

HOWARD DEAN, by Mr. Spicer

1 MR. SPICER:

2 The next witness is Constable Howard Dean.

3 THE CHAIRMAN:

4 How long to you anticipate Constable Dean?

5 MR. SPICER:

6 He would be beyond the break, I would think, My Lord.

7 THE CHAIRMAN:

8 Well, then, we'll have the break now.

9 INQUIRY ADJOURNED: 10:42 a.m.

10 INQUIRY RECONVENED: 10:50 a.m.

11 HOWARD DEAN, being called and duly sworn, testified as follows:

12 BY MR. SPICER:

13 Q. Would you state your full name for us please, sir?

14 A. Corporal Howard Dean.

15 Q. Corporal, how long have you been with the Sydney Police
16 Department?

17 A. Since May of 1956.

18 Q. And when you joined the Sydney Police Department in May of 1956,
19 what training did you have for that position?

20 A. At that time we didn't have any training.

21 Q. And you wouldn't have had any training as well, is that
22 correct?

23 A. No.

24 Q. Okay, could you advise us of your progress through the ranks
25 over the years from 1956 to the present?

HOWARD DEAN, by Mr. Spicer

1 A. Well, the first twelve years I was on mostly foot patrol.

2 After that I had a position in the car for six years.

3 Q. So would that have been roughly '68 to '74?

4 A. Right.

5 Q. Okay, go on.

6 Q. Then I was on the traffic department for at least five years
7 or six and that brought me into 1980 and I took sick and I
8 was off for a year, just about a year and -- about a year
9 and a half or so I was on the desk in the evenings four to
10 twelve and then from there the last three years I was in
11 the record department.

12 Q. And in 1971 you would have been in a patrol car, is that right?

13 A. Yes.

14 Q. And in particular on May 28th, 1971, you would have been
15 working in one of the patrol cars?

16 A. Yes.

17 Q. Okay, can you advise us of your recollection of the events
18 of that evening?

19 A. I was in company with Corporal Mark MacDonald and we were on
20 the St. Joseph's parking lot. We received a call there was
21 a disturbance in the Park.

22 Q. Do you remember what time that was, sir?

23 A. It was just shortly after midnight. Because we had started --
24 we had started the midnight shift and from there we went
25 right to the church hall. From there we proceeded in where

HOWARD DEAN, by Mr. Spicer

1 | there was -- supposed to be in behind the Argyle Drug Store.
2 | We drove in on the lot there and put the light around where
3 | we were to see if there was anybody around and in which they
4 | weren't. And then from that time we swung out onto Argyle
5 | Street onto Crescent. We still had Corporal MacDonald, he
6 | had the light down in the -- into the Park to the brook
7 | area.

8 | Q. The two of you would have been in the car though?

9 | A. Yes.

10 | Q. Right.

11 | A. And just at that time I noticed ahead of me that there was
12 | somebody standing in the middle of the road.

13 | Q. Where are you now, sir? On Crescent Street?

14 | A. I would be on Crescent Street. Just probably in about twenty
15 | or twenty-five feet off of Argyle.

16 | Q. Right.

17 | A. And I drove up to this person. I get out of the car along with
18 | Corporal MacDonald and he said, "Me and my friend Sandy Seale
19 | just got stabbed." He said there was "a tall fellow with
20 | white hair and a short fellow". And at that time, I think,
21 | Corporal MacDonald asked the gentleman his name and he said
22 | his name was Donald Marshall. And he also pointed out where
23 | he had a cut on his left arm.

24 | Q. Was there anybody else at the scene at that time?

25 | A. Chief Walsh was -- there were -- their car was on the other

HOWARD DEAN, by Mr. Spicer

1 side of the person that was laying on the street there.

2 Q. Was Chief Walsh's car there when you got there?

3 A. I think his car was there just as I -- I was about seventy-five
4 feet or so before the person laying on the street. He would
5 be in back on the other side of that.

6 Q. Okay, if I could just direct your attention to Volume 16,
7 which I think you have in front of you. And in particular
8 Page 4. Would that be a typed version of the hand-written
9 continuation report which appears on Page 5 which seems
10 to be signed by yourself, is that correct?

11 A. Yes.

12 Q. Okay, the last paragraph of that report, sir, says:

13 I checked Seale briefly and then called for
14 an ambulance at which time Constable Mroz,
15 Walsh and Mroz in car three came in off
Bentinck Street.

16 The last paragraph?

17 A. I think I probably could be referring from in behind the
18 drug store in the Park area as being there the first car
19 there but not the first car at the person laying on the
20 street.

21 Q. So who was the first car then at the person -- the person
22 who was laying on the street?

23 A. It would be, I'd say, Chief Walsh.

24 Q. That last paragraph doesn't look that way because when I read
25 it --

HOWARD DEAN, by Mr. Spicer

1 A. Yeh, I know and --

2 Q. It says Constable -- "at which time" and that seems to have been
3 after you checked Seale and you already called for an
4 ambulance at which time "Walsh and Mroz came in off Bentinck
5 Street". And reading that, sir, it doesn't look like they
6 came in off Bentinck Street?

7 A. I don't recall going over to check Seale.

8 Q. You don't recall that?

9 A. No.

10 Q. Do you think that the -- that the report that you made in
11 1971 at the time would be a pretty good recollection
12 of what happened that evening?

13 A. I would say in 1971, yes.

14 Q. And in 1971 you're recollection was that you checked Seale?

15 A. According to this, yes.

16 Q. And would that have been -- would you have been -- when you
17 filed your report in the morning would you not have been
18 filing what you considered to be what had happened the night
19 before?

20 A. Yes.

21 Q. Okay, so what's your answer today, is it your recollection
22 that you checked Seale or that you didn't?

23 A. Well, I just don't recall.

24 Q. Is there any reason to think that the document that you filed
25 in 1971 would have been incorrect?

HOWARD DEAN, by Mr. Spicer

1 A. No, I wouldn't say it was incorrect.

2 Q. No, and that we could probably rely on it as your best
3 recollection of the events of the proceeding evening?

4 A. Yes.

5 Q. And if that's the case, then can we assume that at least
6 in 1971, the morning after your recollection was that indeed
7 you did check Seale?

8 A. According to this report, yes.

9 Q. And at that time was it -- it would also then have been your
10 recollection, if I understand you correctly, that following
11 checking Seale and calling for an ambulance, Constables
12 Walsh and Mroz came in off Bentinck Street, correct?

13 A. That's the area they came in, yes.

14 Q. And that didn't occur until after you checked Seale and
15 called for an ambulance? At least that's what that report
16 would indicate, isn't that true, sir?

17 A. Yeh, that's true. That's what it says.

18 Q. Your recollection today until I drew that report to your
19 attention was somewhat different. Can you give us any
20 explanation as to why that would be?

21 A. I have no explanation.

22 Q. Did you hear Chief Walsh's testimony the last few days?

23 A. Just parts of it.

24 Q. And did you hear his recollection that he said he got there
25 first?

HOWARD DEAN, by Mr. Spicer

1 A. Yes.

2 Q. All right. In any event, your recollection from the report
3 in 1971 was that you done a couple of things before Constables
4 Walsh and Mroz arrived in off Bentinck Street?

5 A. Yes, according to the report.

6 Q. Right, now you were telling me a couple of minutes ago that
7 you spoke with Junior Marshall?

8 A. Yes.

9 Q. Right, tell us if you can the full extent of that conversation?
10 What do you recollect he said to you?

11 A. He said to me, "Me and my -- me and my buddy Sandy Seale were
12 just stabbed". And he went on further to say that it was
13 "a tall fellow with white hair and a short fellow".

14 Q. And did he say anything else to you?

15 A. No.

16 Q. Did you ask him any questions?

17 A. No, I never asked him any questions.

18 Q. Did you ask him at that point to go to the hospital or whether
19 he wanted to go to the hospital?

20 A. At that point he showed us his arm where he had the cut and
21 then he was taken to the hospital from there.

22 Q. And who took him to the hospital?

23 A. Myself and Corporal MacDonald, Mark MacDonald.

24 Q. Do you remember the manner in which Donald Marshall was put
25 in the back of the police car? Was he asked to get in the

HOWARD DEAN, by Mr. Spicer

1 | car or was -- did you put your hand on him and say get into
2 | the car or --

3 | A. I think Corporal MacDonald did that. He just asked him to
4 | get into the car and he did.

5 | Q. Were you there at the time it occurred?

6 | A. Yes.

7 | Q. And did you see the manner in which Mr. Marshall was put in
8 | the car?

9 | A. Well, it would be just walked over and got in the car.

10 | Q. Okay, Scott MacKay gave some testimony last week which I just
11 | want to refer you to for a minute concerning the manner in
12 | which his recollection was that Donald Marshall got put in the
13 | car. In answer to a question he said:

14 | The officers got out and grabbed Junior Marshall
15 | and they threw him in the back of the car.

16 | And my next question to Mr. MacKay was

17 | Now okay when you say they grabbed him and
18 | threw him in the back of the car, you mean
19 | just describe to us what you mean by that?

19 | Then Mr. MacKay said

20 | Well, if you were involved in an incident where
21 | you were hurt normally you wouldn't be treated
22 | I would think the way they treated him, they
23 | just picked him up and they forcefully put
24 | him in the car. Like more or less if you were
25 | -- if a crime was committed or something, that's
26 | the way they treated him.

24 | Do you have -- and I ask the next question

25 |

HOWARD DEAN, by Mr. Spicer

1 Do you have any recollection of whether they
2 asked him to get into the car or whether they
3 put their hands on him or how it happened.
4 Something like along the lines, 'come on, you; come
5 with us' and I think there was an officer on
6 either side had him in the arms by each arm.

7 What would you say as to Mr. MacKay's recollection of the
8 way in which Donald Marshall was put in to the car?

9 A. He was just put in the car normal. He walked over and he
10 got in -- I think it was Corporal MacDonald opened the door
11 and he got in and that was it.

12 Q. Would you then --

13 A. I don't think we had any reason to put our hands on him.

14 Q. Do you recollect whether or not you did put your hands on
15 him?

16 A. No, I don't recollect.

17 Q. So would you have any reason to disagree with the testimony
18 that was given by Scott MacKay?

19 A. Yes, I would because he wasn't forced into the car.

20 Q. Okay, so in what respects then would you disagree with the
21 testimony given by Mr. MacKay?

22 A. That he wasn't forced into the car by myself or Mark
23 MacDonald.

24 Q. Okay, and do you have any recollection whether or not a hand
25 was laid on him so to either to guide him over to the car
or to put him in the car?

A. Not by me.

HOWARD DEAN, by Mr. Spicer

1 Q. Do you have any recollection whether that was done by
2 Constable MacDonald?

3 A. I couldn't say.

4 Q. So you don't have any recollection?

5 A. No.

6 Q. So at least to that extent you wouldn't have any reason to
7 disagree with the testimony of Scott MacKay at least to that
8 extent, is that fair to say?

9 A. To that extent, yeh, but --

10 Q. Okay, did you then go with Junior Marshall to the hospital?

11 A. Yes, I did.

12 Q. Prior to doing that, sir, did you -- were there any other
13 people at that time at the scene before you left to go to
14 the hospital?

