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ROYAL COMMISSION ON THE  
DONALD MARSHALL, JR., PROSECUTION

VOLUME XV

Held: October 7, 1987

At: St. Andrew's Church Hall  
Bentinck Street  
Sydney, Nova Scotia

Before: Chief Justice R. A. Hickman, Chairman  
Assoc. Chief Justice L. A. Poitras, Commissioner  
Hon. G. T. Evans, Commissioner

Counsel: George MacDonald, Q.C., Wylie Spicer, & David Orsborn:  
Commission Counsel  
  
Clayton Ruby, Ms. Maryls Edwardh, & Ms. Anne S. Derrick:  
Counsel for Donald Marshall, Jr.  
  
Michael G. Whalley, Q.C.: Counsel for City of Sydney  
Ronald N. Pugsley, Q.C.: Counsel for John F. MacIntyre  
Donald C. Murray: Counsel for William Urquhart  
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Al Pringle: Counsel for Correctional Services Canada  
William L. Ryan: Counsel for Evers, Green and McAlpine  
Charles Broderick: Counsel for Carroll  
S. Bruce Outhouse: Counsel for Wheaton & Scott  
Guy LaFosse: Counsel for Davies  
Bruce H. Wildsmith: Counsel for Union of N. S. Indians  
Assisted by Daniel Christmas  
  
E. Anthony Ross, & Kevin Drolet: Counsel for Oscar N. Seale  
E. Anthony Ross, & Jeremy Gay: Counsel for Black United Front

Court Reporters: J. Graham Robson, & Judith M. Robson, OCR, RPR

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INQUIRY RECONVENED AT 9:36 o'clock in the forenoon on Wednesday, the 7th day of October, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia.

1

2 MR. CHAIRMAN:

3 Yes, Mr. Orsborn.

4 MR. ORSBORN:

5 The first witness, Mr. Chairman, is Mr. Ed MacNeil.

6 EDWARD MacNEIL, being called and duly sworn, testified as follows:7 BY MR. ORSBORN:

8 Q. State your full name, please, sir?

9 A. Edward MacNeil.

10 Q. And where do you live?

11 A. I reside in Lower Sackville, Nova Scotia.

12 Q. And where do you work?

13 A. Nova Scotia Police Commission, Halifax.

14 Q. In what capacity?

15 A. Director of Security Services.

16 Q. You may have to speak up just a little bit, sir, so we can  
17 hear you at the back. How long have you been with the Police  
18 Commission?

19 A. Ten years last month.

20 Q. And prior to that?

21 A. Prior to that I spent approximately twenty-two and a half years  
22 as a member of the City of Sydney Police Department.

23 Q. What year was it you joined the Sydney Police Department?

24 A. 1955.

25 Q. '55. What training did you have when you joined the Sydney

- 1 | Police Department?
- 2 | A. None.
- 3 | Q. What capacity did you join the Department in?
- 4 | A. As a probationary constable.
- 5 | Q. Could you indicate to the Commission your progression through  
6 | the ranks of the Department up until the time you left in  
7 | 1977 please.
- 8 | A. Yes, sir. I worked for the first several years as a patrolman  
9 | on the beat and in later years, patrol cars. In 1970 for the  
10 | summer months I was assigned to traffic duties and then again  
11 | each spring from there on in '71 and '72, and so on. I was  
12 | assigned to traffic duties in the -- and I believe probably  
13 | for the whole year of '73 and part of '74, traffic related  
14 | duties. In March of 1974, I was sent to the Canadian Police  
15 | College in Ottawa for specialized training in Ident services.
- 16 | Q. Ident meaning Identification.
- 17 | A. Identification services. I graduated from that, returned in  
18 | May and worked as a -- worked plain clothes then in the  
19 | Detective Department as a full-time investigator and back-  
20 | up Ident services. And then I resigned from the Department  
21 | in 1977, September, 1977, to take my present position with  
22 | the Nova Scotia Police Commission.
- 23 | Q. How long did you work in the Detective Division?
- 24 | A. From May 1974 until September, 1977. Three years and a bit.
- 25 | Q. So that was both in Ident and as a Detective as well.

- 1 A. Primarily as a Detective, yes.
- 2 Q. I see. When you were appointed to the position of Detective,  
3 did you have to fill out any application for the position,  
4 take any exams, anything like that?
- 5 A. No, sir.
- 6 Q. How were you selected for that position?
- 7 A. Seniority. At that time promotions within the Sydney Police  
8 Department and/or elevations to specialized work were totally  
9 on seniority. In fact, there was -- there had been -- one other  
10 member was supposed to have gone on the course. His promotion  
11 was grieved. I became then the next eligible person and I  
12 recall getting a call from the Chief of Police on (And John  
13 MacIntyre was Deputy at the time.) a Friday morning, asked  
14 if I would accept the position and go to Ottawa and I had to  
15 leave on Sunday afternoon to go. I accepted it and went.
- 16 Q. So in 1974 in order to become a Detective, the -- if I under-  
17 stand you correctly, the governing qualification between  
18 applicants was simply seniority. Is that correct?
- 19 A. Yes, sir. There were some members who would not accept the  
20 position because, I guess, you know, they felt that they -- it  
21 was something they didn't want or, maybe they didn't feel  
22 satisfied or happy with doing it or qualified to do it.
- 23 Q. Let's just talk for a moment about the Ident services. You  
24 went into Ident in 1974. Do you know whether or not that was  
25 the first time that the Sydney Police Department had its own

1 man providing those services?

