say
6 anything!" "I can't defend myself". "I can't give my side
7 of the story".

8 Q. Did he ever express, Chief -- did he ever discuss with you
9 the interviews that he had done with any of the witnesses
10 in 1971?

11 A. No, I don't think that we got into detail on it. He might have
12 made comments from time to time, but we never discussed it
13 and said that this is what this guy -- I got from this
14 guy or that fellow or someone, no, no.

15 Q. You have no recollection of any discussions concerning the
16 interviews. Just a couple of final questions, Chief. Do
17 you have any recollection of Scott MacKay giving a statement
18 in 1971?

19 A. No.

20 Q. He gave some evidence that during the -- during the giving of
21 the statement that several of the Officers who were at the
22 scene were brought into the interview room and Mr. MacKay
23 was asked to identify them. Do you recollect whether or
24 not you were one of those Officers?

25 A. No, I have no recollection of that.

RICHARD WALSH, by Mr. Spicer

1 I don't know what time reference you're referring to as to
2 what time that would have happened.

3 Q. Well, it would have happened during the taking of Scott MacKay's
4 statement?

5 A. And on what day and time was that please.

6 Q. June the 2nd at six-thirty.

7 A. No, I have no recollection of that at all and, in fact, I
8 wouldn't know Scott MacKay.

9 Q. So you have no recollection of being asked to come into the
10 interview room and then identifying him and --

11 A. No.

12 Q. No?

13 A. No.

14 Q. Just one final point. In 1971 can you give me some idea of
15 the physical set-up of the police station. Where were the
16 "foot soldiers" as you call them; where would you be located
17 vis-a-vis the detective division and where --

18 A. Yes, in that year we were in the old City Hall on Bentinck
19 Street and, in fact, just across the street here. The
20 building has been torn down. It was the building that was
21 built probably just after the turn of the century. It was an
22 antiquated building. We were very pressed for room because
23 the City operation was there. We had a section of the building
24 and we had very little quarters. There was a cell block and
25 there was the hallway coming in. There was a booking desk and

RICHARD WALSH, by Mr. Spicer

1 | there was a little room where Court was held or just
2 | where the Magistrate would hear his cases, very little
3 | space. The detectives at that point in time were working
4 | out of an office that had been built at the end of the
5 | alleyway that had been converted into two rooms for the
6 | detectives.

7 | Q. How far aware would that have been from where you would have
8 | been?

9 | A. It would be -- If you came out the side building then you
10 | would turn to your left and go maybe fifteen feet and into
11 | that section, and that was a garage at one time and it
12 | was converted over for office spaces for the detectives,
13 | previous to that I think they had been somewhere on the
14 | third floor in City Hall. Very crowded conditions.

15 | Q. Would it have been physically separate then from where you
16 | were working?

17 | A. Yes, physically separated, yes.

18 | Q. I see. So --

19 | A. The only entrance, you would have to leave the police station,
20 | go out in the alleyway and go into that building.

21 | Q. But would you then see the detectives on a fairly regular
22 | basis or in passing or would you have to, in fact, make an
23 | effort to go over there or they to come over to see you?

24 | A. No, it would depend on the time. They were mostly on the
25 | move. You would be on the move on your patrol duties and so on.

RICHARD WALSH, by Mr. Spicer

1 You could run into them from time to time depending on what
2 time of day it might have been and as I said, if they wanted
3 you they usually sent for you.

4 Q. You were interviewed by the R.C.M.P., I believe, sir, in
5 1982?

6 A. Yes, by Wheaton and James Carroll.

7 Q. Could we have volume 12 please at one sixty-three.

8 A. What page?

9 Q. Turn to page 163 of that volume, sir. Is that a statement that
10 you gave in 1982, sir?

11 A. Yes, it is but I see an inconsistency here:

12 "The body was lying with the head towards
13 the center of the street".

14 That's not true. It was just the reverse. I didn't pick that
15 up but that is not accurate.

16 Q: Have you reviewed the entire statement at this point or
17 do you want to finish reading to tell me whether there are
18 any inconsistencies or not?

19 A. Yes, that's what I had to say to Jim Carroll and Harry Wheaton.

20 Q. I just noticed on the third line from the bottom, Chief. It
21 says:

22 "I might have gotten Chant's name there
23 that night".

24 Presumably that's at the scene?

25 A. Yes, right.

RICHARD WALSH, by Mr. Spicer

1 Q. You communicated to me yesterday that you --

2 A. Yes, I did.

3 Q. --that you did, in fact, get it at the --

4 A. In fact, I did, yes.

5 Q. Can you help me with why your recollection on that point would
6 be better today than it was apparently in 1982?

7 A. I know that I got it. Maybe it's the way I phrased it
8 there:

9 "I might have gotten Chant's name there
10 that night".

11 But I recall seeing Chant in a shirt and the blood on the
12 shirt, and a very young boy, and finding out his name and his
13 name appeared on my report. This was in '82 when I spoke
14 to Harry and James Carroll.

15 Q. I take it then that your recollection with respect to the
16 taking of Mr. Chant's name is better now than it was in
17 1982 or stronger?

18 A. Yes.

19 Q. Can you remember how you were contacted by Corporal Carroll
20 to give this statement?

21 A. Well, I think I was contacted by the Chief. I think everything
22 went through him and he said: "The Mounted police are coming
23 in". "They want to go over this file", and he said -- He
24 probably said to either myself or McDonald, "Make preparations
25 for them, and whatever you have to give them, give them".

RICHARD WALSH, by Mr. Spicer

1 Q. Contacted by Chief MacIntyre?

2 A. I think it went through his office that they were coming in
3 because Harry Wheaton and James Carroll came in and I knew
4 both Officers so -- They were to talk to different members of
5 the Department as I understood and I was one of them.

6 Q. And were they both present at the time you gave your statement?

7 A. Yes, I was in the detective's section. One of the
8 interrogating rooms were set aside for them and I went down
9 and I sat with these two men and this is what I gave them.

10 Q. And did they indicate to you the reason that they were there
11 and the reasons they were taking the statement?

12 A. It was pertaining to, I guess, the Appeal in 1982, that some
13 type of new evidence had come up and they were doing an
14 investigation and wanted to know my involvement back in
15 1971.

16 Q. Is that your recollection of what they said?

17 A. I don't know if they said that but that was my interpretation
18 of what was going on.

19 Q. I see, and other than the giving of this statement in 1982,
20 did you have any further involvement with the R.C.M.P. during
21 the 1982 re-investigation?

22 A. No, no.

23 Q. No further contact with either Carroll or --

24 A. Not that I can think of unless in general conversation
25 meeting Jim Carroll or Harry Wheaton somewhere, but not on

RICHARD WALSH, by Mr. Spicer, by Mr. Chairman

1 this. I know I gave the statement just as it is there. The
2 only thing I would note that was written down wrong:

3 "The body was lying with the head towards
4 the center of the street".