15 A. No, I didn't see anybody there.

16 Q. You didn't see anybody at all?

17 A. Other than the other police officers.

18 Q. Okay, did you talk to Mr. Marshall on the way to the hospital?

19 A. No, I never.

20 Q. No. And do you know whether or not Mr. MacDonald talked to
21 him on the way to the hospital?

22 A. I don't believe he had any conversation with him.

23 Q. Okay, what happened when you got to the hospital?

24 A. At the hospital we went into the out-patient department. Mr.
25 Marshall was put into a small waiting room there. Short while

HOWARD DEAN, BY Mr. Spicer

1 after that, I don't recollect how long that Detective
2 M. R. MacDonald arrived at the hospital. And Mark MacDonald
3 after that he had a few words with him and then we left the
4 hospital.

5 Q. Did you have any discussions with Mr. Marshall yourself
6 when you were at the hospital?

7 A. No, I never.

8 Q. Do you know whether or not Mr. MacDonald did?

9 A. I don't believe he did.

10 Q. No, what about with Detective MacDonald. Did you have any
11 discussions with him?

12 A. Myself, no.

13 Q. No, were you --

14 A. Mark MacDonald, he spoke to him.

15 Q. Mark MacDonald?

16 A. Yes.

17 Q. And did you overhear any of that conversation?

18 A. No, I never. They were to one side.

19 Q. Did you talk to any of the other police officers that were
20 at the hospital?

21 A. No, I never.

22 Q. When you left the hospital what did you do then?

23 A. We went out on regular patrol for the night.

24 Q. Did you go back to the scene of the stabbing?

25 A. No we never.

HOWARD DEAN, by Mr. Spicer

1 Q. Why not?

2 A. I don't have any reason why we never went back but Corporal
3 MacDonald was the senior man, I was following him.

4 Q. Right, by the time you got to the hospital, I take it then
5 that to your knowledge were there any police officers left
6 at the scene of the crime?

7 A. I'm not sure if the ambulance was just there before we left
8 or not. I can't recollect.

9 Q. But you saw no reason following leaving the hospital to go
10 back and look around and see whether you could find anything
11 on Crescent Street?

12 A. No, we never went back there.

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HOWARD DEAN, by Mr. Spicer

1 Q. Did you receive any directions from anybody in the detective
2 division that night to do anything specifically related to
3 the stabbing?

4 A. No, nothing.

5 Q. Did you consider that to be usual or unusual?

6 A. Well, at that time it was left to Detective M. R. and if
7 he had mentioned anything, we would have probably did it but -

8 Q. Did you expect to hear anything from Detective M.R. during
9 the course of the evening subsequent to the stabbing?

10 A. I don't recall if I would --

11 Q. My question was though whether or not you expected to hear
12 anything from him concerning what you might do for the rest
13 of the evening?

14 A. Not really. I didn't -- like, you say if he wanted anything we
15 could have -- could have did it.

16 Q. Right. Fine. Just so I'm sure, is your answer then that
17 you wouldn't really have expected to hear from him during the
18 course of the evening? Is that your answer?

19 A. Yes.

20 Q. Did you, on the rest of your shift, look around at all
21 for people who might have answered the description given
22 to you by Junior Marshall?

23 A. We were looking on our regular patrol, yes. As we were
24 checking and so on -- that name and that description.

25 Q. And what -- sorry I don't want to interrupt you. What

HOWARD DEAN, by Mr. Spicer

1 | were you doing by way of checking?

2 | A. Checked all business establishments on our regular check.

3 | Q. When you say you checked --

4 | A. Regular patrol.

5 | Q. Sorry. When you saw you checked all regular business
6 | establishments, what would you in fact have done?

7 | What does that checking mean you do?

8 | A. With the light.

9 | Q. With the light.

10 | A. Spotlight, yes.

11 | Q. Did you go into any restaurants?

12 | A. No.

13 | Q. No. Other than checking with the light what else did you
14 | do by way of looking around for the suspects or the people
15 | that had been described by --

16 | A. Well, other than just on regular patrol through the night
17 | and we were watching out for description that we had.

18 | Q. Did you check in with the officers in the other car at any
19 | time during the rest of the evening to see what they were doing?

20 | A. I don't recall.

21 | Q. You don't recall whether you did or not?

22 | A. No.

23 | Q. Well, were you aware whether or not they were doing anything
24 | special to follow up on the description given earlier in the
25 | evening?

HOWARD DEAN, by Mr. Spicer

1 A. I wasn't aware if they were.

2 Q. The report that I've referred you to earlier, sir,
3 on page four and five. Typed version is on a continuation
4 report and the handwritten version seems to be on an occurrence
5 report and we heard some testimony at the end of last week
6 concerning the function of occurrence reports as opposed to
7 crime reports. Can you advise us as to why you would have
8 filled in the information that you did on an occurrence report
9 as opposed to a crime report?

10 A. I have no idea.

11 Q. What physically happens when you get back to the station?
12 How do you come to pick up an occurrence as opposed to
13 a crime report when you go to complete you report?

14 A. Well, at that time there we were using also the crime reports
15 but I don't recall why that this was put on the occurrence
16 report.

17 Q. Would you agree with me that that information should have
18 been on a crime report as opposed to an occurrence report?

19 A. Possibly it should have, yes.

20 Q. And now I want to go back to my previous questioning. Can
21 you tell me physically what happens when you get to the station
22 because you'll see, I think, if you flip through some of the
23 rest of those pages you'll see that some of the handwritten
24 notes are on occurrence and some of them were on crime reports
25 and what I'm trying to get an understanding of is how

HOWARD DEAN, by Mr. Spicer

1 you could be filling in occurrence and crime reports the
2 next morning?

3 A. I can't answer that.

4 Q. Can you tell me this is when you get into the station
5 to fill in your report is there -- are there a bunch
6 of sheets of paper that you pick up and you fill in or
7 do you have some that you keep in your office yourself?
8 How is it that you actually end up filling in this particular
9 occurrence report?

10 A. At that time there were kind of thick pads of occurrence and
11 crime reports.

12 Q. Right. And would they --

13 A. At the desk.

14 Q. Fine. And would they be sitting beside each other on top of
15 the desk?

16 A. Yeh, around -- on the desk. I --

17 Q. And on this particular morning when you came in following
18 your shift you just happened to fill in an occurrence report
19 as opposed to a crime report?

20 A. Possibly, yes. That's what --

21 Q. Do you know whether or not the people in the detective
22 division at that time in 1971 would have paid more attention
23 to the information contained in a crime report as opposed
24 to an occurrence report?

25 A. Well, they did take the crime reports but as far as their

HOWARD DEAN, by Mr. Spicer

1 attention to this -- I don't recall what they did with it.

2 Q. Okay. Would it be fair to say that you would expect the
3 detectives to pay attention to the crime reports but
4 not necessarily to the occurrence reports?

5 A. To the crime, yes.

6 Q. Yeh, but not necessarily to the others? Is that correct?

7 A. Yes.

8 Q. Did you come across anything during the balance of your
9 shift of that evening which was relevant in any way to the
10 circumstances of the stabbing?

11 A. No, I never.

12 Q. When you came off your shift the following morning, other
13 than complete the occurrence report, did you discuss the
14 events of the preceeding evening with anybody at the police
15 station?

16 A. I don't recall.

17 Q. Would it have been your practise to discuss something like
18 as important as a stabbing with the detective before you
19 went home?

20 A. Yes, but I don't believe there was any detectives around.

21 Q. Did you --

22 A. Not that I can recall now.

23 Q. Do you recollect whether or not you made any attempt to get
24 in touch with any detectives before you went home?

25 A. I never.

HOWARD DEAN, by Mr. Spicer

1 Q. Sir?

2 A. I never.

3 Q. You didn't?

4 A. No.

5 Q. No. Do you know whether or not any attempt was made by any
6 of the detectives to get in touch with you? Were there
7 any messages for you or anything?

8 A. No.

9 Q. No. Okay. So you went home. When do you come back on
10 shift?

11 A. Midnight on -- it would be Saturday night.

12 Q. Midnight on Saturday night. And between the time you went
13 home and the time that you came back on shift at midnight, were
14 you contacted during the day by anybody in the detective
15 squad?

16 A. No, I wasn't.

17 Q. Were you contacted by anybody in the police department?

18 A. No. No messages.

19 Q. When you came back on shift at midnight, by that time did
20 you know whether or not Sandy Seale had died?

21 A. I didn't know until I came in to work.

22 Q. And were you advised to that effect when you came back to
23 work?

24 A. Yes, it was mentioned at the station I think when I got in.

25 Q. Right. And who -- do you recollect who it would have been

HOWARD DEAN, by Mr. Spicer

1 mentioned by?

2 A. No, I don't.

3 Q. When you came back on shift that night were there a few
4 people around the station when you came back on? Who did you
5 chat with?

6 A. I don't recall.

7 Q. Do you recollect at that time whether there was any chit chat
8 around the station about whether or not any particular people
9 might have been suspects?

10 A. I don't recall.

11 Q. You were back on your shift at midnight. Did you do anything
12 during the course of that shift that was particularly directed
13 to the circumstances of the stabbing on the night before?

14 A. No, never. I don't recall doing anything.

15 Q. So what would you then have done on your regular shift that
16 Saturday night?

17 A. Just the same as regular patrol. We checked any calls, we
18 answered them and --

19 Q. When you came back on at midnight that night were you given
20 any further description of any possible suspects from the
21 stabbing the night before?

22 A. I don't recall if there were any.

23 Q. Before you went back out on your shift that night did you
24 read the occurrence and crime reports that had been filed
25 by other officers the morning previous?

HOWARD DEAN, by Mr. Spicer

1 A. I usually did but I don't know if I did that night or not.

2 Q. You don't remember whether or not you did.

3 A. No.

4 Q. Would it have been your practise to do that?

5 A. Generally I -- I have read them and I did read them but that
6 particular night I can't say.

7 Q. At that time, sir, would it have been one of your responsibilities
8 to review occurrence and crime reports before you go back
9 out on a shift -- before you go on shift?

10 A. Yes, it would, yeh.

11 Q. Considered to be something that was part of your job?

12 A. Yes.

13 Q. But on that particular night you don't recollect whether or not
14 you did it?

15 A. Don't recollect, no.

16 Q. Did you have anything further to do with the investigation
17 of Sandy Seale's stabbing?

18 A. No, I never.

19 Q. Do you recollect when you first heard, if you did, around the
20 station that Junior Marshall was a suspect?

21 A. I don't recall when I heard.

22 Q. You don't recall when you heard?

23 A. No.

24 Q. Do you recollect that you did hear though?

25 A. There was, yes.

HOWARD DEAN, by Mr. Spicer

1 Q. Yes. And can you tell us whether or not that was before
2 Junior was charged?

3 A. I don't recollect.

4 Q. Do you remember who -- who you heard it from?

5 A. No, I don't.

6 Q. Did it surprise you?

7 A. Well, I didn't know at that time, you know.

8 Q. Sorry?

9 A. I said I didn't know at that time.

10 Q. Well, my question --

11 A. I just heard the name but --

12 Q. Well, my question was whether or not it surprised you?

13 A. It could have.

14 Q. Well, do you remember whether it did or whether it didn't?

15 A. I don't recollect.

16 Q. You worked as a patrolman for a number of years on the street?

17 A. Yes.

18 Q. In that role would you get to know the characters around town,
19 the people that you would see on the street?

20 A. Yes.

21 Q. Did you know -- prior to the Seale stabbing, did you know
22 Roy Ebsary?

23 A. No, I never.

24 Q. Never heard of him at all?

25 A. Never had any dealings with him.

HOWARD DEAN, by Mr. Spicer

1 Q. No. How about John Pratico?

2 A. I had seen him in the Pier but I didn't know his name other
3 than he was going back and forth to school and I may be on
4 the crosswalk but I never -- never knew his name.