2 A. No, there had been a full time member from I believe 1972 --

3 Q. Yes.

4 A. -- on and they needed, of course, sort of a back-up person,  
5 you know a second person to back up the --

6 Q. Prior to 1972, do you know how those services had been  
7 provided to the Department?

8 A. Provided by the R.C.M.P.

9 Q. And what were the range of services that you as an Ident man  
10 were trained to provide?

11 A. Photographic services such at scenes of crime, fingerprint  
12 work, physical evidence -- collecting physical evidence,  
13 physical matches, plan drawings of crime scenes.

14 Q. Based on your knowledge of the Ident area and your work in  
15 the Sydney Department, would it be normal for an Ident man  
16 to be called out to the -- to the scene of a serious stabbing?

17 A. Yes, sir.

18 Q. When would you expect to be called out?

19 A. Hopefully immediately.

20 Q. And if you were called out, what would you do?

21 A. Well, there's a serious of things that you would do. Probably  
22 the first thing secure the scene if it wasn't already secured.

23 Q. When you say secure the scene, what do you mean?

24 A. Well, insure that -- that unauthorized persons weren't in the  
25 area or were kept from the area and then take it from there,

1 do your photography work and/or measurements or whatever or  
2 perhaps maybe wait until day-light if it was night time if  
3 you need another photographs.

4 Q. Do you do anything else?

5 A. Search the scene for any physical evidence that may have been  
6 around. There's a, you know, a number of things that you do  
7 sort of automatically. It's hard to sit here now and try to  
8 rattle them off as to just exactly what you would do.

9 Q. You're --

10 A. Every scene would be a little different but that would be the  
11 norm that you would normally do.

12 Q. And when you say this would be the norm, you -- are you speaking  
13 of the period in the early to mid-1970's, 1972, '73, '74?

14 A. Well, I don't think anything would change in that regard, sir.  
15 You know, it would be the same today as twenty years ago.

16 Q. And to your knowledge was there any change in the availability  
17 and accessibility of such services when the Sydney Police  
18 Department started providing their own compared to when the  
19 R.C.M.P. were providing it?

20 A. No. The R.C.M.P. were still always available as a back-up or  
21 as a resource or to call on them for some perhaps an expertise  
22 that we did not have.

23 Q. But the point of the question, sir, is that we understand  
24 that in 1971 when Mr. Seale was stabbed that Ident services  
25 were offered by the R.C.M.P. and the offer was refused. I'm

1 |       wondering if you might be able to shed any light on why that  
2 |       refusal might have been given?

3 | A. No, sir.

4 | Q. I'd ask you to turn, sir, in Volume 16 to page one. You have  
5 |       a red binder there in front of you. This is a copy of a  
6 |       continuation report dated April 8th, 1970, and your name  
7 |       and a Mr. LeMoine's name are indicated at the bottom of that  
8 |       report. Do you recognize that report, sir?

9 | A. Yes, sir, I recognize that as being a typewritten copy of a  
10 |       handwritten copy that I would have made.

11 | Q. When was the last time that you saw that report?

12 | A. The last time I saw the original report, I suppose, would have  
13 |       been at the time it was made.

14 | Q. And have you had occasion to look at the typed copy over the  
15 |       years?

16 | A. Yes, sir, I have.

17 | Q. On what occasions?

18 | A. It was first brought to my attention, I believe, in 1981 or  
19 |       '82.

20 | Q. By whom, sir?

21 | A. I believe Fred LeMoine.

22 | Q. For what reason?

23 | A. I believe he asked me if I recalled the incident.

24 | Q. Was this concurrently with the R.C.M.P. reinvestigation of  
25 |       the --



1 A. It would have been, yes.

2 Q. -- Seale murder?

3 A. Yes.

4 Q. What capacity were you employed within the Department in 19 --  
5 in April of 1970?

6 A. As a patrolman and I guess in this incident, I would have been  
7 the senior man in the patrol car because I'm senior to  
8 Constable LeMoine so or I was senior at that time.

9 Q. Now this report relates to a request to pick up Mr. Roy  
10 Ebsary because of threats against a Mr. Trapnic and Mr.  
11 Ebsary was allegedly carrying a knife. The report indicates  
12 that he was in fact picked up and later charged. At this  
13 time do you have any independent recollection of that event?

14 A. Not really. Not really and it's been hashed over so much,  
15 I'm just not sure what I recall or I just sort of can't close  
16 my eyes and picture the actual arrest back then, no. I  
17 would have -- I knew this person by sight because as I said  
18 I spent eight years on the beat next to here, the Charlotte  
19 Street, and I suppose he would have walked that beat several  
20 times. I would have seen him there.