5 No, it was just the reverse.

6 MR. SPICER:

7 Thank you very much, sir.

8 THE WITNESS:

9 Very good.

10 BY MR. CHAIRMAN:

11 Q. While you're on that statement, Chief, would you direct your
12 attention to the third last line again where you say -- where
13 it's typed rather:

14 "I might have gotten Chant's name
15 there that night".

16 Now are you referring to the scene of the accident, the scene
17 of the stabbing or what?

18 A. In that general area that night, yes, sir. I am saying now
19 that I did speak to Maynard Chant and I did secure his
20 identity and I put that on my report.

21 Q. That -- I see. Was that before or after Sandy Seale had been
22 taken away by the ambulance?

23 A. That was before because that was while I was on my way back
24 to the -- to Sandy Seale, and the taking away to the hospital
25 I noticed Maynard Chant. I spoke to him and I got his name

RICHARD WALSH, by Mr. Chairman

1 | that night.

2 | Q. And he was standing there (I think I recall you saying --
3 | testifying.) with a shirt that had blood on it?

4 | A. The shirt had blood on it. I think that's what drew my
5 | attention to it and I spoke to the boy and he told me that
6 | he had placed it on the victim.

7 | Q. Did he keep the shirt or did he hand it over to you?

8 | A. No, I didn't take it, sir.

9 | Q. You simply got his name and address?

10 | A. Yeh, and he was picked up some time later I was to learn by
11 | another car.

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JMR

RICHARD WALSH, by Ms. Derrick

1 MR. CHAIRMAN:

2 We -- Before -- I take it you have some questions to put to
3 this witness?

4 MS. EDWARDH:

5 Ms. Derrick will be conducting the cross-examination but we
6 do have some questions.

7 MR. CHAIRMAN:

8 All right. Maybe we'll take a ten minute recess.

9 INQUIRY ADJOURNED: 10:19 a.m.

10 INQUIRY RECONVENED AT 10:35 a.m.

11 BY MS. DERRICK:

12 Q. Chief Walsh, my name is Anne Derrick and I represent Donald
13 Marshall Junior. Yesterday when you were giving out testimony
14 you described that you had been originally on foot patrol
15 when you joined the police department, is that correct?

16 A. Yes.

17 Q. And then you were assigned to patrol car duty around 1964?
18 Would that be about accurate?

19 A. Yes.

20 Q. I think you said about ten years after you originally joined
21 the force.

22 A. Yes.

23 Q. In 1971 when you were on patrol car duty, what was the
24 area that you patrolled?

25 A. I -- The beats were broken up. We had a car in the Pier

RICHARD WALSH, by Ms. Derrick

1 district and we had a car that covered mostly the town
2 area and the Ashby area at that time. And from time
3 to time the zones were changed.

4 Q. And I take it this was by designation then, was it?

5 That --

6 A. Yes.

7 Q. And how -- for how long would you be designated to a particular
8 area?

9 A. It could be any given time. I recall spending some time
10 in the Pier. Possibly a year and a half. But it was a
11 sporadic thing. It would be in a car and out of a car.
12 The patrol car in the town area would be continually in that
13 area but the -- just the personnel would change.

14 Q. Oh, I see. And so how long would the personnel be assigned
15 to a particular car in a particular area?

16 A. That could go on for years.

17 Q. For years?

18 A. Yes.

19 Q. How many patrol areas were there then? Were there three,
20 did you just describe?

21 A. Probably three. The Pier district, the town district and
22 the Ashby area.

23 Q. Where's the Ashby area?

24 A. That would be -- today, we would probably designate that
25 that all properties beyond the railroad tracks. From the

RICHARD WALSH, by Ms. Derrick

1 shopping centre on Prince Street, possibly, out to the
2 city limits in that area.

3 Q. So by these designations then, I take it Wentworth Park
4 would have been included in the town area?

5 A. Yes, that was the town patrol area.

6 Q. And were there then three patrol cars in the Sydney Police
7 Force?

8 A. Not at all times. There might have been the town car
9 and the Pier car. We were going with two until the
10 availability of men and the possibility of putting another
11 car on depending on what circumstances were.

12 Q. I see. And -- but were there always two cars? One patrolling
13 the Pier and one patrolling --

14 A. Yes.

15 Q. -- what was described as the town area?

16 A. Yes.

17 Q. And as far as the Membertou was concerned would it be the
18 town car that would respond to the Membertou Reserve?

19 A. Yes.

20 Q. Is that correct? And I take it then that these areas
21 were rotated by personnel? Is that right?

22 A. Yes.

23 Q. And how many officers then would be rotated through these
24 designations?

25 A. In numbers?

RICHARD WALSH, by Ms. Derrick

1 Q. Yes.

2 A. Well, from time to time you might be left in one section
3 and then you might be changed to another car. Still in
4 the cars but rotated from area to area from time to time.

5 Q. Well, what I'm getting at is that I take it that it was
6 as small police force?

7 A. Yes, much smaller than we are today. Our complement today
8 67 and at that time, I would guess, that it may be in the
9 high 50's. I really don't know the exact numbers.

10 Q. We're talking around 1971?

11 A. Yes.

12 Q. Would you at one time have worked in all three designated
13 areas?

14 A. Oh, yes.

15 Q. And so, as a patrol car police officer, you would get
16 pretty familiar with one particular area that you were
17 working in?

18 A. Yes.

19 Q. Because you might be there for some considerable period of
20 time?

21 A. Yes.

22 Q. Is that right? The State Tavern would that have been within
23 the town area that the town car --

24 A. Yes, that would be on Dorchester Street just up from the
25 Federal building and that would be in the town area patrol.

RICHARD WALSH, by Ms. Derrick

1 Q. So from --

2 A. But that -- that State Tavern might be police -- why the
3 man on the street -- because that was also on his beat.

4 Q. I see.

5 A. If there was any problems, which he could not handle,
6 then the car would back him up.

7 Q. Had you patrolled the area in which the State Tavern was
8 located either in a patrol car or on foot?

9 A. On both.

10 Q. On both, you had. Did you ever encounter Roy Ebsary?
11 Or did you ever answer any calls with respect to Roy Ebsary?

12 A. No, I don't recall answering any calls with Mr. Ebsary.

13 Q. Did you ever encounter him?

14 A. At that time. At that period in time.

15 Q. You encountered him later did you?

16 A. In later years I met Roy Ebsary but at that time I did not
17 know Roy Ebsary.

18 Q. Did you even know who he was?

19 A. No, not really.

20 Q. Had you ever even heard his name?

21 A. I don't recall at that time hearing his name although
22 I do know that he had been charged by the department. No.
23 No.

24 Q. You do know -- Did you know back in the --

25 A. No.

RICHARD WALSH, by Ms. Derrick

1 Q. -- late 60's, early 70's?

2 A. No.

3 Q. You -- So, what I'm getting at here is that in the early
4 70's had you ever heard Roy Ebsary's name discussed?

5 A. No.

6 Q. You had never heard him described by fellow police officers?

7 A. Not to the best of my knowledge.

8 Q. Were you familiar with him as a person? In other words, now
9 that you know his name and are able to associate that with
10 an individual, are you able to recollect whether you would
11 have seen that individual but you simply not known what
12 his name was?