5 Q. Were you made aware during the course of the investigation that
6 Mr. Pratico was giving statements to the police?

7 A. I don't recall.

8 Q. Did you know Jimmy MacNeil?

9 A. No, I never.

10 Q. No? Was there discussion around the station as time progressed
11 in late May or early June of the identity of the various
12 people who were giving statements to the police?

13 A. I don't recall.

14 Q. Do you know -- did you know, for instance, at the time that
15 John Pratico had given a statement?

16 A. No.

17 Q. Or Patricia Harriss?

18 A. No.

19 Q. Or Maynard Chant? You don't recollect --

20 A. Neither one. No, no recollection.

21 Q. Do you recollect any names at all before they gave their
22 statements?

23 A. No, I don't.

24 Q. No. We heard some testimony again from Scott MacKay. He
25 indicated at the time that he was giving his statement, that

HOWARD DEAN, by Mr. Spicer

1 some of the police officers that were at the scene, to
2 his recollection at the scene of the incident, were brought
3 in and out of the room and he was asked to identify them.
4 Do you know whether or not you were one of those officers?

5 A. No, I don't know Scott MacKay.

6 Q. No? Do you know whether or not at the time of him giving
7 a statement though, that you were asked to come into -- into
8 the room and then leave the room?

9 A. I don't recall.

10 Q. No? Do you recall that happening at all --

11 A. I don't recall, no.

12 Q. You don't have any recollection of that?

13 A. No, I don't.

14 Q. Can I have volume 12 please? Just before we get to
15 volume 12, sir, I just want to read you some testimony that
16 was given by Constable Mroz at one of the Ebsary trials
17 concerning the situation at the scene of the stabbing and
18 he's saying. That's right. I'm going to ask you to
19 comment on it and tell me what you recollect of this.

20 While we were waiting the arrival a second cruiser
21 arrived at the scene. That was occupied by Constable
22 Howard Dean and the late Corporal Martin MacDonald.
23 In the highbeams of that oncoming cruiser, I had
24 observed Donald Marshall Junior, a person who I had
25 known previously, he was approximately one hundred
and fifty feet across Crescent Street and slouched
against a rather large tree in the park area. His
right hand was extended over his left wrist area. He
appeared to be clasping in that fashion. Sort of
gripping his left arm with his right hand.

HOWARD DEAN, by Mr. Spicer

1 Do you have any recollection of that at all?

2 A. No.

3 Q. "Donald Marshall slouching against a tree."?

4 A. No, I don't.

5 Q. Were was Donald Marshall when you got there, sir?

6 A. He was in the middle of the road.

7 Q. And did you at any time see him slouched against a tree?

8 A. No, I never.

9 Q. And did you ever have any discussion with Constable Mroz
10 concerning seeing Junior slouched up against a tree?

11 A. I don't recall.

12 Q. At the time that you saw him, sir, how far from Seale was
13 Junior Marshall?

14 A. Approximately seventy-five feet or more.

15 Q. And in what direction? Were would you have been?

16 A. Argyle Street. Towards Argyle Street.

17 Q. Towards Argyle Street?

18 A. Yes.

19 Q. And standing where? In the middle of the road, the side
20 of the road?

21 A. Just in the middle of the road. It's only narrow there.

22 Q. So you would have come across Junior then as you're coming
23 up Crescent Street towards Seale?

24 A. After I made the turn and the car was straightened out it was --

25 Q. After you made the turn off Argyle and up on Crescent?

HOWARD DEAN, by Mr. Spicer

1 A. On up Crescent, yes.

2 Q. I see, okay. The testimony that I was reading you from
3 Mroz occurs in volume five at page seventy-three. Volume
4 five of the exhibits. Now, I believe you've also got
5 volume 12 in front of you.

6 A. Yes.

7 Q. If you could just turn to page 170. Do you recognize that
8 sir?

9 A. Yes, that's signed by myself.

10 Q. All right. And is that a statement that you gave to the
11 R.C.M.P. in 1982?

12 A. Yes.

13 Q. Do you recollect how it was you came to give that statement?
14 Were you contacted directly by the R.C.M.P.?

15 A. Yes. Corporal Carroll came to my house. I think he called
16 me first and --

17 Q. Prior to Constable -- Sorry. Prior to Corporal Carroll getting
18 in touch with you, did Chief MacIntyre get in touch with you?
19 Did he advise you that the R.C.M.P. might be coming to see
20 you?

21 A. I don't recollect.

22 Q. So is your recollection then that your first contact was
23 directly by or from Corporal Carroll?

24 A. Yes, that's what I recall.

25 Q. Okay. Now, what did Corporal Carroll say to you?

HOWARD DEAN, by Mr. Spicer

1 The first time he got in touch with you?

2 A. I don't recall the exact words but it was to the effect that
3 he wanted to have a talk to me I think and I'm not sure
4 if he suggested that he come to the house or what.

5 Q. During that first conversation, did he give you any indication
6 at why it was that he wanted to talk to you?

7 A. I don't recall.

8 Q. No. Do you recollect anything else about that conversation
9 other than he just wanted to come and talk to you?

10 A. He just wanted to come an talk to me, yeh.

11 Q. Okay. When you did see him, did he indicate to you at that
12 time what the reason was that he was coming to see you and
13 why he wanted to take a statement from you?

14 A. I don't recollect what his conversation was when he first
15 come to the house.

16 Q. Okay. Do you recollect whether or not if any time during the
17 conversation he indicated to you the reason that he was
18 there?

19 A. I don't recollect but he probably did.

20 Q. Do you remember how long he was there for?

21 A. No, I don't.

22 Q. After you gave this statement to Corporal Carroll, did you
23 speak to anybody in the Sydney Police Department concerning
24 the fact that you'd given the statement?

25 A. Not that I know of.

HOWARD DEAN, by Mr. Spicer

- 1 Q. Not that you recollect?
- 2 A. Not that I recollect.
- 3 Q. And other than the giving of this statement, sir, in 1982
4 did you have any other involvement with the R.C.M.P.
5 re-investigation?
- 6 A. No, I never.
- 7 Q. Were you aware in November of 1971 that a re-investigation
8 was taking place subsequent to Mr. Marshall's conviction?
- 9 A. I -- I'm not sure if I heard from around the station or
10 not. I don't --
- 11 Q. You're not sure whether or not you heard it at the time?
- 12 A. No.
- 13 Q. Is that what you're saying? Do you remember what it was
14 that you heard?
- 15 A. No, I don't.
- 16 Q. No? How did you first become aware that there was a
17 re-investigation taking place in 1982?
- 18 A. I don't recall.
- 19 Q. Can I have volume 18? If you'll just have a look, sir, in
20 volume 18, page 134.
- 21 A. 34?
- 22 Q. Page 34. You're now in charge of records are you?
- 23 A. Yes.
- 24 Q. Now, it would seem to be a copy of Mr. Ebsary's record
25 card, is that correct?

HOWARD DEAN, by Mr. Spicer

1 A. Yes. Yes, it is.

2 Q. Are you familiar with the way in which records were kept
3 in 1971?

4 A. No, I'm not.

5 Q. When did you become familiar with the way in which records
6 are kept?

7 A. 1983.

8 Q. 1983? Are you aware whether or not the record keeping system
9 now is any different than what it was in 1971?

10 A. I'm not sure just how they were in '71 but --

11 Q. How are they now?

12 A. They are all filed and --

13 Q. And even -- and now if you had knowledge that an offense
14 had been committed with a knife what way would there be
15 a checking through these record cards to come across that
16 information? As to whether or not somebody -- you had in
17 one of these record cards had a knife-related offense.
18 How would you go about doing that?

19 A. We would have to -- we usually go by the name. But we
20 don't have it separate. Knives or names.

21 Q. Well assuming you don't know the persons name. All you
22 know is that there is an offense being committed with a knife.
23 How would you go about checking your records to see whether
24 or not there was anybody there who might have had a knife
25 related incident?

HOWARD DEAN, by Mr. Spicer

- 1 A. I would be difficult just -- just with that information.
- 2 Q. There's not cross indexing system?
- 3 A. No, we don't have that.
- 4 Q. And would you then have to really basically on somebodies
5 memory as to oh, yeh I remember so and so had --
- 6 A. Once we have the name -- everything is carded under -- by
7 name.
- 8 Q. But until you get the name it's just a matter of luck I guess?
- 9 A. That's right.
- 10 Q. What would you do if you were given the example of, you
11 were told in records well, there's an old man with a knife,
12 about this height. How would you go about trying to check
13 that information against your records assuming you didn't
14 know his name?
- 15 A. We would have to go right through all the reports to see if
16 there was anything on it for that.
- 17 Q. You'd have to go through all your cards?
- 18 A. Yes.
- 19 Q. How many cards --
- 20 A. Well, I mean not so much a cards -- It wouldn't be carded
21 under an older man or a knife.
- 22 Q. Indeed there's nothing on the card you have in front of
23 you that says anything about a knife?
- 24 A. No.
- 25 Q. So in order to find out whether or not you had anybody in your

HOWARD DEAN, by Mr. Spicer

1 system that possibly would be the person who would be the
2 old man with the knife you'd have to go through, what, all
3 your crime reports?

4 A. That's right, yes.

5 Q. And what if the information had been filed under an
6 occurrence report and not on a crime report? Would it get
7 missed?

8 A. Our occurrence reports are all carded as well.

9 Q. All right. But would you check the occurrence reports as well
10 as the crime reports?

11 A. Yes, probably would.

12 Q. These occurrence reports are filed at the end of every shift?

13 A. Yes, but they're different than those occurrence reports
14 now.

15 Q. What are they now?

16 A. We just have one -- well there are four copies and they're
17 all together. Carbon copies.

18 Q. Right. And is there still one that's filed at the end
19 of every shift by every officer?

20 A. Yes.

21 Q. And is each one a separate sheet?

22 A. Yes, there's a separate sheet but four copies and one that
23 comes into the records department it's wroten up to crime,
24 occurrence, juvenile, or traffic.

25 Q. Would it be fair to say that over a period of a few years if

HOWARD DEAN, by Mr. Spicer

1 the old man with the knife had committed an offense five
2 or six years before you'd have to go through an awful lot
3 of pieces of paper before you ever found that old man with
4 the knife?

5 A. Yes.

6 Q. Have you ever done that -- have you ever gone through--?

7 A. No, I never. Never had that.

8 Q. No? Have you ever been requested -- Has a request ever
9 be made by the detective division look, we got this guy,
10 this is sort of what he looks like, this is what the offense
11 looks like, go through your records and see if you can come
12 up with anything?