21 Q. When you say this matter has been hashed over, who's been --

22 A. Well, I --

23 Q. -- hashing over it with you?

24 A. It's been sort of on-again, off-again since 1982 sort of thing  
25 and that's -- I guess that's what I mean by being hashed over

1 and discussing it and trying to recall if --

2 Q. I take it from what you said that you in fact knew Mr. Ebsary  
3 in 1970.

4 A. Yes, I knew him by sight. I didn't know him personally. I'm  
5 just not sure that I knew his age or his name, at least, but  
6 I guess I must have because we apparently had picked him up  
7 immediately after or whatever about -- it would have been  
8 half way between his home at the time and the place he was  
9 heading for so --

10 Q. When you say you knew him by sight, was there anything  
11 distinctive about him that brought him to mind?

12 A. No, not really.

13 Q. Was he odd?

14 A. I don't think I can answer that question fairly. I don't --  
15 he wasn't one -- he wasn't one of your sort of characters that  
16 would be on your beat from time to time or, you know, be around  
17 town.

18 Q. Was there anything about his dress that was characteristic  
19 of him?

20 A. No, I don't recall anything unusual about the way he dressed.

21 Q. Your recollections of him when you were on your beat, do you  
22 recall seeing him more often than not dressed say in a long  
23 blue coat?

24 A. I'd only be guessing. I can't -- I can't be certain.

25 Q. Do you have any recollection at all of having picked him up

1 | on this night?

2 | A. No, I don't really believe that I do although that's -- that  
3 | is a copy of my report and I guess, you know, there's no  
4 | question about it that I did and --

5 | Q. The original of this report, I believe, is not -- no longer  
6 | around.

7 | A. No, it's not.

8 | Q. Do you have any recollection whether or not you or Constable  
9 | who actually wrote the original?

10 | A. I would have written it.

11 | Q. You would have written it.

12 | A. It was always my practice to sign my name in that manner and  
13 | to sign it -- my name first and the officer with me as the  
14 | second person.

15 | Q. Right.

16 | A. And it was the practice then that they would -- any one that  
17 | was going to Court in the absence of Crown Sheets in those  
18 | days, a copy of the report would go along with the charge in  
19 | the morning so that the Crown would be aware of, briefly,  
20 | what had taken place.

21 | Q. Do you have any recollection of going to court over this offense?

22 | A. No, sir.

23 | Q. The matter of picking up a man and finding a twelve inch  
24 | butcher knife under his belt, was that something that you would  
25 | do every day?

- 1 A. No, sir. No, it would be a rare occurrence.
- 2 Q. When you say rare, once a year, once every five years, once  
3 a month?
- 4 A. I don't really recall ever picking anyone up with a knife,  
5 you know, similar to that idea. I recall an incident or two  
6 with other weapons, revolvers, but not knives.
- 7 Q. I see. At this time you had been on the Police force for some  
8 fifteen years and you're telling us this was the first time  
9 that you had picked up somebody with a knife.
- 10 A. It may never -- may very well not have been but I don't recall  
11 any specific incidences
- 12 Q. Now do I understand correctly that on your return to the  
13 station, you would write out this continuation and  
14 that would be filed with the records of the Police Department?
- 15 A. Yes, it would be left there and then the next morning or  
16 whenever the next court date would be, it would have been  
17 taken by the detectives of the day, I suppose, and taken to  
18 court for whatever date he -- I guess he appeared the next work-  
19 ing day and it would appear that he plead guilty to the charge  
20 and --
- 21 Q. If he were to plead guilty to the charge, would the Detectives  
22 still be involved in taking the case to court?
- 23 A. Usually it fell to them to take all those such matters before  
24 the court, whoever was duty and days.
- 25 Q. Do you recall whether or not you discussed this particular case

1 with any of the Detectives?

2 A. I don't recall and I don't expect that I did.

3 Q. You don't expect that you did?

4 A. No.

5 Q. The record they would rely on then would be?

6 A. Would be that.

7 Q. The continuation report.

8 A. And in light of the guilty plea, it would be a closed book  
9 and I assume that he must have plead guilty because the following  
10 date is noted that -- where he was fined for the offence.

11 Q. Other than this continuation report, would there be any other  
12 record created in your Department over this incident?

13 A. Yes, there would. They had and I believe still do use a  
14 or I stand to be corrected on that, maybe they don't still use  
15 it but a hard-cover book that all criminal offenses were  
16 written up in and then the disposition.

17 Q. That's the so-called --

18 A. And apart from an Information and/or -- well, I suppose in  
19 those days, we didn't have court dockets as they have today.

20 Q. This would be the so-called court book?

21 A. No. This book would have been kept at the Sydney Police  
22 Department.

23 But all charges -- all criminal charges would have been  
24 written up in that book so I expect that book is still -- I  
25 would think it's still available.

1 Q. And again other than this continuation report, was there any  
2 other method by which the Detectives in the Department would  
3 become aware of this incident?

4 A. No. Each -- each person charged of a -- convicted of an  
5 offence would have a card system started on them then which  
6 in that case was a card probably eight by ten inches or six  
7 by ten inches or something of that nature and each offense  
8 that was recorded against him would be on that file. That  
9 would be noted on that card.

10 Q. If, say, a month later in May of 1970 there had been a complaint  
11 phoned in to the Police Station about a man running around  
12 threatening somebody with a twelve inch butcher knife and that  
13 complaint came in to the Desk Sergeant, what method if any  
14 would the Department have at its disposal to review its  
15 records to see whether there were people in the area that  
16 were -- that had sort of propensities towards knife attacks?