13 A. I would have seen that man because in later years I was to
14 learn that he was a short order cook at the Esplanade Grill
15 but I certainly did not know the person in that period
16 of time.

17 Q. But you did see him in your daily work on some occasions
18 then?

19 A. Probably. But I was not aware of it at that time.

20 Q. As to who he was?

21 A. As to who he was.

22 Q. How well did you know Constable Ed MacNeil who was on the
23 Sydney Police Force in the early 70's?

24 A. I knew Eddie MacNeil very well. We had worked together for
25 many years. We were both on traffic. I'd work one shift.

RICHARD WALSH, by Ms. Derrick

1 He would work the other and then he -- later on he
2 transferred in to the detective section.

3 Q. Did you ever hear him talk about Mr. Ebsary?

4 A. No, I don't recall that.

5 Q. I take it that you police officers would get together
6 probably fairly regularly over coffee, discuss the work
7 you were doing, maybe discuss some of the cases you were
8 working on?

9 A. Yes, that could have happened.

10 Q. And you never heard him mention Roy Ebsary?

11 A. No.

12 Q. Could the witness have volume 16, please? I don't know
13 whether you have it there Chief.

14 A. Yes, I do.

15 Q. Could you turn to page 1? And you'll see that this is
16 a report and it appears to have been filed in 1970 on
17 April 8th at eleven-thirty p.m. and that at the very
18 beginning it states:

19 Received a call from Mrs. Ebsary wanting the
20 police to pick up her husband if they see him.

21 And then at the bottom of the report, you'll see that there's
22 a further report signed by Constable Ed MacNeil saying:

23 Re: above call. Searched the area and spotted
24 Mr. Roy Ebsary at the corner of Charlotte and Townsend
25 Street. Stopped him and searched him and found
a 12 inch butcher knife under his belt and arrested
him.

RICHARD WALSH, by Ms. Derrick

1 Do you ever recall seeing that report?

2 A. No. I --

3 Q. And you never recall Constable MacNeil mentioning
4 any encounter of this nature to you?

5 A. No.

6 Q. Did you know John Pratico in the course of your work
7 either as a foot patrol officer or in the patrol cars?

8 A. No, I knew who John Pratico was. A boy around the streets
9 but I didn't know him personally and at that period of time
10 I was in a car. I wasn't on the street.

11 Q. What did you know about him?

12 A. Not very much.

13 Q. Had you overheard any discussions or had any discussions
14 with any fellow police officers about him?

15 A. No.

16 Q. So you didn't know him by reputation?

17 A. No.

18 Q. So you simply knew what he looked like?

19 A. Yes, I seem to recall knowing his mother and I knew he
20 was Pratico but beyond that I did not know.

21 Q. Did you ever drive him to or from his mothers house?

22 A. Not that I can recall.

23 Q. So as best you can recollect he was never in your patrol
24 car?

25 A. No, not to my knowledge.

RICHARD WALSH, by Ms. Derrick

1 Q. Did you know of anybody who did?

2 A. I can't say that I -- I can't say.

3 Q. You can't recollect?

4 A. I can't recollect, no.

5 Q. It's possible but you can't recollect.

6 A. It's possible but I can't recollect.

7 Q. Was Wentworth Park ever part of your designated area?

8 A. It was always a part of the designated area but it wasn't
9 too often that you would have a foot patroller go in there
10 unless there was some special reason why we would be asked
11 to check that area on foot.

12 Q. Why was that?

13 A. Well, even today it's not a designated foot patrol area and
14 if there was a problem in there that needed foot patrols
15 I think that I would detail them in there. Other than that
16 it was just handled by the car and it's normal --

17 Q. Was there specific -- Sorry, I didn't mean to interrupt.

18 A. No, go ahead.

19 Q. Was there a specific policy reason why it was patrolled
20 by car and not by foot?

21 A. Oh, our foot patrols were in the business areas and as I
22 said counsellor, if it was necessary to put a foot patrol
23 in for any reasons because of any problems in the area, it
24 would probably be done on a temporary basis but it was
25 not designated as a foot patrol area.

RICHARD WALSH, by Ms. Derrick

- 1 Q. Did you ever patrol it by foot?
- 2 A. I walked through it but not as my patrol area.
- 3 Q. So, you don't recollect being designated to patrol Wentworth
4 Park by foot?
- 5 A. No.
- 6 Q. In the period of time that we're talking about?
- 7 A. No.
- 8 Q. Did you ever work an any of the teen dances in the town?
9 For instance at St Joseph's?
- 10 A. Yes.
- 11 Q. And what can you tell us about those?
12 Who attended them? What sort of duties would you perform?
- 13 A. Well, at that point in time we were off duty officers hired
14 by the hall to be on hand when they had a teenage dance or
15 a dance in any part of the city. That was very customary
16 in those days.
- 17 Q. So that this was a way of an -- a way of earning some income -
- 18 A. Extra money, yes.
- 19 Q. --when you were off duty?
- 20 A. Yes.
- 21 Q. And who attended these dances?
- 22 A. You mean the clientele who were going?
- 23 Q. Yes.
- 24 A. Oh, the younger school children at the time. The kids.
- 25 Q. How old would they have been?

RICHARD WALSH, by Ms. Derrick

1 A. I suppose probably from 15 to 18 or 19. Depending.

2 Q. And where did they come from?

3 A. I guess they came from all sections of the city and the
4 outskirts.

5 Q. And did you see kids there from Membertou, for instance,
6 that you would recognize as being from Membertou?

7 A. I probably did.

8 Q. Do you recollect that?

9 A. Yes, the native boys would attend at dances and the black
10 youths would attend the dances and -- Yes, I suppose I do.
11 But I had no reason to really pay any particular attention
12 to it.

13 Q. But that's what you recollect to -- you recollect that there
14 were --

15 A. They used to -- all--

16 Q. -- children from --

17 A. From all area attended these dances.

18 Q. Including the Pier, including Membertou?

19 A. Right.

20 Q. As a police officer were you ever called out to these dances?

21 A. On special duty?

22 Q. Yes. Not when you were working off duty at the dance but
23 as a police officer?

24 A. Oh, yes. I worked probably every dance hall in the city.

25 Q. But when you were working as a police officer on duty, was

RICHARD WALSH, by Ms. Derrick

1 | ever an occasion when you received a call to go to the
2 | dance or was it the off duty officers that had --

3 | A. It was the off duty officers that were at the dance but
4 | many times we went into that area if they felt that, hey,
5 | there was a crowd and maybe things could go wrong. We had
6 | the presence of maybe the cars standing by for a few minutes
7 | until they dispersed. Just normal things.

8 | Q. In your experience in working in the Sydney Police Department
9 | you stated the Cheif MacIntyre, and I think this was your
10 | testimony yesterday, went over everything that went through
11 | the department. Is that your recollection?

12 | A. No, I did not say that. Anything pertaining to crime he
13 | would probably looked at very closely but he would keep
14 | a very close check on the other reports.