13 A. No, not on that description.

14 Q. Well, forget about not of that description. Have you ever --

15 A. But --

16 Q. -- have you ever done that --

17 A. No, I never.

18 Q. -- job at all?

19 A. No.

20 MR. SPICER:

21 Thank you, very much.

22 COMMISSIONER EVANS:

23 Mr. Spicer before you leave I just want to clear up one thing. There
24 was somebody arrived at the hospital and there's so many MacDonald's
25 and that I lost track of their names and their rank. You were speaking

HOWARD DEAN, by Mr. Spicer, by Ms. Edwardh

1 about the -- whether the detectives the next day would look at the
2 crime reports and the occurrence reports to familiarize themselves
3 I suppose of what went on during the night. But was there not
4 a detective who came to the hospital and took over.

5 MR. SPICER:

6 Yes, My Lord. He'll be giving testimony shortly.

7 COMMISSIONER EVANS:

8 Thank you.

9 BY MS. EDWARDH:

10 Q. Corporal Dean, (inaudible - microphone not transmitting)

11 MR. CHAIRMAN:

12 Just a moment please.

13 MS. EDWARDH:

14 I'm on stand-by.

15 BY MS. EDWARDH:

16 Q. Some questions about records. Do you recall, sir, whether in
17 1971 the Sydney Police force had access to something known as
18 "C.P.I.C.", or have you ever used --

19 A. No, not in '71.

20 Q. So do you know whether "C.P.I.C." was in existence in 1971?

21 A. I don't believe it was.

22 Q. To the best of your knowledge around that time, did
23 you ever have occasion to request favours or some assistance
24 from the R.C.M.P. officers who were located in Sydney so that
25 they could get access to "C.P.I.C." on your behalf?

HOWARD DEAN, by Ms. Edwardh

1 A. I'm not sure even if they had it but they could have.

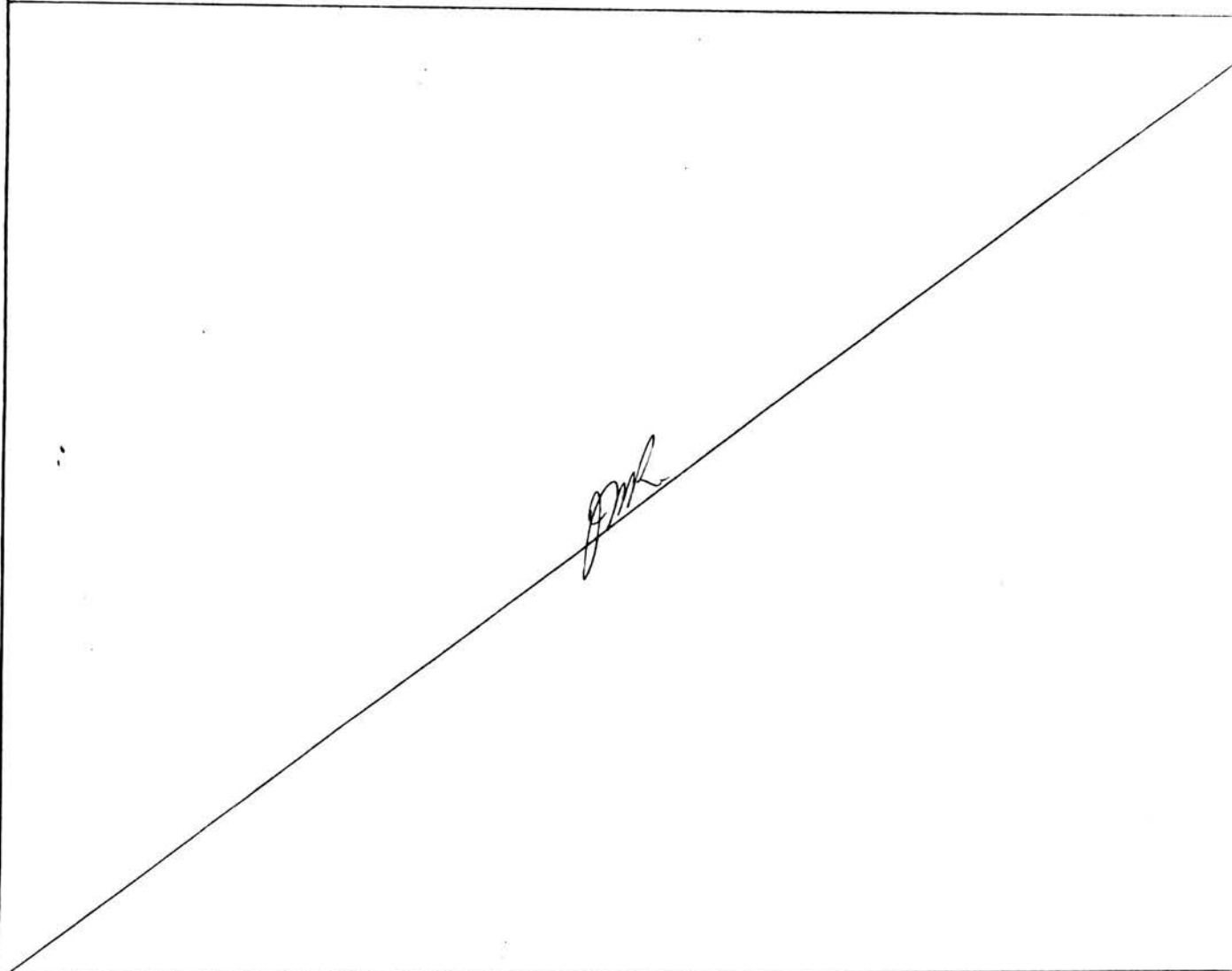
2 Q. So you would have no information one way or the other?

3 A. No.

4 Q. Let me then, take you back to your description, sir, of being
5 at the St. Joseph dance. I take it, sir, you were parked
6 in a patrol car in the parking lot area?

7 A. Yes.

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HOWARD DEAN, by Ms. Edwardh

1 Q. And do you recall, sir, how close you would be to the entrance
2 of the dance where you could see who was coming and going?

3 Roughly how far away were you?

4 A. I don't recall just how far I was from that.

5 Q. Could you see what was going on at the entrance of the dance
6 and who was around the building?

7 A. I don't recall.

8 Q. Was your job that night to make sure that there were no
9 problems at the dance?

10 A. Usually when the dances are getting over there may be the
11 party that is working there -- the police that are working
12 there will request a car to stand by and at that point we
13 would be far back. We wouldn't be close to the door to get in
14 anybody's way.

15 Q. I -- I --Essentially what I'm asking you, sir, is whether
16 your task was to keep an eye out as the dance began to --
17 as the --

18 A. Probably that's what our point was to be there, yes.

19 Q. Yes, and so you would have been able to see if there was any
20 trouble or any fights as people were leaving, just to keep an
21 eye out?

22 A. Yes.

23 Q. Is that a fair statement?

24 A. Yes.

25 Q. Now on that occasion -- on that night do you recall seeing

HOWARD DEAN, by Ms. Edwardh

- 1 Sandy Seale? Did you know Sandy Seale?
- 2 A. No, I don't know -- I never knew him.
- 3 Q. So I take it whether you saw him or not, you're not in a position
- 4 to indicate?
- 5 A. No.
- 6 Q. And did you know Mr. Marshall at that time?
- 7 A. No, not --
- 8 Q. Did you know him by name or by face?
- 9 A. No, I never -- not --
- 10 Q. You never heard of him?
- 11 A. No.
- 12 Q. So up until -- I just want to understand your evidence, sir,
- 13 up until that night you had never heard of Junior Marshall?
- 14 A. Junior Marshall, no, I never had any dealings with him.
- 15 Q. Having run into Mr. Marshall later on that evening, have you
- 16 had occasion to reflect upon whether or not you saw him earlier
- 17 at the dance?
- 18 A. I don't recall seeing him at the dance.
- 19 Q. And how about Mr. Seale?
- 20 A. No.
- 21 Q. You don't recall?
- 22 A. I never knew him anyway.
- 23 Q. No, I know, but you seen Mr. Seale later on, correct, that
- 24 evening when he's injured?
- 25 A. Just a quick glance, yes.

HOWARD DEAN, by Ms. Edwardh

1 Q. And do I take it you do not know or have no recollection of
2 whether you saw him at the dance?

3 A. No.

4 Q. Now you've described to my learned friend that you arrived at
5 the scene and that your best recollection of your arrival
6 and the sequence of events is set down at page four in volume 16,
7 correct? That is the report that you would have written
8 shortly after the incident in question.

9 A. Yes.

10 Q. And I take it when you file these reports you endeavour to
11 put down as carefully and fully your recollection of what
12 transpired?

13 A. That's right.

14 Q. And particularly in this case, sir, you knew that there was
15 a serious criminal offense involved, correct?

16 A. Yes.

17 Q. If you didn't have a homicide you would at least have an
18 attempted murder or wounding, correct?

19 A. Yes.

20 Q. Now can you just for -- I became a little confused as we
21 talked about the streets. Can you indicate for us, sir, by
22 perhaps standing over this way, how you arrived, from which
23 area? Perhaps you could come around so the Commissioners
24 could see you.

25 A. This way?

HOWARD DEAN, by Ms. Edwardh

1 Q. Thank you. From which direction you came?

2 A. I came in off of here, Argyle to Crescent.

3 Q. So, in fact, do you recall, sir, today where Mr. Seale was
4 lying?

5 A. My recollection would be just somewhere around this -- the turn
6 in the street here, say.

7 Q. So you're pointing to the area generally above the Boudreau
8 residence or between the Boudreau and the Doucette residence?

9 A. Yes.

10 Q. Between 120 and 130?

11 A. Yes, that's right. Just in along that area. I'm not exactly
12 sure.

13 Q. So I take it when you arrived you came up Crescent Street and
14 you came quite close to where Mr. Seale was lying, isn't that
15 fair?

16 A. Approximately seventy-five feet.

17 Q. Now when you use the term "seventy-five feet", I take it that
18 the record of that distance isn't in any of the reports you
19 made either in 19 -- 1971. Is that correct? You didn't
20 use that description.

21 A. No.

22 Q. So it's a rough estimate of the distance?

23 A. Just a -- It's only rough.

24 Q. And I take it at that time what stopped you was Mr. Marshall,
25 he was not only out on the road, but am I correct, sir, that he

HOWARD DEAN, by Ms. Edwardh

1 was waving you down?

2 A. When I first seen him his hand was up and -- or waving or --

3 Q. In fact, your report here says:

4 "On arrival Junior Marshall was
5 standing on the road waving
6 his hand, and a fellow lying on
7 on the pavement..."

8 So those are the two things you saw?

9 A. Yes.

10 Q. And when you say Mr. Marshall was waving his hands do I take it
11 that he was waving both hands or both arms?

12 A. I'm not sure.

13 Q. Would it be fair to say that he was clearly trying to get your
14 attention?

15 A. That's right.

16 Q. And did he come up to the car or did you get out of the car, do
17 you recall?

18 A. I got out of the car and we kind of met on my side just before
19 I got to the front of the car. He was coming towards me but
20 I got out before he did.