17 A. There would be not -- there would be nothing on -- no system  
18 as it were other than it would be -- if it happened to be  
19 a member that was involved in a particular incident that  
20 would probably recollect the other incident and associate  
21 the two. Other than that, there'd be no --

22 Q. So if you --

23 A. -- no way of marrying the two, no.

24 Q. If you or Constable LeMoine were not around to have something  
25 triggered in your memory, there would be no way of linking the

1 two?

2 A. No, unless maybe the member who handled it the next day and  
3 took it to court, if -- you know, other than that -- Other  
4 than persons personally involved in the matter, no, there  
5 wouldn't be.

6 Q. Okay. I'd like to move now, sir, to May of 1971. Do you  
7 recall in what capacity you were employed with the Department  
8 in that month?

9 A. I believe I was at the time working on traffic. Like I say,  
10 it used to be the practice that I would go in on traffic  
11 duties in the spring and then stay with them usually till the  
12 fall weather.

13 Q. Traffic duties would be --

14 A. Traffic-related duties.

15 Q. -- a car?

16 A. Car and/or motorcycle.

17 Q. I see, and would you work with a partner?

18 A. No.

19 Q. At that time did you know Donald Marshall, Junior?

20 A. I'm not sure. I don't believe I did. I know I heard his name  
21 but I don't know that I knew him by sight.

22 Q. You say you heard his name?

23 A. I heard his name, yes.

24 Q. Do you recall in what context you heard his name?

25 A. It's my recollection that he was referred to as "The Chief".

1 The previous summer there had been, I believe, some incidents  
2 in Wentworth Park involving youths and it seems to me that  
3 his name from time to time would come to the -- come to the  
4 forefront.

5 Q. And you say he would be referred to as "The Chief", who would  
6 refer to him as the Chief?

7 A. I believe that -- I believe -- It's my recollection and of  
8 course this is second-hand, that he used to refer to himself  
9 as "The Chief".

10 Q. I see and when you say it's second-hand, where would your  
11 information come from?

12 A. Oh, other police officers, I suppose. See, in those -- working  
13 on traffic as I was, any calls of anything of that nature would  
14 not be dispatched to me or to whoever might be working on  
15 traffic. You would usually arrive on the scene as a back-up,  
16 if needed, if there was a call of a fight, anywhere. You know  
17 it wouldn't necessarily need to be the park. It could be  
18 anywhere. So therefore I don't recall ever having been  
19 involved personally with him.

20 Q. Your information about his being called "The Chief" came from  
21 other police officers?

22 A. It would have been from other police officers, yes.

23 Q. Did you ever have any direct contact with Mr. Marshall that  
24 you recall?

25 A. Not that I recall.



- 1 Q. This term "Chief", was this intended to have any derogatory  
2 meaning of any kind?
- 3 A. No, I think -- I would think it would be quite the contrary.  
4 I think he -- it seems to be my recollection that he likened  
5 himself to be sort of the leader of his sort of gang or whoever  
6 he hung around with.
- 7 Q. Did you have any knowledge of the gang that he hung around with?  
8 Your answer is no, sir?
- 9 A. No, sir. I'm sorry, no.
- 10 Q. Okay. Do you know whether there were -- they were Indian  
11 youths or White youths, Black youths?
- 12 A. I'm not sure.
- 13 Q. In May of 1971, did you know Sandy Seale?
- 14 A. No, sir.
- 15 Q. Did you know John Pratico?
- 16 A. No, sir.
- 17 Q. Did you know of him?
- 18 A. Again I'm not sure. I may have heard his name but I'm not  
19 sure. I would have to say I didn't know him.
- 20 Q. Turning now, sir, to the night of May 28th which I believe  
21 was a Friday night, do you know whether or not you were on  
22 duty that night?
- 23 A. No, sir, I was not.
- 24 Q. Where were you?
- 25 A. At the time my wife was working for a firm of doctors at the

1 Medical Arts Centre. The person that she was working for was  
2 transferring out of the area. There was a farewell party for  
3 him out at Mira at Doctor Naqvi's summer place. We were  
4 there in attendance, and later in the night, sometime through  
5 the night before it broke up, in any event, I believe Doctor  
6 Naqvi was called away, and I believe that it was to this  
7 incident -- I'm not sure, but there was some serious matter  
8 that he was called away on.

9 Q. The following day, which was a Saturday, do you recall if you  
10 were on duty during the day?

11 A. I don't recall, sir.

12 Q. Working your traffic detail, would it have been unusual for  
13 you to be working on a Saturday?

14 A. No, it probably was. We --

15 Q. What was your shift schedule?

16 A. Eight to four and four to twelve.

17 Q. And what days would your schedule be? Working?

18 A. Usually worked the weekends because that being the busier  
19 time trafficwise. So it wouldn't be unusual for me to have  
20 worked a Saturday day shift.