15 | Q. So he did look --

16 | A. But I did not indicate that he would sit down as a police
17 | officer and scrutinize every report.

18 | Q. But what you're indicating then is that he did look closely
19 | at the reports that came in to the department?

20 | A. Yes, I would say that he looked at -- very closely at the
21 | reports coming in.

22 | Q. So therefore would you have expected that with respect
23 | to the report that I just pointed out to you in volume 16
24 | on page one which was Constable MacNeil's -- Ed MacNeil's
25 | report, that that report going in to the department would

RICHARD WALSH, by Ms. Derrick

1 have been seen by Chief MacIntyre?

2 A. I would assume that it could have been seen by him.

3 Q. That would be consistent with his general practise and --

4 A. Yes.

5 Q. Is that correct? And would you describe Chief MacIntyre as
6 having had a good memory?

7 A. Excellent.

8 Q. Now, Chief, on May 28th, 1971 you drove with Constable Mroz
9 to the park, is that correct?

10 A. Yes.

11 Q. And you entered from Bentinck Street on to Crescent Street?

12 A. Yes.

13 Q. What was the first thing you saw when you turned on to
14 Crescent Street in terms of seeing something noteworthy?
15 What was the first thing you saw?

16 A. Nothing at that point until we -- we moved in on the street
17 and picked up the -- a person on the street in the headlights
18 of our car.

19 Q. So that was the first noteworthy thing that you saw? Was
20 this person lying --

21 A. Yes.

22 Q. Could you indicate on the map exactly where you recollect
23 Sandy Seale was lying?

24 A. I -- I don't know if I can -- I can pinpoint the exact spot.
25 I think in my report it's indicates in the vicinity or in

RICHARD WALSH, by Ms. Derrick

1 front of house 112 but I don't know exactly where that
2 is right now. Let's see --

3 Q. I think the houses are --

4 A. Bing Avenue, Bentinck, Crescent.

5 Q. Numbered.

6 A. It would be somewhere in this area but to pick the exact
7 point I can't do that now.

8 Q. So somewhere right around the bend.

9 A. Yeh, after we turned and we drove in and we're moving in
10 slowly and the headlights of the car -- after that bend
11 I would think we observed that person lying on the street.

12 Q. And once your headlights picked up this form on the ground
13 I take it that you brought the car to a stop? Is that right?

14 A. Oh, yes.

15 Q. Were you driving?

16 A. Yes, I was.

17 Q. Where were you then when you saw the other police cruiser
18 which I think I understand from your testimony had come
19 in off Argyle Street? Am I correct about that?

20 A. Yes.

21 Q. When -- where were you when you notice that police car?

22 A. I didn't note it at that time. I went immediately to the
23 person on the street and it was only later that I observed
24 the other police car. The distance between us was not that
25 great but I did --

RICHARD WALSH, by Ms. Derrick

1 Q. And --

2 A. -- I did not observe that car at that time.

3 Q. Can you indicate where that police car was when you noticed it?

4 A. Yes. There's a large -- there's a very large tree here as
5 you look around the bend and the car was right over here.

6 Facing this way and I was facing this way.

7 Q. And when you saw that car had it come to a stop?

8 A. Yes, it was stopped. When I -- when I walked up both
9 officers were standing on the street and they were talking
10 to Donald Marshall at the time.

11 Q. Is the recollection that you have now then, that you drove
12 on to Crescent Street and parked when you saw Sandy Seale's
13 body but at that time there was no other police cruiser
14 ahead of you as it were?

15 A. I didn't see the police cruiser at that time although it
16 could have been in the park area coming in off Argyle Street.
17 I did not notice it at that time.

18 Q. When you did see it, did it have it's flashing lights on?

19 A. I don't recall flashing lights. I don't think I used the
20 flashing lights on that night and I don't recall seeing
21 the flashing lights on that car either.

22 Q. Were you able to indenify it as a police cruiser as soon
23 as you saw it? Or did you just think it was a vehicle?

24 A. No, I didn't even think about that. I -- After I did what
25 I did I got up and I walked up and I saw these officers and

RICHARD WALSH, by Ms. Derrick

1 the car was there. I don't know. That was not important
2 to me at the time.

3 Q. So what drew you toward them was seeing the police officers?
4 Was that caused you to walk toward them?

5 A. No. Possibly -- Yes, that was one thing but also I don't
6 even recall a radio transmission that I know was on file
7 that they had indicated the problem area at that time. I
8 don't recall that transmission.

9 Q. It would have come over your radio though you would expect?

10 A. Yeh, if I were in the car at the time. Yes, it should have
11 came over but I just can't recall that.

12 Q. You walked towards this police cruiser and where were the
13 police officers standing? Were they actually outside the
14 car?

15 A. They were outside the car on to the left side of the car,
16 I would think because my car was stopped probably in the
17 middle of the road. It's a very narrow street there.

18 Q. When did you first see Mr. Marshall?

19 A. Standing talking to Corporal Martin MacDonald and Constable
20 Howard Dean at that time.

21 Q. And was he facing toward you?

22 A. Yes, he was.

23 Q. At any time did you observe Mr. Marshall near Mr. Seale?

24 A. No.

25 Q. You overheard a conversation at that time between Mr. Marshall

RICHARD WALSH, by Ms. Derrick

1 and the two police officers, is that correct?

2 A. Yes, he was telling them the events that had happened and
3 that he and his friend were "jumped" in the park and so on.

4 Q. You never made any notes of this conversation?

5 A. No, I didn't and I didn't stay long enough to really hear
6 the full description of what he had to say because Corporal
7 MacDonald indicated to me that he was going to take him
8 to the hospital because at that point Junior was holding
9 his arm and there was a scrape down his arm. So they --
10 Corporal MacDonald said: "We're going to take him to the
11 hospital for medical attention." I was going back to
12 finalize Mr. Seale going on to the hospital.

13 Q. So had you actually joined them in this conversation or
14 had you just walked toward them and --

15 A. No, just --

16 Q. -- decided they had the situation --

17 A. In hand and left.

18 Q. But did you actually stand there with them in a sort of
19 close tight circle?

20 A. Not for any length of time. It just -- just very briefly
21 because my concern was to go back. They had the situation
22 under control there. I went back to the other area and
23 then left for the hospital.

24 Q. So you really took only casual note of what was being
25 discussed?

RICHARD WALSH, by Ms. Derrick

1 | A. Right.

2 | Q. And you made no notes at that time or subsequently of any
3 | conversation that you may have in a peripheral sense
4 | overheard. Is that correct?

5 | A. That is correct.

6 | Q. So I suggest to you that after sixteen years -- over sixteen
7 | years, you cannot remember the exact words that Mr. Marshall
8 | may have used to describe what had happened in the park?

9 | A. No, dear. No.

10 | Q. So the words that you have used in your testimony yesterday
11 | were, in fact, your words describing the general essence of
12 | sense?

13 | A. Yes. I don't know the exact words that he used at that time.

14 | Q. So that was just your description generally of what you were
15 | inferring from what he said?