21 Q. Oh, okay, so you were both coming towards one another?

22 A. Yes.

23 Q. And what about Corporal McDonald, do you know where he went?

24 A. He came around the other side of the car. He was -- I was
25 driving.

Q. So do I take it then you both had a conversation with

HOWARD DEAN, by Ms. Edwardh

1 Mr. Marshall at that time?

2 A. Yes.

3 Q. Now when Mr. Marshall first approached you after waving his
4 arm, that's when you had the conversation with him where he
5 described what happened. Is that correct?

6 A. Yes.

7 Q. You didn't have any other conversation after that?

8 A. Not after that.

9 Q. And would it be fair to say that he was excited and agitated
10 when he spoke to you?

11 A. He was a bit, yes.

12 Q. And did he point at Mr. Seale?

13 A. I don't recall.

14 Q. I'm going to suggest to you, sir, that you weren't seventy-five
15 feet away from Mr. Seale and I'm going to ask you to look with
16 me at page 170 of volume 12. Your about halfway down the page
17 in describing the events -- I'm sorry, take your time and
18 find the location of that. Do you see that statement, sir?

19 A. Yes.

20 Q. This is the statement that you gave to Corporal Carroll when
21 he arrived to speak with you about the events, do you recall
22 that?

23 A. Yes.

24 Q. And in it about halfway down you describe the position of
25 Mr. Seale and then you will note, sir, that you describe the

HOWARD DEAN, by Ms. Edwardh

1 injury and that you can actually see the intestines of the
2 chest cavity, correct?

3 A. Yes, that's what it says here.

4 Q. So would it be fair to say that when you were having your
5 conversation with Mr. Marshall and in the area, you may
6 indeed have been closer than seventy-five feet, you may have
7 been fifteen or twenty feet?

8 A. Well, like I say, it was approximately and --

9 Q. It may have been as little as fifteen or twenty feet to have
10 that view of the situation?

11 A. Pardon me?

12 Q. You may have come within fifteen or twenty feet?

13 A. I could have, yes.

14 Q. In fact, you may have gone right up --

15 A. Approximately it was seventy-five I said.

16 Q. Okay. When you said in this report that you could see that
17 injury--Do you recall seeing that injury, sir, today?

18 A. Just faintly where there was a bulge in his shirt or jacket
19 and some of it was below the jacket or shirt line.

20 Q. And the park was dark that night or relatively dark?

21 A. Yeh, but I had my flashlight.

22 Q. And would you have seen that from the position -- roughly the
23 position you were in when you had your conversation with
24 Mr. Marshall? Is that your recollection of what happened?

25 A. I think I walked over a little closer than I was from

HOWARD DEAN, by Ms. Edwardh

1 Mr. Marshall but I'm not sure. I can't recollect.

2 Q. And I take it when you recorded what occurred that night, the
3 best record of it is the brief report that we have at page
4 four of volume 16. There were no other notes that you made.
5 Is that correct, sir?

6 A. No, there weren't.

7 Q. And would it be fair to say, sir, that during the period of
8 time you interacted with Mr. Marshall, you made no observations
9 of any kind indicating that he had consumed any alcohol?

10 A. No, I --

11 Q. Let me repeat your question, that you made no observations in
12 your report of any kind that Mr. Marshall had consumed any
13 alcohol?

14 A. That's right. I don't recall him having anything to drink.

15 Q. Okay. So in terms of his appearance, his speech, his demeanour,
16 nothing led you to suspect that he had been drinking?

17 A. No.

18 Q. How about -- Were you close enough to Mr. Seale to form any
19 conclusions or opinion as to whether there was the odour of
20 alcohol about him?

21 A. No, I wasn't.

22 Q. Now, turning again to this page four you'll see that there
23 appears to be a change in the date at the top of the page. Do
24 you see that?

25 A. Yes.

HOWARD DEAN, by Ms. Edwardh

1 Q. Can you assist us, sir, in indicating whether you changed
2 that date?

3 A. My date is the 29th on the written one.

4 Q. Well, you're recording the date of the incident, are you not,
5 on the written one?

6 A. The written one is the 29th.

7 Q. Right. That's the date -- And you're referring, I take it,
8 to the date in the left-hand column at the top of page five,
9 correct?

10 A. Yes.

11 Q. That is the date and the time of this occurrence, correct?

12 A. Yes.

13 Q. Now my question to you, sir, is, is it possible that your
14 notes and records that you have made of this incident were not,
15 in fact, made until May the 30th? That's when you filed your
16 report.

17 A. Well, it would be -- It would be in the morning I guess of --
18 It was Friday night after mid-night whatever date that was.

19 Q. That's the 28th. Don't let me confuse you. The incident
20 occurred in the very, I guess, the late evening of the 28th or
21 early morning of the 29th.

22 A. The 29th.

23 Q. So what I'm asking, sir, is, is it possible that this report
24 was not done until the 30th by you? We know the date of the
25 occurrence but --

HOWARD DEAN, by Ms. Edwardh

1 A. Yes-- No, the reports are made before we leave in the
2 morning which would be Saturday morning, I guess, the 29th.

3 Q. So you're saying it's not possible that it was made the 30th?

4 A. Yes. As far as I can recollect my reports are all made before
5 I went home.

6 Q. Is it still your belief today, sir, that it was you who called
7 the ambulance?

8 A. I don't recollect.

9 Q. And I take it then your best recollection would have been what
10 was written in this document?

11 A. Yes.

12 Q. So if it says you called the ambulance, would you agree today
13 that given your usual custom that you most probably did call
14 an ambulance?

15 A. If I wrote that, yes.

16 Q. Now after you saw Mr. Marshall and after you stopped and you
17 talked to him by the vehicle, was it apparent to you that you
18 should keep an eye on him or you should take him to the
19 hospital as soon as you spoke to him?

20 A. Yes, but it was just very, very brief when we spoke to him
21 and after that we left for the hospital.

22 Q. And virtually that once you saw him and saw his injury you
23 decided you had to remove him from the scene?

24 A. Yes, that's right.

25 Q. Do you recall whether you -- You've indicated you believe you

HOWARD DEAN, by Ms. Edwardh

- 1 | went over to Mr. Seale. Was Mr. Marshall ever left alone
2 | after that point before you took him to the hospital or were
3 | either yourself or the other Officer with you with him?
4 | A. The other Corporal was there. I don't believe that he went
5 | over to the -- not that I can recollect.
6 | Q. So one of you always stayed with Mr. Marshall?
7 | A. Yes.
8 | Q. Would it be fair to say that after you talked to Mr. Marshall
9 | you weren't on the scene much more than a minute, a minute and
10 | a half, maybe two minutes?
11 | A. It wasn't very long.
12 | Q. Is that -- is that a relatively accurate time frame?
13 | A. Yes. Yeh, well just -- just a very few minutes.
14 | Q. And did someone tell you to remove him to the hospital or did
15 | you make --
16 | A. Chief Walsh was there -- Chief Walsh was there too and I'm
17 | not sure who made the comment either "We'll take him to the
18 | hospital.", or "You better take him to the hospital.", I
19 | don't know.
20 | Q. So it may have been yourself or it may have been your partner
21 | or it may have been Chief Walsh?
22 | A. Chief Walsh or -- Yes.
23 | Q. Now when you took him to the hospital and got him to the
24 | hospital, did either of you stay in the room with him?
25 | A. No, we nevered.

HOWARD DEAN, by Ms. Edwardh

1 Q. And is it your evidence, sir, that you had no conversation
2 with Mr. Marshall while you took him to the hospital, while
3 he was at the hospital, or any of the --

4 A. I don't recall having any conversation with him.

5 Q. Is it fair to say that you probably had conversation and you
6 just didn't make a note of it?

7 A. I don't recollect.

8 Q. You don't recall it?

9 A. I don't recollect.

10 Q. Would it be usual, given your style, to have a rule of silence
11 around this kind of situation? Do you know what I mean by a
12 rule of silence?

13 A. Yes.

14 Q. Would this be a rule of silence situation for you?

15 A. It could have been. I -- I don't recollect having any
16 conversation with the man.

17 Q. And if it was a rule of silence, and you say it could have
18 been, I take it that a rule of silence situation is when you
19 have a suspect, right, someone who you don't want to talk to
20 until the right circumstances are there, correct?

21 A. Not really, I don't think.

22 Q. Well, when else would you evoke a rule of silence?

23 A. Well, if I had no reason to talk to him I just wouldn't
24 talk to him.

25 Q. That's a preference for silence, but I'm talking about a rule

HOWARD DEAN, by Ms. Edwardh

1 of silence that Police Officers apparently use when they
2 decide they shouldn't have conversation with somebody. Now
3 I thought you had said, sir, that this could have been a rule
4 of silence situation?

5 MR. PUGSLEY:

6 I think in all fairness the witness didn't understand it.

7 MS. EDWARDH:

8 I can go back.

9 MR. CHAIRMAN:

10 Well, the rule of silence is being referred to. I assume it is
11 a practice followed by, the suggestion is, by some police
12 forces somewhere. Did you -- In 1971 was that a -- was there a
13 rule to your knowledge in the Sydney Police Department which said
14 if you have taken a suspect into custody or you're with him or
15 her, to remain silent. Was there such a rule?

16 THE WITNESS:

17 I have never known it to be the rule and other than I don't recollect
18 having any conversation with Mr. Marshall at the hospital --

19 BY MS. EDWARDH:

20 Q. Or in the police cruiser?

21 A. Pardon me?

22 Q. Or in the police cruiser?

23 A. Or in the police cruiser.

24 Q. Or at any time but for those few moments when he approached
25 you when you just arrived on the scene?

HOWARD DEAN, by Ms. Edwardh

1 A. Well, when he said he was -- him and his friend were
2 stabbed and I asked who did it or -- I don't know just how
3 I put it and then he came back with a tall fellow with white
4 hair and --

5 Q. Now what did you do with that description, sir?

6 A. I don't recall.

7 Q. You are the first Officer that has a conversation with
8 Mr. Marshall perhaps other than your partner who is also
9 present to the best of your belief, correct?

10 A. Yes.

11 Q. He gives you a description of an assailant who is armed
12 and has been involved in a very serious assault, correct?

13 A. Yeh.

14 Q. And do I take it, sir, you have no recollection of transmitting
15 that description to anyone on that evening? Is that your
16 evidence?

17 A. Yes, I don't recollect having given to anyone -- the other
18 car -- Chief Walsh was there and he heard the conversation
19 too, I think, that it was a tall man.

20 Q. Chief Walsh, as I recall his evidence, sir, said he was there
21 for a brief portion of a conversation, not the entire
22 conversation, where he overheard certain remarks that were
23 being made to yourself and to the -- and to your partner, correct?

24 A. Yeh. Yes.

25 Q. My question to you though is, leaving aside what Chief Walsh

HOWARD DEAN, by Ms. Edwardh

1 | heard, did you, sir, or your partner to your knowledge take
2 | any steps whatsoever to do anything with the description that
3 | had been given to you?

4 | A. No, I nevered.

5 | Q. Beyond writing it down on this document that we have at page
6 | four and page five, did you write it on any other piece
7 | of paper to make it available?

8 | A. I don't recall.