21 Q. Did you know Sergeant Wood, who was stationed with the R.C.M.P.  
22 in Sydney at that time?

23 A. Yes, sir.

24 Q. In what capacity did you know him? Socially or professionally?

25 A. No, professionally.

- 1 Q. And how would it be that a constable would have a sort of a  
2 professional relationship with an R.C.M.P. G.I.S. man?
- 3 A. I don't recall. I know that I did get to know Sergeant Wood  
4 and get to know him quite well during the time that he was  
5 in Sydney. Perhaps at this time -- Maybe we were only  
6 casually acquainted by this time, I don't know, but it  
7 wasn't of a social nature anyway. I did have some members  
8 and still have some members of the R.C.M.P. that I socialized  
9 with, but he wasn't one.
- 10 Q. Do you have any recollection when you first heard of the  
11 stabbing of Mr. Seale?
- 12 A. I expect it would have been on my next shift when I went to  
13 the police station.
- 14 Q. So would you recall any other -- If you were working on the  
15 Saturday, you would expect it would be when you arrived at  
16 the station?
- 17 A. Yes, sir.
- 18 Q. Do you recall having any conversation with Sergeant Wood  
19 about the matter?
- 20 A. No, sir, I don't.
- 21 Q. I'd like to read you an extract from Exhibit 40. I believe  
22 you have the copy in front of you, and these were notes  
23 taken by Sergeant Wood at the time and introduced here in  
24 evidence at the Hearing, and I'm reading from page 2 of  
25 Exhibit 40. The page is dated 29 May, '71, 9:30 a.m., 11 a.m.,

1 "Office in Sydney City Police Station, re stabbing in Wentworth  
2 Park. Early a.m. this date, two youths, Seale and Marshall.  
3 Conversation with Edward MacNeil and Detective MacIntyre.  
4 Feeling at this time Marshall was responsible and incident  
5 happened as a result of argument between both Seale and  
6 Marshall. Mentioned Rotary Park incident two weeks previous  
7 where knife was used. Thought at this time to be no connection.  
8 Only description received from Marshall was a man forty-five,  
9 fifty years with gray hair." Do you have any recollection of  
10 having that conversation with Sergeant Wood?

11 A. No, sir, I don't. I don't doubt that the conversation did  
12 take place. Sergeant Wood says it did and his notes back  
13 him up, and I have no reason to dispute that. I don't  
14 recall the conversation. I would -- If I had advanced the  
15 theory that Marshall was a suspect, it would have been as  
16 a result of something I heard around the police station that  
17 morning. I would have no personal knowledge of it other than  
18 that.

19 Q. Are you saying it is then possible that it was -- that it was  
20 yourself that advanced that opinion --

21 A. No. Looking at these notes, it may very well have been  
22 Sergeant MacIntyre who would --

23 Q. It may have been.

24 A. It may -- the notes do not say.

25 Q. The notes are not clear.

1 A. I was present and I think Sergeant Wood certainly would have  
2 been aware of what my duties at the Sydney Police Department  
3 were at the time and what Sergeant MacIntyre's were at the  
4 time and --

5 Q. But is it possible that it was you that advanced that opinion  
6 to Sergeant Wood?

7 A. If Sergeant MacIntyre were present, no. I would think it would  
8 probably be Sergeant MacIntyre that advanced it but if it were  
9 just at a time, perhaps, when Murray and I were alone or maybe  
10 I met him on the way in or something and we had a discussion,  
11 I'm not sure.

12 Q. Are you saying if Sergeant MacIntyre was present, it is not  
13 likely that you would have advanced the opinion. Why is that?

14 A. Well, he was the senior officer, the investigator on the case.  
15 It wouldn't be -- it wouldn't be my style if you like to butt  
16 in and offer information. I'm not saying that it wasn't me  
17 that laid the name on him. I'm not sure.

18  
19  
20  
21  
22  
23  
24  
25



1 Q. Do you recall whether or not at that time you, yourself,  
2 held the opinion that Mr. Marshall was responsible?

3 A. No, I -- If -- Like I say, if I had that opinion, it would  
4 have been as a result of something that I heard around the  
5 police station that Donald Marshall was a suspect in the  
6 stabbing.

7 Q. Do you know whether or not that was a widely held opinion in  
8 the Police Department at that time?

9 A. I'm not sure.

10 Q. Are you able to offer any reason why he might have been  
11 considered a suspect at that time?

12 A. No, sir, other than the fact he was present, I guess, at the  
13 time.

14 Q. Just the fact that he was present?

15 A. That may have been the reason. I don't know.

16 Q. We're told by Detective MacDonald that you normally would not  
17 identify a suspect until you had some formal statements from  
18 one or more people pinpointing a particular suspect. Are you  
19 aware of that practice within the Detective Division?

20 A. No, sir. It wouldn't be unusual for police officers to  
21 discuss among themselves who may or may not be a suspect.  
22 You certainly wouldn't -- Any responsible police officer  
23 wouldn't be out on the street corner talking about it.