16 | A. Yes.

17 | Q. Chief, you never made any notes concerning your attendance
18 | at the park that night, did you, either then or later?

19 | A. I made a report on --

20 | Q. Other than your report. I mean independent notes.

21 | A. No.

22 | Q. Sitting in your police cruiser or --

23 | A. No, I don't have any notes from that period of time.

24 | Q. And you, in fact, made no notes even once Mr. Seale had
25 | died? You didn't at that point sit down and make notes?

RICHARD WALSH, by Ms. Derrick

1 A. No.

2 Q. By the way, Chief, how is it that you know that Mr. Marshall
3 is left-handed?

4 A. Just an observation.

5 Q. Over the years subsequent to 1971?

6 A. I don't know exactly how I know but I would say that that's
7 accurate that he's a left-handed person.

8 Q. I want to ask you about your contact with Mr. Chant that
9 night. When in relation to your arrival at the scene with
10 Constable Mroz did you first see Mr. Chant?

11 A. I didn't see Mr. Chant at that time. I think I saw Mr. Chant
12 as I was moving back from speaking briefly with
13 Corporal McDonald and Dean and I noticed Chant and I got his
14 name. That's my recollection of it.

15 Q. And were you able to identify him at that time? Did you know
16 who he was?

17 A. No, I didn't. I just -- I just took his name and so on. He
18 was just a little bit of a boy at that time.

19 Q. So the way you identified him was by asking him his name. Is
20 that correct, and you noticed at the time that he had a
21 bloody shirt. Did you ask him anything about this?

22 A. He told me that he had put it on the person and I -- There
23 was no questions beyond that. I was on my way back to the
24 cruiser to relieve the area.

25 Q. You didn't ask him then about the attempted murder of Mr. Seale?

RICHARD WALSH, by Ms. Derrick

1 A. No questions.

2 Q. Did you see Mr. Chant's shirt on Mr. Seale's body?

3 A. No, I didn't.

4 Q. When you saw it it was back on Mr. Chant?

5 A. I don't know if it was back on him or whether he was carrying
6 it, I think possibly carrying it. I didn't -- When I
7 arrived there was nobody at the person on the street. Everything
8 I know is subsequent, that the shirt was placed on the wound,
9 but I did not see that. It was not there when I arrived and
10 I saw Chant shortly after I left Corporal Martin McDonald
11 and Howard Dean.

12 Q. You didn't take a statement from Mr. Chant, I think you said?

13 A. No.

14 Q. And you didn't make any notes of your conversation with him
15 either then or later?

16 A. No.

17 Q. Is that correct?

18 A. That's correct.

19 Q. Were you in any way instrumental in his being brought to the
20 hospital?

21 A. No.

22 Q. You learned about that later, did you?

23 A. Yes.

24 Q. You were one of the Officers who accompanied the ambulance
25 to the hospital. Is that correct, Chief?

RICHARD WALSH, by Ms. Derrick

1 A. Yes.

2 Q. Once everyone had arrived at the hospital and Mr. Seale had
3 been placed in the care of the doctor, did you at that
4 point question the ambulance attendants?

5 A. No.

6 Q. Did you see anybody questioning them?

7 A. No.

8 Q. Are you aware if anyone ever questioned them?

9 A. No.

10 Q. Have you ever heard that anyone questioned them?

11 A. No.

12 Q. Did you inquire at any point whether anyone had questioned
13 them?

14 A. No.

15 Q. Is it correct that you've stated that you remember sixteen
16 years later the exact time you arrived at the hospital?

17 A. I said at approximately four-ten in the morning.

18 Q. That's reasonably exact. How can you be so sure?

19 A. I don't know, as I said yesterday, whether I glanced at my
20 watch, I was conscious of time or what.

21 Q. You didn't make any notes so --

22 A. No.

23 Q. You were the first police officer at the scene. That's your
24 testimony. Is that correct?

25 A. Depending on how you described the scene. I said I was the

RICHARD WALSH, by Ms. Derrick

- 1 first police officer to Sandy Seale on the street.
- 2 Q. I -- Yes, I described the scene as where Sandy Seale was and
3 you were the first police officer?
- 4 A. I would say yes to that.
- 5 Q. To Mr. Seale?
- 6 A. Yes.
- 7 Q. And yet you made no notes of your attendance at the scene
8 either then or later. Can you explain that?
- 9 A. My notes. Is there not a written account of what I did at
10 that time?
- 11 Q. But there are a number of other things that you did, that
12 you observed.
- 13 A. I don't recall making notes but if I did make any notes at
14 that time, I certainly don't have them today.
- 15 Q. If you had made notes, what would have happened to those
16 notes?
- 17 A. If they were not -- I just don't recall making any.
- 18 Q. But I think your recollection throughout is that you did not
19 in fact make any --
- 20 A. I don't think I made any notes.
- 21 Q. Now in the park at the time that Mr. Seale's body was located,
22 there were four police officers. Is that correct? Yourself,
23 Constable Mroz, Martin MacDonald, is that correct, and
24 Constable Dean?
- 25 A. Yes.

RICHARD WALSH, by Ms. Derrick

- 1 Q. And it was Sergeant Martin MacDonald at the time, was it?
- 2 A. No.
- 3 Q. What was his designation?
- 4 A. Corporal.
- 5 Q. Corporal, thank you. Was he the senior officer at the scene?
- 6 A. Yes.
- 7 Q. Is that correct? He left to take Mr. Marshall to the hospital.
- 8 A. Yes.
- 9 Q. When he left to do that, you were still with Mr. Seale in the
- 10 park. Is that correct?
- 11 A. Yes, he was being placed into an ambulance at that time.
- 12 Q. Did Corporal MacDonald at that time provide you with any
- 13 instructions as to preserving the scene or with respect to
- 14 anything else?
- 15 A. None whatsoever.
- 16 Q. He left you with no direction at all?
- 17 A. That's correct.
- 18 Q. Did you receive any direction from him either later that night
- 19 or the next day --
- 20 A. No.
- 21 Q. --with respect to this matter? By the time you left the scene
- 22 with the ambulance you say that there were a lot of people
- 23 gathered --
- 24 A. They were gathering, yes.
- 25 Q. -- at that point. Were any of these people interviewed?

RICHARD WALSH, by Ms. Derrick

1 A. Not that I know of. I didn't stop to take any names or any-
2 thing. I just proceeded with what I was doing.

3 Q. And in your recollection, Constable Mroz didn't stop to take
4 any names either.

5 A. I don't think so.

6 Q. So no names were taken from that group of people in the park.
7 To the best of your recollection or knowledge, were any
8 arrangements made to secure the scene after all you police
9 officers left?