9 | Q. Now Chief Walsh also heard other aspects of the description
10 | or believes he did anyway according to his testimony. It may
11 | be that he heard the reference to "They looked like priests.",
12 | "One man was large, one man was small.", things like that. Do
13 | you recall that as well?

14 | A. No, I don't.

15 | Q. Would it be fair to say that what you recorded at the end
16 | of your shift was the gist of what Mr. Marshall said to you
17 | and that you weren't trying to record his precise words?
18 | It was the gist of what you understood --

19 | A. That's right, and it was very, very brief as well.

20 | Q. Yes, I appreciate it was brief.

21 | A. Yes.

22 | Q. But my point, sir, is that you weren't trying to do a verbatim
23 | report of it, you were trying to put down the gist of what
24 | Mr. Marshall said?

25 | A. That's right.

HOWARD DEAN, by Ms. Edwardh

1 Q. Now you've also indicated in answer to a question from Mr. Spicer
2 that you go back on patrol and generally you keep an eye out
3 for people matching this description?

4 A. Yes.

5 Q. Was the description ever updated or changed or sent over the
6 car radios at all that night?

7 A. I don't recall.

8 Q. Did you ever hear a description like the one you say you heard
9 from Mr. Marshall again repeated over the car radio?

10 A. I don't recall.

11 Q. And now in -- to be specific about your duties that night, I
12 understand that you checked business establishments. Is
13 that correct?

14 A. Yes.

15 Q. And they were the only establishments -- You didn't go to
16 restaurants or taverns?

17 A. No, I haven't been --

18 Q. So you just checked business establishments?

19 A. That's right.

20 Q. And you did that with your light?

21 A. Yes.

22 Q. Sir, what would have led you to conclude that these two
23 suspects might attend upon a business establishment?

24 A. What was that again?

25 Q. What would have led you to --

HOWARD DEAN, by Ms. Edwardh

1 | MR. CHAIRMAN:

2 | (Inaudible - microphone not transmitting) I thought he was carrying
3 | out a routine check to look for burglars.

4 | BY MS. EDWARDH:

5 | Q. Let me just step back from that one moment, sir. Would it be
6 | fair to say that you didn't conduct any search for these two
7 | men and you went about your routine patrol checking the
8 | business establishments you usually check for?

9 | A. That's right, but in mind we --

10 | Q. I'm sorry.

11 | A. In mind I had the description that I had received, watching
12 | out for two --

13 | Q. But you didn't look anywhere different or check anything other
14 | than what you usually checked?

15 | A. Not specifically, no.

16 | Q. You just had a description in mind, and I take it with
17 | respect to pursuing any investigation in relation to this
18 | matter that you simply did nothing other than go about your
19 | routine patrol?

20 | A. That's right.

21 | Q. Now from your knowledge of what occurred at dances like the
22 | dance at St. Jo's, would it be a fair statement to say, sir,
23 | that teenagers from the native community and teenagers from
24 | the black community both went to these dances?

25 | A. Yes, they did.

HOWARD DEAN, by Ms. Edwardh

1 Q. And, in fact, there was a great deal of mixing and there was
2 not a real problem on a racial basis between those two groups
3 in 1971?

4 A. I wouldn't say. I never had any problems.

5 Q. So people were friends and they would come and go together?

6 A. Yes.

7 Q. Now with respect to Mr. Ebsary you answered in -- to a question
8 put to you by my friend that you had no dealings with Mr. Ebsary
9 prior to this. Had you ever heard of or seen a man who you
10 later learned to be Mr. Ebsary?

11 A. I don't recall.

12 Q. Do you know whether -- since you have -- since this incident
13 occurred you have become aware that Mr. Ebsary was or was not
14 fairly well-known in the Police Department in 1971?

15 A. I never had any dealings with him.

16 Q. From your conversations with your colleagues and other Officers,
17 did you form any conclusions over the years as to whether
18 Mr. Ebsary was or was not fairly well-known to Police Officers
19 working the downtown area?

20 A. No, I never -- I don't think I spoke to anybody about it.

21 Q. Now I believe you indicated, sir, that you knew of Mr. Pratico.
22 Is that correct?

23 A. Yes.

24 Q. And did you know of him because of contact he had with the
25 Police Department?

HOWARD DEAN, by Ms. Edwardh

1 A. No, other than I seen him going to and from school and when
2 this incident came up I recognized him as seeing him in the
3 Pier area.

4 Q. So I take it you eventually became aware that he was involved
5 in the Marshall case?

6 A. Yes.

7 Q. And that he was a witness?

8 A. That's right.

9 Q. And a significant witness?

10 A. Yes.

11 Q. And from your observations and knowledge of Mr. Pratico, if
12 you had to -- Well, first of all, have you had a chance to
13 talk to him at all?

14 A. No.

15 Q. From your -- From information you've received either from
16 members of the force or from people who you talked to, did
17 you have any sense of Mr. Pratico as being (I don't want to
18 use the wrong word.) perhaps an individual who had some
19 troubles, wasn't too bright, slow --

20 A. Not that I recall, but like I say I just known him from --
21 I never knew his name.

22 BY MR. CHAIRMAN:

23 Q. And you say that the only time you ever saw Mr. Pratico was
24 at cross walks going back and forth to school?

25 A. From in the Whitney Pier area where I patrolled, yes. I had

HOWARD DEAN, by Ms. Edwardh

1 | seen the chap but I never knew what his name was.

2 | BY MS. EDWARDH:

3 | Q. So you would have no knowledge or impressions at all, one way
4 | or the other, of what kind of a young person he was?

5 | A. No.

6 | Q. Now let me just ask you about the description. Officer, it
7 | puzzles me, and perhaps you can assist, it's clear that it
8 | was evident from your evidence that when you saw Mr. Marshall
9 | that night you knew he had some significant information to
10 | give, correct, information about the assailant?

11 | A. He gave me the information, yes, when I got out of the car.

12 | Q. And you said that you didn't ask him any questions about the
13 | description?

14 | A. No, he just -- he gave the description and -- He said what
15 | happened and then he gave the description.

16 | Q. And the description he gave, if I can just go to your
17 | recollection of it, isn't very detailed at that time, "a tall
18 | fellow with white hair and a short fellow", right?

19 | A. Yes.

20 | Q. Now as a Police Officer, I take it, you have some belief that
21 | directing a person's mind to aspects of a description is a
22 | helpful way for them to be fuller about a description, correct?

23 | A. Yes.

24 | Q. In other words, if I say, "Did he have facial hair"? "No", "Yes".
25 | Do you recall, "What was his height", "the colour of his hair"?

HOWARD DEAN, by Ms. Edwardh

1 Do you recall whether anybody did that with Mr. Marshall
2 on that night?

3 A. I don't recall.

4 Q. And you were present when your partner spoke to him?

5 A. Yes.

6 Q. You certainly didn't do it?

7 A. I nevered, no.

8 Q. Can you assist, sir, in indicating how long you were at the
9 hospital? You took Mr. Marshall in?

10 A. Yeh, I don't recall but I don't believe it was that long.

11 Q. What do you mean by, "not long", ten mintues, half of hour,
12 forty minutes, do you have any idea?

13 A. No, I have no idea.

14 Q. And I take it you left him as you understood it really was under
15 the care of Detective MacDonald. Is that correct?

16 A. Yes, that's right.

17 Q. Do you recall when Detective MacDonald arrived on the scene?

18 A. It wasn't that long after we arrived at the hospital.

19 Q. Did you or anyone who you know of call him? How did he get
20 there?

21 A. I don't know how he --

22 Q. When you had Mr. Marshall in the car, did you or your partner
23 search him?

24 A. No, we nevered.

25 Q. Did you examine in any way his clothing at that time?

HOWARD DEAN, by Ms. Edwardh

1 A. No, we nevered.

2 Q. And I take it, sir, you have no knowledge of how it came to
3 pass that Mr. Marshall was taken to the police station. That
4 was some -- That was a decision made by someone other than
5 yourself? Detective MacDonald --

6 A. Yes, that's right.

7 MS. EDWARDH:

8 Those are my questions. Thank you, sir.

9 MR. CHAIRMAN:

10 Mr. Pugsley.

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JMR

HOWARD DEAN, by Mr. Pugsley

1 | BY MR. PUGSLEY:

2 | Q. Corporal Dean, you came on duty at twelve midnight?

3 | A. Yes.

4 | Q. When you arrived at the scene on Crescent Street, were there
5 | any other people standing or in the area apart from Mr.
6 | Marshall or Mr. Seale?

7 | A. I don't recall seeing anybody else in the area.

8 | Q. Was Mr. Marshall standing still or was he walking or was he
9 | running?

10 | A. He had -- I don't know, it was one or two hands up in the
11 | air but either one was up.

12 | Q. Was he standing?

13 | A. Standing, yes.

14 | Q. I see, and you estimate he was about seventy-five feet from
15 | Mr. Seale?

16 | A. Approximately, yes.

17 | Q. Is it your recollection that you went over towards Mr. Seale?
18 | You walked closer to Mr. Seale after you got out of the police
19 | car.

20 | A. Just to have a look, yeh.

21 | Q. But that Mr. Marshall did not accompany you.

22 | A. No.

23 | Q. When you were interviewed by Corporal Carroll in 1982 and gave
24 | him a statement that you were referred to a moment ago in
25 | Volume 12, did Corporal Carroll show to you the continuation

HOWARD DEAN, by Mr. Pugsley, by Mr. Saunders

1 | report that you prepared in 1971?

2 | A. I don't recall if he did or not.

3 | MR. PUGSLEY:

4 | Thank you, that's all the questions I have.

5 | MR. CHAIRMAN:

6 | Mr. Saunders.

7 | BY MR. SAUNDERS:

8 | Q. Corporal Dean, as a Constable in 1971, you kept a notebook,
9 | did you, sir?

10 | A. Yes, I did.

11 | Q. And this was a notebook that you would make entries in on a
12 | daily basis as you went about your tour --

13 | A. Yes.

14 | Q. -- and performed your functions? Answer yes?

15 | A. Yes.

16 | Q: Yes. Corporal, did you make any entries at all in your police
17 | notebook as to what you did and what things were said to you
18 | in May 1971 on the evening of May 28, 1971?

19 | A. I don't recall making any notes.

20 | Q. Do you still have your notebook, sir?

21 | A. No, I don't.

22 | Q. What happened to your notebook?

23 | A. I don't know.

24 | Q. I thought police officers always kept their police notebooks
25 | for as long as they were employed as police officers.

HOWARD DEAN, by Mr. Saunders

1 A. I never kept mine.

2 Q. You don't have your's.

3 A. No.

4 Q. When was the last time you saw your notebook that you had
5 in 1971, do you know?

6 A. I don't recall.

7 Q. All right. Am I right in thinking, Corporal, that the first
8 written record you made of any kind describing what happened
9 on May 28, 1971, was when you wrote what you did on the
10 occurrence report?

11 A. Yes.

12 Q. And your shift on May 28, 1971, started when and ended when?

13 A. Twelve to eight.

14 Q. Okay. Twelve midnight so you just came on duty twelve midnight
15 Friday, May 28?

16 A: Yes.

17 Q. And you were to leave at eight o'clock that morning.

18 A. That's right.

19 Q. And do you remember when it was, Corporal, that you returned
20 to the police station the Saturday morning before returning
21 home?