24 Q. Would this be a topic of discussion between the Constables  
25 themselves?

- 1 A. There may very well have been, sure.
- 2 Q. And would it also be a topic of discussion between the Constables  
3 and the Detectives?
- 4 A. Well, there certainly would have been, yes.
- 5 Q. Would the Detectives look to the Constables for assistance?
- 6 A. Yes, if they -- There wouldn't -- There was never any sort  
7 of formal approach to a matter like that. It was more on  
8 an individual -- more on an individual basis. Certainly if  
9 any Constable had any information he would pass it on to  
10 the persons investigating the case and it wouldn't -- it  
11 wouldn't be out of the normal for the investigators to -- to  
12 ask the Constables either if they had any thoughts on the  
13 matter or --
- 14 Q. Do you recall if you were ever asked?
- 15 A. I don't believe that I -- I don't recall ever having been  
16 asked.
- 17 Q. Did you ever offer any information?
- 18 A. No, sir. I had no personal knowledge of the case.
- 19 Q. I understand. The rest of the conversation that Sergeant Wood  
20 reports there says:
- 21                   Only description received from Marshall  
22                   was a man forty-five, fifty years old  
                    with grey hair.
- 23 Do you recall whether or not you would have given Sergeant  
24 Wood that description?
- 25 A. No, sir.

1 Q. Your answer is no?

2 A. No, I would not.

3 Q. Between yourself and -- and Detective MacIntyre, is it then  
4 more likely that he would have provided that description to  
5 Sergeant Wood?

6 A. He may very well have, yes, sir. I don't know.

7 Q. Do you recall hearing that description?

8 A. No, I don't.

9 Q. Assuming that you were there when the conversation took place,  
10 and let's assume that at that point you did hear the  
11 description that was given, is there any reason why Mr. Ebsary's  
12 name would not come to your mind? Well, let me put it this  
13 way --

14 A. I'm sure it didn't come to my mind.

15 Q. Did Mr. Ebsary's name come to your mind?

16 A. No. The first time that I heard Roy Ebsary's name in relation  
17 to this matter that I can recall was in 1981 or '82 when the  
18 matter was being re-investigated and it was before the Supreme  
19 Court or going before the Supreme Court in Halifax, and  
20 that's the time that my report surfaces as well, somewhere  
21 in that era.

22 Q. Were you asked in May of '71 as one of the Constables to  
23 search your memories for any knife wielding assailants that  
24 you've been involved with?

25 A. No, sir.



1 Q. It's a little hypothetical, but if you had been asked, do you  
2 think that Mr. Ebsary would have come to your mind?

3 A. He may have and may not. I can't say. I'm sure that that  
4 particular incident would have been a lot more fresh in my  
5 memory then than it is now. I mean it would have been just  
6 a year prior. It may very well have -- have come to -- it  
7 may not have.

8 Q. The -- The mention in this note of the Rotary Park incident,  
9 does that mean anything to you?

10 A. No, it does not. It seems to me that that may have been  
11 something the R.C.M.P. were investigating in there. Part  
12 of Rotary Park and Rotary Drive is outside of the City  
13 boundaries so it may have been something that was out in  
14 their patrol area and he was looking to -- I'm not sure.

15 Q. There is another note from Sergeant Wood on the following day,  
16 on page three of the Exhibit 40. It's dated May 30th, 1971,  
17 nine a.m. to ten-thirty a.m., office, and he says:

18 Discussion with Edward MacNeil and  
19 Wyman Young. Both Sydney City Police,  
20 Re: Stabbing and resulting murder.  
Both of opinion Marshall responsible.

21 And there were two names then given to them as possible  
22 suspects.

23 One of them has grey hair, recently  
24 released, Dorchester, believed living  
in Sydney on parole.

25 Do you have any recollection of having a conversation with

1 Wyman Young and Sergeant Wood on a Sunday?

2 A. No, sir, I do not. If I was at the R.C.M.P. Office for some --  
3 on that Sunday morning and his notes indicate that I was, I  
4 think --

5 Q. Well, to be fair I think that neither the note nor his testimony  
6 was clear on whether that, in fact, took place in the Police  
7 Department or in the R.C.M.P. Offices, so it could have been  
8 in the Sydney Police Department.

9 A. I again may have had a casual conversation with -- with  
10 Murray Wood. Certainly if I had any information to advance  
11 regarding the investigation, it would have been given to my  
12 people, to Sergeant MacIntyre and the investigators on the case,  
13 and very unlikely to a member of the R.C.M.P. I wouldn't  
14 have made it a point to go and search him out and give him  
15 that in -- and discuss the matter with him.

16 Q. Now this note is written a little differently than the  
17 preceding one where it's -- it's not really clear who expressed  
18 the opinion -- This note indicates that: "Both of opinion  
19 that Marshall responsible" This is Sunday morning shortly  
20 following Mr. Seale's death. Did you, in fact, hold the  
21 opinion at that time that Mr. Marshall was responsible?

22 A. Again I can only say that if I held that opinion it was a  
23 result of information that was -- that was being passed around  
24 the Sydney Police Department, discussions by -- It could  
25 have been with Sergeant MacIntyre. I'm not sure. It could

1 have been with other members who had had discussions about it.  
2 It's not unusual for things of that nature to be discussed  
3 around the police station.

4 Q. I'm getting a picture that arising out of discussions within  
5 a police station opinions are generated that so and so might  
6 be responsible. Is that a fair picture or am I misreading you?

7 A. No. No, that's not --

8 Q. No, it's not a fair picture?

9 A. That's not a fair picture, no. It's not -- The matter that --  
10 I suppose a lot of people could be a suspect and they are  
11 a suspect in a lot of matters. If you really don't have  
12 anything concrete to go on, you may have a half a dozen  
13 people who are a suspect and it may very well be that discussions  
14 are held among police officers naming several people who may  
15 be a suspect in the matter.