10 A. No.

11 Q. Did you have any contact with Mr. Marshall at the hospital?

12 A. No.

13 Q. You saw him there?

14 A. Yes.

15 Q. Did you have any contact with Mr. Marshall at any other time
16 over that weekend?

17 A. Sunday afternoon some time on the evening shift at the
18 Membertou Reserve.

19 Q. At the police station, did you have any contact with him?

20 A. None whatsoever.

21 Q. Did you observe him at the police station over the course of
22 that weekend?

23 A. No, I don't think so.

24 Q. You don't recollect seeing him there?

25 A. No.

RICHARD WALSH, by Ms. Derrick

1 Q. And that's your best recollection, is it? In your experience
2 as a police officer up to 1971, this incident must have stood
3 out to you as a particularly serious one. Would that be fair
4 to say?

5 A. Yes.

6 Q. Did you not consider it a situation serious enough to have
7 expected Chief MacIntyre to have come out that night?

8 A. There was a Detective Sergeant on duty that night and he was
9 the man who was through -- who started the investigation. He
10 was at the hospital when I left.

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RICHARD WALSH by Ms. Derrick

- 1 Q. And who was that, was that Corporal MacDonald?
- 2 A. No that was Detective Sergeant Michael McDonald.
- 3 Q. And you were satisfied that that was sufficient at the time?
- 4 A. Oh, I don't know if I would make a judgement of that kind.
- 5 The man -- the investigator was there. The investigations
- 6 at that point fell into his hands.
- 7 Q. And I think you have made a comment this morning that the
- 8 problem was lack of direction from a higher level?
- 9 A. Oh, I certainly didn't get any direction on that night from
- 10 any one and that's why I made that comment.
- 11 Q. So not from Detective Sergeant McDonald and certainly not
- 12 from Chief MacIntyre?
- 13 A. Chief MacIntyre was not there.
- 14 Q. Do you know who ultimately took over the investigation?
- 15 A. I would think and I can only suggest the following day that
- 16 Sergeant MacIntyre took over the investigation.
- 17 Q. Would Sergeant Urquhart have also been involved in taking
- 18 over the investigation?
- 19 A. Well, Sergeant MacIntyre was the man in charge and he would
- 20 probably be assisted by what officers he wanted whether it
- 21 was Sergeant Urquhart or Sergeant McDonald or Sergeant Michael
- 22 J. MacDonald.
- 23 Q. So they wouldn't equally have taken charge, it would have been
- 24 Sergeant MacIntyre that --
- 25 A. No, Sergeant MacIntyre was in charge of the --

RICHARD WALSH, by Ms. Derrick

1 Q. Stepped in?

2 A. -- criminal investigation unit at that time.

3 Q. When you have stated that problem was that there was a lack
4 of direction from a higher level. Do you feel that the
5 R. C. M. P. should have been called that night?

6 A. That was not a judgement for me to make. If you're asking
7 an opinion I would answer.

8 Q. What do you feel now?

9 A. If it were me, I wouldn't hesitate. I'd call for everything
10 available, every piece of expertise I could have gotten.

11 Q. There's been some discussion in your testimony about the
12 different effect of it being a stabbing that "20 hours
13 later" turned out to be a murder. I put it to you Chief
14 that even once it became a murder, the quality of the
15 investigation didn't change?

16 A. I did not -- I was not part of that investigation and that
17 would only be an opinion on my part.

18 Q. Well, what can you say about that now? About that statement?

19 A. Repeat the statement?

20 Q. That even once this became a murder, the quality of the
21 investigation did not change?

22 MR. PUGSLEY:

23 With respect, My Lord, I don't think -- I don't think this man
24 knows the nature or the quality of the investigation was after
25 that first night.

RICHARD WALSH, by Ms. Derrick

1 | MR. CHAIRMAN:

2 | I'm assuming that Ms. Derrick is asking for a professional opinion
3 | from this witness.

4 | MS. DERRICK:

5 | I am, My Lord, and this is a witness that has testified to the
6 | fact that he has over the years had considerable discussions
7 | about this matter, has even been asked --

8 | MR. CHAIRMAN:

9 | Well, it's not so much discussions. I'm assuming that the point
10 | of the question is that you wanted to avail of the opportunity
11 | of having this witness in the box to get his professional opinion
12 | based on his professional career today.

13 | MS. DERRICK:

14 | Absolutely.

15 | COMMISSIONER EVANS:

16 | But he did not know --

17 | MR. CHAIRMAN:

18 | But I appreciate that he did not know at the time or have any
19 | responsibility for the investigation.

20 | MR. PUGSLEY:

21 | That was the point I was trying to make.

22 | MR. CHAIRMAN:

23 | Yes, that's -- That's fair but if you want a professional opinion
24 | as to what in hindsight he would have done today --

25 | MS. DERRICK:

That is the question I'm asking, My Lord.

RICHARD WALSH, by Ms. Derrick

1 MR. CHAIRMAN:

2 All right.

3 BY MS. DERRICK:

4 Q. Whether your professional opinion now. You can answer that
5 question or comment on that statement.

6 A. The set up today, if I must answer in this way and not to be
7 long, I guess it would be handled differently. An investigator
8 would be sent in. If it was necessary to protect the crime
9 scene, that would be done and if there was help needed, that
10 help would be forth-coming.

11 Q. And would you not agree now that it was the case that the
12 Department just didn't know how to investigate a murder?

13 A. Oh, I wouldn't say that. What I'm saying -- I would say
14 that we didn't have certain fields of expertise in those days.
15 In 1971, we didn't have our own Identification section but in
16 1972 the first officer from the Department was sent on
17 Identification and an Identification was set up so obviously
18 the Chief of the day recognized that there was a problem in
19 that regard. That's as much as I would like to say on that.

20 Q. So did -- Can I take it from that that your response to that
21 question would be yes, that the Department didn't know how
22 to investigate a murder and therefore changes were necessary.

23 MR. CHAIRMAN:

24 Well, no. That's -- I can't take that for an answer. That --
25 we have to make that decision, Ms. Derrick.

RICHARD WALSH, by Ms. Derrick

1 | MS. DERRICK:

2 | I appreciate that, My Lord.

3 | COMMISSIONER EVANS:

4 | I think that you are forgetting that this officer said that
5 | the departmental -- the department was pretty well -- in
6 | compartments and one hardly spoke to the other or passed on
7 | information and he does not know what the Detective branch did
8 | on that night. That's the best I got from his inform -- evidence,
9 | that he doesn't know what the Detective branch did. He only knows
10 | what he did.

11 | MS. DERRICK:

12 | Thank you, My Lord. I recognize that the witness has testified
13 | that in his opinion now there would be changes to what was done
14 | that night in his experience.

15 | BY MS. DERRICK:

16 | Q: Chief, you made a search of the Park for a weapon with
17 | Constable Ambrose MacDonald, is that correct?

18 | A. Yes, a brief search but that was not a systematic search.
19 | Not probably very thorough, just the thought that something
20 | that we did if there was such a -- if there was a weapon
21 | or if there was anything left behind possibly --

22 | Q. And that was stimulated principally by curoosity, is that --

23 | A. Curoosity, maybe initiative. I think as Inspector MacDonald
24 | said yesterday, "If you came up with a weapon, you were the
25 | hero. If you didn't, well, it was not your concern or

RICHARD WALSH, by Ms. Derrick

1 | not your function at that time to do so".