22 A. I don't recall.

23 Q. What was your practice? If your shift started at midnight
24 and went through to eight that morning, what was your practice
25 in returning to the station?

HOWARD DEAN, by Mr. Saunders

- 1 | A. Usually a half hour or so before the shift was over, we went
2 | to write our reports.
- 3 | Q. Yes, and the purpose was to get there about thirty minutes
4 | ahead of time so you'd have the time to write up about what
5 | you'd done in the previous tour. Is that correct?
- 6 | A. That's right. Yes.
- 7 | Q. Are you able to tell the Commission, sir, whether it was more
8 | likely than not that Saturday morning between seven-thirty
9 | and eight o'clock that you wrote up the occurrence report
10 | than midnight of the following day when you started your next
11 | tour?
- 12 | A. I would suspect it was in the morning between seven thirty
13 | and eight.
- 14 | Q. And that's the best you can put it at --
- 15 | A. Yes.
- 16 | Q: -- that that's -- you suspect what you did. All right. And
17 | am I right in saying there was no communication being --
18 | between yourself and Detective MacDonald during that eight
19 | hour shift, from midnight Friday till eight o'clock Saturday
20 | morning?
- 21 | A. That's right.
- 22 | Q. As I understand your evidence, Corporal, you were the first
23 | police officer to ever discuss with Donald Marshall the
24 | description of his assailant.
- 25 | A. I would be, yes.

HOWARD DEAN, by Mr. Saunders

1 Q. And to your recollection, there was never any communication
2 by radio over your police radio that evening about the
3 description of the assailant or assailants?

4 A. Not that I can recollect.

5 Q. And you've said that you gave no description over your car
6 radio of what it was that Mr. Marshall told you.

7 A. That's right.

8 Q. And in fact the only record you ever made of any of what he
9 told you was on that occurrence report that you wrote up at
10 the end of the shift?

11 A. Yes.

12 Q. If you would turn to Volume 16, Corporal, at page 90, it's
13 just after the pink -- pink-coloured insert. Do you have
14 that before you, page 90?

15 A. Yes.

16 Q. Just take a moment, would you, Corporal, and read through that
17 page? Have you read it, sir?

18 A. Yes.

19 Q. Yes, have you ever seen that document before, 16 page 90?

20 A. I don't recall, no.

21 Q. If we assume that it's a communication between the Sydney
22 Police Detachment to -- Sydney R.C.M.P. Detachment to the
23 R.C.M.P. in Halifax, do you have any knowledge, Corporal,
24 as to where the description came from that's contained in
25 this document; that is, the description:

HOWARD DEAN, by Mr. Saunders

1 An unknown male approximately five foot eight
2 to six feet tall, gray hair, approximately
3 fifty years who stated he did not like Indians
or Negroes and assaulted both persons with a
large knife.

4 A. I have no idea where it came from.

5 Q. Okay. Is that the first time you've read of such a description?

6 A. The first time I read this, yes.

7 Q. Yes. Have you at ever at any other time heard a description
8 like that; that is to say, "an unknown male approximately five
9 foot eight to six feet tall, gray hair, approximately fifty
10 years"?

11 A. No, I don't recollect just other than what was given to me
12 by Marshall, himself.

13 Q. Pardon me?

14 A. Other than what was given to me by Marshall himself at the
15 scene.

16 Q. Yes. And as my note indicates what was told to you by Mr.
17 Marshall was "tall fellow, white hair, and short fellow".

18 A. Yes.

19 Q. And that's the description that you recorded on your occurrence
20 report?

21 A. That's right.

22 Q. And you answered my learned friend, Ms. Edwardh, in saying
23 what you did after leaving the park, you continued with your
24 regular tour looking at regular establishments but keeping
25 in mind the description that Mr. Marshall had given to you.

HOWARD DEAN, by Mr. Saunders

- 1 | A. That's right.
- 2 | Q. And the description that Mr. Marshall gave to you was "tall
3 | fellow, white hair and short fellow".
- 4 | A. Yes.
- 5 | Q. So that's what you say you had in mind as you were driving
6 | through Sydney.
- 7 | A. That's true.
- 8 | Q. Did you ever have occasion, Corporal, to review the statement
9 | taken from Mr. Marshall by the Sydney Police Department on
10 | Sunday, May 30th?
- 11 | A. No, I never.
- 12 | Q. Before we leave page 90, Corporal, it appears in the right-
13 | hand corner that it's date stamped May 30, three-eleven a.m.
14 | Do you see that?
- 15 | A. Yes.
- 16 | Q. All right. Do you -- Before I leave page 90, Corporal, any
17 | handwriting on page 90, is that your's, any of that hand-
18 | writing?
- 19 | A. No, it's not.
- 20 | Q. All right. If you would turn in the same book but back to page
21 | 17, please sir? Do you have that before you?
- 22 | A. Yes.
- 23 | Q. And this is a typed version of the statement given by Donald
24 | Marshall, Junior, to the Sydney Police on May 30th, at four-
25 | fifty p.m. Do you see that on the top left-hand corner, sir?

HOWARD DEAN, by Mr. Saunders

1 A. Yes.

2 Q. And so that would be some thirteen hours after the communication
3 between the Sydney Detachment of the R.C.M.P. and the Halifax
4 R.C.M.P.

5 A. Yes.

6 Q. You'll recall the date, time, receipt we just looked at was
7 May 30 at three eleven a.m. at page 90.

8 A. Yes.

9 Q. And what we're looking at now is four-fifty p.m.

10 A. Yes.

11 Q. Now either in 1971, Corporal, or at any time since, have you
12 seen this statement of Donald Marshall, Junior?

13 A. No, this is the first I've seen of it.

14 Q. All right. The first time you've seen it?

15 A. Yes.

16 Q: All right. I draw your attention to the bottom of the typed
17 page, sir, and the description. In answer to the question:

18 Describe these fellows to me.

19 A. One fellow, the small fellow as five foot
20 nine, ten, 190 pounds, hair gray, combed back,
21 wore glasses, black-rimmed, age 50 years, long
22 wide face, long blue coat, dark blue sweater,
23 black shoes, rounded toes. The other fellow,
24 brown corduroy short coat, five eleven and 150,
25 hair black, short hair, age 35 years. He was
wearing a blue sweater, too, v-neck sweater with
buttons, both of them thin faces.

24 Now would you agree with me, Corporal Dean, that there's a
25 marked distinction between that description as recorded in

HOWARD DEAN, by Mr. Saunders

1 the statement of Mr. Marshall and what you say he said to you
2 at the scene?

3 A. Yes.

4 Q. It's clear from the statement that the -- of the two assailants
5 one fellow; that is the small fellow, was five foot nine or
6 ten and 190 pounds. Correct?

7 A. Yes.

8 Q. Would you agree that a person of that height, five nine or ten
9 and 190 pounds, could be described as heavy-set?

10 A. He would be fairly -- 190 pounds.

11 Q. A pretty stocky fellow?

12 A. Pretty stocky.

13 Q. A pretty heavy-set fellow? Answer yes?

14 A. Yes.

15 Q. Yes. Excuse me a moment, Corporal. Corporal Dean, I'll just
16 pass that to you for a moment and I'll give photocopies of
17 what this is to their Lordships. Corporal Dean, what I've passed
18 you, exhibit 38, has been described to us by Commission counsel
19 as being hand-written notes prepared by Detective MacDonald.
20 If you'll just take a moment, sir, and review the notes.

21 COMMISSIONER EVANS:

22 Was this note made in '71 or '72?

23 MR. SAUNDERS:

24 1971, My Lord. I assume the Detective when he's called will
25 correct what I perceive to be an error in the date.

HOWARD DEAN, by Mr. Saunders

1 | BY MR. SAUNDERS:

2 | Q. Let me know, Corporal, when you've finished reading the
3 | notes that I've passed you, please, exhibit 38.

4 | A. Yes.

5 | Q. Have you had a chance to review them, sir?

6 | A. Yes.

7 | Q. All right, assuming that they are handwritten notes made by
8 | Detective MacDonald on or about May 29, 1971, I draw your
9 | attention to page two of at least what my photocopy is --
10 | perhaps it's page three or four of the original where the
11 | description is given?

12 | A. Yes.

13 | Q. This would be the fourth page of the original hand-written
14 | notes and you'll see a description given of two men?

15 | A. Yes.

16 | Q: Yes, and you see that the first one is described as heavy-
17 | set, short, dark blue coat to knees, hair gray, black lace
18 | shoes, wearing glasses, dark rims.

19 | A. Yes.

20 | Q. And the second gentleman is described as tall, five foot
21 | eleven, black hair, clean-shaven, corduroy coat, three-quarter
22 | length, brown in colour.

23 | A. Yes.

24 | Q. And is there any other description given on the fifth page
25 | of these notes about either gentleman?

HOWARD DEAN, by Mr. Saunders

1 A. That's probably it, isn't it?

2 Q. In my review of the notes, that appears to be the only page
3 that described anyone.

4 A. Yes. Just this one page.

5 Q. All right, would you agree with me, Corporal, that those
6 hand-written notes and those descriptions of Detective MacDonald
7 are very close to the description given by Mr. Marshall in
8 his May 30, 1971, statement?

9 A. Yes, they are.

10 Q. All right. Have you discussed this case at any time with
11 Detective MacDonald, sir?

12 A. No I never.

13 Q. And you never reviewed the statement given by Junior Marshall
14 to the Sydney Police Department?

15 A. No, I never.

16 Q. So if you were off looking for a tall man with white hair on
17 May 28, 1971, and every other day that week, it's obvious
18 that Detective MacDoanld was off looking for someone who
19 met a different description.

20 A. Yes.

21 Q. And I would ask you to turn to page or Volume 16, page 10
22 which is a typed version of a continuation report and the
23 typed signature is of Constable Mroz.

24 A. Yes.

25 Q. Do you have that before you, Corporal?

A. Yes, I do.

HOWARD DEAN, by Mr. Saunders

1 Q. Yes. And just take a moment please to review the information
2 contained on that page and let me know when you've finished
3 it please?

4 A. Yes.

5 Q. It's clear from that written record, I suggest, Corporal, that
6 the description according to Constable Mroz was "a man in his
7 mid-forties, very tall, and having white hair" with the
8 second man being described as much shorter. Correct?

9 A. That's right.

10 Q. Shorter and younger. Do you see that, sir?

11 A. Yes.

12 Q. Yeh. So will you agree with me that it's obvious that at least
13 according to the late Constable Mroz, he too was looking for a
14 man of a different description and recorded by Detective
15 MacDonald.

16 A. Yes, that's the description they have given here.

17 Q. Right. And Constable Mroz was also looking for a man differently
18 described than Junior Marshall in his statement to the Sydney
19 Police on May 30?

20 A. Yes.

21 Q. Tell me, Corporal, is there now an opportunity for patrol
22 officers in the field to communicate with Detectives in the
23 Detective division as to descriptions given to either by
24 victims of their assailants?

25 A. Yes, they have -- men are interviewed before they go out on the

1 patrol in the mornings and anything that's of a serious nature
2 is left at the desk with the Sergeant. He in turn passes it on
3 to the patrolmen.