16 Q. I guess the difficulty I have is that up to this time, the  
17 early morning of May 30th, there had been no statements  
18 taken from anybody, very few people had even been spoken to,  
19 and on -- on two occasions we have the expression of opinion  
20 that Mr. Marshall was responsible. Your suggestion to me  
21 is that that opinion would have come from discussions around  
22 the police station?

23 A. Yes, sir.

24 Q. And --

25 A. It wouldn't be from any personal knowledge that I had of the file.

1 I had no knowledge of the file.

2 Q. All right. What I'm trying to get at then is that if, as  
3 we understand, there were no statements certainly implicating  
4 Mr. Marshall up until this time, was the -- is it possible  
5 then that the only basis for this opinion was the discussions  
6 among the police officers themselves?

7 A. I would have to say that's correct. Yes, sir.

8 Q. And in forming those opinions among the police officers, what  
9 sort of information would they be relying on?

10 A. It could be any number of things. It could be members talking  
11 to people on the street who may or may not have seen something  
12 or those members may have passed that on to the investigators  
13 and then they were just in the course of the discussions.

14 Q. Okay. In the absence of information like that, how else  
15 could the opinion be based?

16 A. As a result of discussions with the investigators perhaps?

17 Q. With the investigators and who?

18 A. Well, the investigator in that -- the key investigator in that  
19 matter at that particular time was Sergeant MacIntyre.

20 Q. Yes, and you're saying or are you saying that as a result  
21 of discussions with the investigator, another police officer  
22 would form the opinion that Marshall was responsible?

23 A. If I had the opinion that Marshall was the -- was the prime  
24 suspect in this matter, it would have been as a result of  
25 conversations I had with either -- with any member or members

1 of the Sydney Police Department.

2 Q. Yes.

3 A. I cannot recall specifically any particular person.

4 Q. I understand that, sir. What I'm trying to -- to understand  
5 is that -- what kind of information would those kind of --  
6 would those opinions be formed from at this very early stage  
7 and, you know, we've talked about discussions between the  
8 police officers themselves, possible information from people  
9 on the -- on the street. Would an opinion like that --

10 A. It may have come just from -- just from the mere fact that --  
11 that Marshall was there present at the scene at the time of  
12 the incident. He was known. Apparently -- It's my recollection  
13 that the other two parties were not known at that time.

14 Q. And the other parties, you mean Mr. Ebsary and Mr. MacNeil?

15 A. MacNeil and Ebsary, yes.

16 Q. And other than that he was there, was anything else known about  
17 Mr. Marshall that you know of?

18 A. Not that I know of, no.

19 Q. You were aware that he was known as the "Chief"?

20 A. Yes.

21 Q. And liked to be referred to as the "Chief"?

22 A. Yes.

23 Q. Was he known as a troublemaker?

24 A. Not to me personally he wasn't known as a troublemaker, no.

25 Q. Within the Police Department?

1 A. Pardon.

2 Q. Within the Police Department was he known as a troublemaker?

3 A. Yes.

4 Q. How do you know that?

5 A. Again, I guess, by conversations of other police officers.

6 Q. Was he known --

7 A. He never caused me any trouble personally, you know.

8 Q. I understand. I understand. Was he known as a tough kid?

9 A. Yes.

10 Q. Again, how do you know that?

11 A. Again by conversations with other police officers and I think  
12 the fact that he was the leader of his group. I'm sure he  
13 was. He called himself the "Chief", and I believe others  
14 called him "Chief" as well.

15 Q. Okay. Was there anything else known about him within the  
16 Police Department to your knowledge?

17 A. No, sir, not to my knowledge.

18 Q. So what we have now is that he was there. He was known  
19 to the Police Department as a troublemaker. He was known  
20 as a tough kid. Would those three facets acting in  
21 combination, would they be sufficient to generate the  
22 opinion that he was a prime suspect?

23 A. It certainly wouldn't help his cause any.

24 Q. Would that be sufficient to generate the opinion that he  
25 was a prime suspect or the prime suspect?

- 1 A. I suppose that would probably have, I mean, could they  
2 have been one of the factors in someone arriving at that  
3 determination.
- 4 Q. When you were here discussing around the Police Department  
5 about Marshall being a troublemaker and a tough kid, was  
6 he referred to as Junior, referred to as Marshall, or  
7 referred to as an Indian?
- 8 A. I don't recall. I don't recall. I know that he had the nickname  
9 of "Junior" as well.
- 10 Q. The conversation with Sergeant Wood on the 30th, with yourself  
11 and Wyman Young, was Wyman Young your partner in any way at  
12 this time?
- 13 A. No, sir, I don't believe, working traffic if I was, and I  
14 believe that I was at that time because each year, about the  
15 first of April I would go into traffic duties. It wouldn't  
16 be unusual particularly on a Sunday morning if Constable  
17 Young was working a beat, for me to pick him up and we'd go  
18 for a drive around or -- It wasn't unusual to pick someone up  
19 and perhaps sit in and have a smoke or to even go for a cup  
20 of coffee.
- 21 Q. Assuming that this conversation with Sergeant Wood took place  
22 somewhere in an office and not in the car, how would yourself  
23 and Constable Young be together?
- 24 A. I can only say that, I guess, that I just picked him up for  
25 a short period of time.