2 | Q. No notes were made of that search, is that correct?

3 | A. Not by me.

4 | Q. You also searched some restaurants, is that correct?

5 | A. We checked restaurants to, to see if anybody answering the
6 | vague description that we had might be in the area.

7 | Q. And what did that checking involve?

8 | A. Oh just going probably to the restaurants and having a look
9 | at the restaurants. We went to the Government Wharf where
10 | the vessels come in and dock. There were none in at that
11 | time. There was no sailors around.

12 | Q. With respect to the restaurants though, did you actually
13 | speak to say, the waitresses in the restaurants or did you
14 | look in the washrooms?

15 | A. No, I didn't. I would think that probably the man on the
16 | foot patrol did most of the leg work there.

17 | Q. So was the purpose of checking the restaurants, just to --

18 | A. Just for observation to see --

19 | Q. Just to look inside to see if there was anybody --

20 | A. Yes, just to see if there was anybody answering those
21 | descriptions.

22 | Q. I see, and this again wasn't done at anyone's direction, is
23 | that correct?

24 | A. That's right.

25 | Q. And no notes were made of this investigation either?

RICHARD WALSH, by Ms. Derrick

1 A. I think that we made reference to that in a written report
2 that we had done these things on that night but we did not
3 make any notes per se or I did not make any notes because I
4 was still in the car.

5 Q. When you visited the Membertou Reserve on Sunday with Constable
6 Ambrose MacDonald and there was a conversation, I take it, in
7 the car with Mr. Marshall and Mr. Francis. Did you participate
8 in that conversation?

9 A. Probably, yes. I was there there was four of us and as far
10 as I was concerned it was a casual conversation.

11 Q. Do you remember how long Mr. Francis was present?

12 A. He was present all the time as far as I can recall. How long
13 the conversation took place, I don't know, twenty minutes --
14 we went to the Reserve. We were directed to go there. Everything
15 was quiet. We met these two people. My partner knew them.
16 They sat, we talked, chit-chatted and that was it. That was
17 not in any way shape or form part of this investigation.

18 Q. You then didn't go specifically to look for Mr. Marshall?
19 You happened to met him.

20 A. Definitely not. It was just a chance that that happened.

21 Q. Chance meeting. And he got into the car, I take it once it
22 was stopped and --

23 A. Well, I think once they recognized that it was Amby MacDonald
24 who they knew, they just sat in and we chatted. It was just
25 a casual conversation. In no way connected with this investigation

RICHARD WALSH, by Ms. Derrick

1 Q. And would that explain why no notes were taken of that
2 contact as well?

3 A. That could, that could have been.

4 Q. But there were no notes made either then or later?

5 A. You keep saying about notes. I was very poor officer for
6 keeping notes and that is one of the things I as the Chief
7 today, I would be probably down hard on my own people for
8 it. But I was probably one of the most guilty of all --
9 retention in your own mind and so on, which was not always
10 successful.

11 Q. Would it be fair to say, Chief, that up to an including 1971
12 you had had no training in investigation?

13 A. That is correct.

14 Q. And I think you said in your testimony yesterday that you
15 learned on the job from senior officers, is that correct?

16 A. That's the way it was then in those days. You learned,
17 you would get the experience the benefit of the knowledge
18 from the senior men that they directed you as to how to do
19 things and they advise you of the pitfalls.

20 Q. And would, was one of these senior officers Sergeant MacIntyre?

21 A. I had very little to do with Sergeant MacIntyre because of
22 the, the time frame of going on the job. When I arrived
23 on the job in 1954, Sergeant MacIntyre was already
24 established and I think he was a constable at that time.
25 And one of the senior personnel in the cars. And in later

RICHARD WALSH, by Ms. Derrick

1 years the senior personnel when they would come up day shift
2 would go along with Norman MacAskill who was the detective
3 at that time and the man coming up day shift would go in
4 with the Detective Norman MacAskill on his tour of day
5 shift. The following week that officer would be back on
6 say the evening shift or the back shift and the officer
7 coming up day shift like probably Ned Snow would go with
8 Norman MacAskill and that's the way the system was at that
9 time. So what -- in answering your question not the long
10 way around, but I spent very little time with Sergeant
11 MacIntyre in a patrol car. In fact I don't know if we ever --
12 I ever drove in a patrol car as a partner with Sergeant
13 MacIntyre.

14 Q. Was an attempt made to pair up more junior officer on patrol
15 car duty with a more senior one?

16 A. I think that was the method of the Chief of the day. That
17 he would put a younger man in with a more seasoned officer.

18 Q. In 1971, Chief, were you aware of any formal relationship
19 with the R. C. M. P. in terms of investigations?

20 A. No, I would have no knowledge of anything of that nature.

21 Q. In your experience then such as it was in 1971 the Sydney
22 Police Department relied on it's own resources to conduct
23 investigations?

24 A. No, I'm not saying that. I'm not saying that at all. Well,
25 you asked me if I was aware of any formal agreement, I said

RICHARD WALSH, by Ms. Derrick

1 "No, I would have no knowledge of that".

2 Q. No, I just said formal relationships?

3 A. I see, formal relationships, I see.

4 Q. But your answer is still no?

5 A. Well, I won't know at that point in time I was a rookie cop
6 and it was years and years later and even today I'm learning
7 things that happened back in 1971 that I haven't known.

8 Q. I think that you have already testified that you had no
9 experience with the polygraph. You later became a detective,
10 is that correct?

11 A. Yeh, I went into the detective section, yes.

12 Q. And did you have occasion to use the polygraph at that stage
13 in your career?

14 A. Let me phrase it this way. A case that I was working on and
15 it was a J. F. O. It was a Joint Forces Operation between
16 the Royal Canadian Mounted Police and the Sydney Police
17 Department. And what I'm referring to is the Gordon
18 MacDonald murder, a native person who was murdered from
19 Membertou at that time. I was part of an investigation
20 with the Mounted Police and I believe the polygraph was used.
21 But my own department, I have no knowledge of the polygraph
22 ever being used. Have I answered your question?

23 Q. I think so. Thank you, Chief. So -- and the reason you
24 on that occasion; are you saying that the reason you expected
25 it was used on that occasion was because it was a joint
operation?

RICHARD WALSH, by Ms. Derrick

- 1 | A. Yes.
- 2 | Q. Chief, in this case, were you aware that there was no post-
- 3 | mortem on Mr. Seale's body?
- 4 | A. I learned that years later. Once again, I must reiterate
- 5 | that I was not part of the investigating team --
- 6 | Q. No, I appreciate that, Chief --
- 7 | A. And I did not have privy to what was going on. I did not
- 8 | know how the investigation was being conducted. What was
- 9 | being done. It was never fed back to us. I did not know.
- 10 | Q. In your experience on the force, do you recall any other
- 11 | cases where there was no post-mortem conducted?
- 12 | A. I wouldn't know off hand.
- 13 | Q. Would you agree had there been a post-mortem it could have
- 14 | been determined if there were one or three stab wounds?
- 15 | A. I think that's probably the only way we could know that.
- 16 | Q. Referring to this reference of one or three stab wounds,
- 17 | how did those written reports get typed up. Did you police
- 18 | officers type those up yourselves or was there a secretary
- 19 | that typed them.
- 20 | A. I think they would probably been typed up by somebody, lady
- 21 | working in the detective section, probably. Or probably
- 22 | somebody in the police court at that time. But I honestly
- 23 | don't know which one. Probably from the other end.
- 24 | Q. Chief, in the course of your police work, did you receive
- 25 | any instruction as to the interrogation of children up to

RICHARD WALSH, by Ms. Derrick

1 1971 let's say?