4 Q. Yeh, you say the men are interviewed now before they go
5 out in the morning. Who does the interviews?

6 A. Well, the Sergeant on the desk will speak to them whatever
7 importance he has on the paper that's given to him.

8 Q. Yeh, now this is a Detective Sergeant who's manning the desk
9 at the station during the days?

10 A. No, just a Sergeant.

11 Q. Detective Sergeant?

12 A. No, just Sergeant.

13 Q. Oh, Sergeant -- the Desk Sergeant.

14 A. Yes.

15 Q. I'm sorry, yeh. So he's there to receive incoming calls and
16 to make sure that officers respond?

17 A. Yes.

18 Q. But how is it that the Desk Sergeant knows what the Detectives
19 are doing?

20 A. If the Detectives are looking for anything in particular, they'll
21 leave it with the Sergeant to pass it on to his men.

22 Q. Yeh, so it's up to the Detectives to presently inform the
23 Desk Sergeant as to what it is their doing and who it is
24 their looking for?

25 A. What they're looking for, yes.

HOWARD DEAN, by Mr. Saunders

1 Q. And so the Desk Sergeant is now a conduit between the Detectives
2 and the men in the field, is that it?

3 A. Yes.

4 Q. Is there an opportunity for the men in the field, the patrol
5 officers, either in car or on foot to communicate directly
6 with Detectives so that each know what the other is doing?

7 A. They can, yes.

8 Q. How is that done?

9 A. Just a matter of going to the Detective Department, I guess
10 and asking the Detectives that's working on a particular case.

11 Q. Did you ever do it before you were in Administration and your
12 present duties?

13 A. I don't recall but probably I did.

14 Q. You don't recall any incident where you did?

15 A. No.

16 Q. Is there any --

17 BY MR. CHAIRMAN:

18 Q. None of this -- none of this was in place in 1971?

19 A. Pardon me?

20 Q. I take it from -- that none of these procedures were in place
21 in 1971?

22 A. No. No, sir.

23 MR. SAUNDERS:

24 One more question, Your Honour, before I --

25 MR. CHAIRMAN:

I don't want to get wandering into current practices at this time.

HOWARD DEAN, by Mr. Saunders

1 MR. SAUNDERS:

2 No, no, I -- I would just like to pinpoint with this witness if
3 I could, My Lord, when the briefing sessions started because
4 Inspector McDonald spoke of there now being briefing sessions
5 between the Detective Division and officers in patrol.

6 BY MR. SAUNDERS:

7 Q. I would like to ask you whether you know when those began.

8 A. I don't recall the exact year but probably it'd be 1980 or
9 earlier.

10 Q. I see. In any event, Corporal, there was never a time when you
11 told Detective MacDonald that he was off on a wrong track
12 looking for a wrong fellow. Was there?

13 A. No, there wasn't.

14 Q. And neither was there there ever a time when Detective
15 MacDonald told you that you and apparently Constable Mroz
16 were off on a wrong track looking for the wrong fellow.

17 A. Not that I can recall.

18 Q. Pardon me?

19 A. Not that I can recall.

20 MR. SAUNDERS:

21 Thank you.

22 INQUIRY ADJOURNED: 12:31 p.m.

23

24

25

HOWARD DEAN, by Mr. Drolet

1 INQUIRY RECONVENED: 2:02 p.m.

2 THE CHAIRMAN:

3 Mr. Pringle.

4 MR. PRINGLE:

5 No questions.

6 THE CHAIRMAN:

7 Mr. Ross.

8 MR. ROSS:

9 No questions.

10 MR. CHAIRMAN:

11 Mr. Drolet.

12 BY MR. DROLET:

13 Q. Corporal Dean, I have a few questions on behalf of Oscar
14 Seale and the Black United Front. My name is Kevin Drolet.
15 I'd like to direct your attention to Volume 16, Page 4 which
16 is the continuation report which you prepared upon return
17 to the police station the morning after the unfortunate
18 incident. And note the third line there reports the time
19 of the report as twelve - ten a.m. What would have been
20 the basis of your assessment of that time, Corporal?

21 A. That would possibly be the time we received the call.

22 Q. Would you have been told by the dispatcher for example what
23 time it was when the call was made to you?

24 A. No, we don't generally give the time. It's our --

25 Q. So would you have noted yourself in your notebook from your

HOWARD DEAN, by Mr. Drolet

1 watch or --

2 A. Yes, it would be our own time.

3 Q. Could that time perhaps have been erroneous might it have been
4 before the hour of twelve?

5 A. Could have been but I -- it was twelve - ten here on this
6 report. That's possibly what time it was.

7 Q. We've had testimony from Chief Walsh to the effect that he
8 believed he received a call sometime before the hour of
9 twelve and also from Mr. Mattson that he made the call to
10 the police station sometime before the hour of twelve.
11 Would that assist you in recalling whether it may have been
12 a bit earlier?

13 A. No, I couldn't answer that, sir.

14 Q. Now you indicated in your testimony that you were on the
15 midnight shift that night working from twelve to eight?

16 A. Yes.

17 Q. Do you recall whether you began your shift perhaps a bit
18 before the hour of twelve?

19 A. I don't recall.

20 Q. You also indicate in your statement that you were at the
21 parking lot of St. Joseph's Hall at the time you received
22 the call. Do you have any idea why it was you would have
23 gone to St. Joseph's Hall in the first place?

24 A. We're usually around the dances when they're -- when they're
25 departing and harassed by the police that are working these

HOWARD DEAN, by Mr. Drolet, by Mr. Wildsmith

1 dances, if we just stand-by there in case anything happens.

2 Q. In case anything happens, had there in fact been problems
3 at these dances previously or was it just precautionary
4 measures?

5 A. Just precautionary.

6 Q. You indicated that you were usually asked by the officers
7 working the dance to be there as a precautionary measure
8 when they got out. Do you recall who it was who asked you
9 to attend St. Joseph's Hall on that night?

10 A. No, I don't.

11 Q. Thank you very much. Corporal I have no further questions.

12 MR. CHAIRMAN:

13 Mr. Wildsmith.

14 MR. WILDSMITH:

15 Yes, I do have a few, My Lord.

16 BY Mr. Wildsmith:

17 Q. Corporal was Wentworth Park part of your beat that you would
18 cover on foot patrol?

19 A. We were on car patrol. Yes, it is part of the beat.

20 Q. Are you familiar with whether or not Indian youth hung around
21 that Park?

22 A. They could have.

23 Q. Are you familiar with whether they did or did not?

24 A. No, I'm not familiar.

25 Q. Okay. On the Sydney Police Force did you receive any

HOWARD DEAN, by Mr. Wildsmith

1 instructions with respect to dealing with Indians?

2 A. No, sir.

3 Q. Did you receive any instructions with respect to entering
4 the Membertou Reserve on your policing duties?

5 A. Not that I recall.

6 Q. Would you have had any contact with Indians outside of your
7 official police work?

8 A. Not outside police work, no.

9 Q. No informal or social contact?

10 A. No, sir.

11 Q. Were you encouraged in any way to by the Sydney Police
12 Department to have informal or social contact with racial
13 minorities?

14 A. Not that I recall, no.

15 Q. Thank you. Are you aware of any complaints made about
16 Sergeant MacIntyre?

17 A. No, sir.

18 Q. Are you -- perhaps I could show to this officer the same
19 sheet that I showed to the previous gentleman to see if he
20 has any knowledge of any of the incidents that are referred
21 to. Perhaps while you're reading that, I might ask you
22 if you've seen that sheet before?

23 A. No, sir.

24 Q. Are you familiar with any of the incidents that are listed
25 in those two sheets?

HOWARD DEAN, by Mr. Wildsmith, by Mr. Spicer

1 A. No, sir.

2 Q. I take it then that you couldn't have been any of the
3 officers who were referred to in this sheet?

4 A. No, sir.

5 Q. Have you ever seen members of the Sydney Police Department
6 dealing improperly with Indians?

7 A. No, I haven't.

8 Q. Have you ever discussed Indians with your fellow officers?

9 A. Not that I can recall.

10 Q. Have you ever overheard conversations that other members of
11 the Sydney Police Department may have had about Indians?

12 A. No, sir.

13 Q. Thank you. That's all the questions.

14 BY MR. SPICER:

15 Q. Corporal Dean, I believe in response to some questions from
16 Ms. Edwardh you indicated that it was not a rule not to talk
17 to suspects. She was asking you about driving with Mr.
18 Marshall. Would it have been your practice though not to
19 talk to suspects in the car?

20 A. We had people in the car that never spoke to them.

21 Q. My question though was whether or not it would be your
22 practice not to talk to suspects if they were in the car.
23 Generally speaking, would that be a fair comment?

24 A. Yes.

25 Q. Okay, now on this particular night you had a person in the

HOWARD DEAN, by Mr. Spicer

1 back of the car who already had given you a description of
2 a couple of people and perhaps would have had other
3 information. Now if he wasn't a suspect, why was there
4 no conversation in the car between the time that, between
5 the time you left the scene and the time you got to the
6 hospital?

7 A. I have no idea.

8 Q. Could it not have been because the man was in your mind a
9 suspect at that time; that's why you didn't talk to him?

10 A. I think he was more of a victim. We were talking him to
11 the hospital for an injury to his arm.

12 Q. And you have no explanation at all then as to why you didn't
13 say a word to him?

14 A. No, sir.

15 Q. None at all?

16 A. No.

17 Q. Then in your mind he wasn't a suspect at the time?

18 A. That's right.

19 MR. SPICER:

20 Thank you, your Honour.

21 BY THE CHAIRMAN:

22 Q. Corporal, before you leave. Corporal would you turn to Page 4
23 once again of Volume 16, please. The second paragraph. This
24 is after there's been a stabbing report, you say

25 We proceeded to Bying Avenue at a fast speed

HOWARD DEAN, by Mr. Chairman

1 and not seeing anyone around at 108 Bying
2 Avenue kept going toward the Esplanade.
3 And at this time received a call from the
4 Station that they went over behind the
5 drug store.

6 Who were the they?

7 A. Possibly the description that we got from the desk sergeant
8 that when he called, I'm not sure of the --

9 Q. It's not clear to me whether they meant other police or
10 what seems to be more logical that it must have been suspects
11 who you were looking for?

12 A. It's possible, yes.

13 Q. Is this drug store near the Park, Wentworth Park?

14 A. Yes. The back lot, the parking lot is just about in the Park,
15 it's right on the line, yes.

16 Q. I see. Okay, thank you.

17 MR. CHAIRMAN:

18 When Scott MacKay -- I don't know if counsel -- When Scott MacKay
19 went to look for help, was that in the same direction?

20 MR. SPICER:

21 He went over across there.

22 MS. EDWARDH:

23 Mr. Commissioner, I also believe he testified that he went to the
24 drug store.

25 MR. CHAIRMAN:

Did he?

MS. EDWARDH:

Yes.

HOWARD DEAN, by Mr. Chairman

1 MR. CHAIRMAN:

2 So maybe someone saw these two people go into the drug store.

3 All right, thank you.

4 MR. SPICER:

5 The next witness is John Mallowney.

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