2 A. No, I don't think there was any instructions that were given.

3 What we did or what I did was mostly on my own initiative.

4 Q. In terms of interrogation or in terms of developing procedures
5 for conducting them?

6 A. Well, I feel that I would have my own set of procedures. There
7 were certain things I would do and and there was certain
8 things I would not do.

9 Q. What were these procedures?

10 A. Well, if I had to deal with a juvenile in any serious
11 situation or even in a minor one, I would probably have
12 contacted the parent and if it was nothing of any great
13 significance, turn the child over to the parents and make
14 them aware that there could be a problem. If I were into
15 something where it was more serious, I would certainly call
16 the parents before I would talk to the, to the child. It's
17 as simple as that.

18 Q. And was it your practice to talk to the child in the presence
19 of the parents?

20 A. Most definitely.

21 Q. And when we're talking about the interrogation of children,
22 would you apply this to fourteen and fifteen year olds?

23 Is that what you would define as a child?

24 A. Yes.

25 Q. Chief Walsh, prior to 1971 there had been an unsolved murder

RICHARD WALSH, by Ms. Derrick

1 in Sydney, and that's correct, is it not, and Sandy Seale's
2 was the next murder in time. Is that consistent with your
3 recollection?

4 A. If that is the chronological order I will accept what you say.

5 Q. What is your recollection of there being any pressure on
6 the police department to solve the Seale murder?

7 A. If there was any pressure I know nothing about it or I never
8 felt it.

9 Q. Did you detect an atmosphere of urgency around the police
10 department with respect to the Seale killing?

11 A. I was -- No, I can't say that I did.

12 Q. What can you say about the effect of "tunnel vision" on
13 police work?

14 A. Well, I think it's nice to keep an open mind.

15 Q. Would you say that's important?

16 A. It is for me.

17 Q. Have you observed in your experience, police officers falling
18 prey to "tunnel vision"?

19 A. No, I can't say I've ever noted it but it could have happened.

20 Q. You don't recollect an instance?

21 A. I don't recollect.

22 Q. Would you agree though that a good police officer must
23 strenuously guard against developing "tunnel vision"?

24 A. Well, I think you have to keep an open mind as a police
25 officer period.

Q. Excuse me just a moment.

RICHARD WALSH, by Ms. Derrick, by Mr. Pugsley

1 | MS. DERRICK:

2 | Your Lordships, I'd simply like a verification from Commission
3 | Counsel before I sit down that this witness, in fact, will be
4 | recalled for the purpose of testimony with respect to current
5 | police procedures.

6 | MR. CHAIRMAN:

7 | Well, that was the undertaking given by Commission Counsel at the
8 | beginning so I'm sure it still stands.

9 | MS. DERRICK:

10 | Thank you very much. Thank you.

11 | MR. CHAIRMAN:

12 | Well, it's about three minutes before we adjourn, Mr. Pugsley,
13 | and I --

14 | MR. PUGSLEY:

15 | I can finish in three minutes, My Lord, if you would -- I will
16 | be no longer than three minutes.

17 | MR. CHAIRMAN:

18 | All right.

19 | BY MR. PUGSLEY:

20 | Q. Chief Walsh, there were two occasions when you spoke -- you
21 | were in the presence of Donald Marshall, one on the
22 | evening in question, in the early hours of the morning on
23 | Crescent Street, and the other, on the Sunday evening when
24 | you were at Membertou with Ambrose McDonald. Am I correct
25 | in my understanding that you overheard Donald Marshall give

RICHARD WALSH, by Mr. Pugsley

1 a description -- a brief description of the assailants
2 that he says attacked him at Crescent Street?

3 A. Yes, he was giving that description to Corporal McDonald
4 and to Constable Howard Dean.

5 Q. Yes, and what was that description?

6 A. Of two men, one big, one small, dressed in dark clothing,
7 something of that nature.

8 Q. And was there mention of white hair, one of them having
9 white hair?

10 A. That could have been mentioned. That could have been. I'm
11 not sure, but like I say it was very vague at that time.
12 We just spoke to the Officers, they had everything under
13 control and they were taking him to the hospital and I
14 left.

15 Q. Was there any description by Mr. Marshall on the Sunday
16 evening at Membertou?

17 A. Yeh, I think he made a reference too that they were dressed
18 like priests or something.

19 Q. Again was there a reference on the Sunday evening to one of
20 them having white hair?

21 A. Yes, I believe there might have been. There could have been.
22 I'm not sure.

23 Q. I see. Was that reference of white hair with respect to a
24 tall man -- the taller of the men?

25 A. I think that's the way it seemed to come across, yeh.

RICHARD WALSH, by Mr. Pugsley

1 Q. You mentioned discussions you had with Chief MacIntyre in
2 1982?

3 A. Yes.

4 Q. Prior to the time the decision of the Appeal Court -- the
5 Appeal Division of Nova Scotia was rendered. Was Chief
6 MacIntyre at that time concerned about information that
7 was appearing in the news media with respect to the R.C.M.P.
8 investigation carried out by Corporals Wheaton and Carroll that
9 it would have appeared that -- or talked about as being
10 a confidential investigation. Did he express concern to you
11 about the fact that the media was getting information and
12 access to information that he can -- he thought was presumably
13 confidential?

14 A. Yes, he did share that concern and couldn't understand why
15 it was happening.

16 Q. And was, in fact, the reports in the news media about the
17 investigation carried out by Corporals Carroll and Wheaton
18 prior to the time there was any public disclosure of their
19 investigations?

20 A. Yes, there was.

21 MR. PUGSLEY:

22 Thank you. That's all the questions I have.

23 MR. CHAIRMAN:

24 I commend you, Mr. Pugsley, for assiduously sticking to your
25 time limit.

RICHARD WALSH, by Mr. Pugsley

1 | MR. PUGSLEY:

2 | I'm on the same plane, My Lord.

3 | MR. CHAIRMAN:

4 | But I thought you were staying within Canada, so we must be on
5 | different planes. We will adjourn until Monday next at
6 | nine-thirty a.m.

7 |
8 |
9 |
10 | INQUIRY ADJOURNED AT 11:24 o'clock in the forenoon on the 18th
11 | day of September, A.D., 1987.

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COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript of evidence hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 17th day of September, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia, taken by way of recording and reduced to typewritten copy.


Judith M. Robson
Official Court Reporter
Registered Professional Reporter