1 Q. You picked him up at the office?

2 A. Or on the beat if he was on the -- Probably at that time  
3 he would have very well, I suppose, would have been probably  
4 pounding a beat.

5 Q. Do you recall Sergeant Wood offering you and Constable Young  
6 the names of two suspects?

7 A. No, sir.

8 Q. Would that be a usual thing to happen, would an R.C.M.P.  
9 G.I.S. man give names of two suspects to two Constables rather  
10 than the Detective?

11 A. The usual thing to do would be to give them to the -- to the  
12 Detectives and certainly not to the rank and file.

13 Q. All right. If he did give them to you and Constable Young,  
14 what would you do with it?

15 A. In all likelihood we would have passed them on, I would  
16 expect to the investigators. I have no recollection whatsoever  
17 of this incident, no.

18 Q. We've heard some evidence from another MacNeil, an Alexander  
19 MacNeil, in which your name came up. If you have a  
20 recollection, in 1971, were there any other MacNeils on the  
21 Sydney Police Force?

22 A. No, sir, there wasn't. Yes, there was one other, Gerard  
23 MacNeil. He was the ident man at -- Oh, in 1971 --

24 Q. Yes.

25 A. --he would have been on regular patrol duties.



- 1 Q. Okay. Alexander MacNeil testified before this Inquiry and  
2 I'm just referring to volume 11 at pages 1924 and 1925, to  
3 the effect that he was visited by a member of the Sydney  
4 Police Department who brought out some mug shots to show  
5 him and he thought it was you, the reason being was that  
6 he recalls the police officer having the same name as himself.  
7 Do you have any recollection of that?
- 8 A. No, sir, I do not. It may have been Gerard MacNeil. He  
9 was the Ident man. Now just when he went -- I don't believe--  
10 I don't believe he was doing any Ident services until we  
11 moved to the new headquarters in 1972, although he may have--  
12 may have been training in that regard at that time, but  
13 I'm not sure.
- 14 Q. Would this have been the type of thing that you, as a Constable,  
15 would have done?
- 16 A. No, sir.
- 17 Q. Were you involved in any aspect at all of the investigation  
18 of the Seale murder?
- 19 A. My only recollection of having anything to do with it was very  
20 shortly after the -- Sergeant MacIntyre had the Civic Workers  
21 dam the Wentworth Creek up above the Argyle Street area  
22 and the Creek was drained as best they could and we did a  
23 search of the area for any physical evidence and primarily  
24 looking for a weapon. Nothing was found.
- 25 Q. When you say a search of the area, how did you do that?

1 A. A search of the creek bed by physically walking through the  
2 creek bed and looking -- There was quite a number of us  
3 involved I believe.

4 Q. And at that time who were you taking your directions from?

5 A. Sergeant MacIntyre.

6 Q. Do you know how long after the stabbing this was?

7 A. A very few days, maybe two days or three days, somewhere  
8 immediately after I would -- as I recall.

9 Q. Did you actually get out into the drained creek?

10 A. Yes, sir.

11 Q. What was the ground like?

12 A. Well, it was all full of silt. It was very difficult. If  
13 anything had been in there it would have -- you know, anything  
14 of the weight of a knife in my opinion would have probably  
15 sunk out of sight.

16 Q. Was the creek completely drained?

17 A. No, there were pools that would not drain, low areas that  
18 would not drain.

19 Q. Did you have any equipment to assist you, such as, metal  
20 detectors?

21 A. Some members may have had. I don't believe -- I didn't have.

22 Q. There's some suggestion that that attempt was thwarted  
23 by the dam being opened again. Do you have any knowledge of  
24 that?

25 A. I recall that the dam was opened or gave way or whatever and

1 the creek was reflooded again and I believe then that the  
2 search was called off then.

3 Q. Had the search been completed when the creek was reflooded?

4 A. No, I don't believe it was.

5 Q. Do you know how much of the search had been conducted?

6 A. No, sir.

7 Q. Did this all happen in one day, you went and searched and while  
8 you were there it started to fill up again?

9 A. No, not while we were there. It seems that perhaps maybe that  
10 night or something.

11 Q. Do you have any knowledge of how the creek came to be reflooded?

12 A. What caused the dam to give way or --

13 Q. Yes.

14 A. No, sir.

15 Q. Do you have any recollection of opinions being expressed?

16 A. Yes, sir.

17 Q. What were those opinions?

18 A. That the Indians had broken the dam or let it go.

19 Q. Was there any evidence to support that?

20 A. Not to my knowledge.

21 Q. In the absence of evidence to support it, can you suggest  
22 any reason why that opinion would be given?

23 A. No, sir.

24 Q. Was Mr. Marshall a suspect? I presume he was if he --

25 A. He still -- He still would have been, yes. I'm sure he still

1           would have been.

2   Q.   Do you recall who may have expressed the opinion that the--  
3       the Indians had opened the dam?

4   A.   No, sir.

5   Q.   It strikes me as a little strange that opinions such as  
6       that would be expressed without any evidence to support them.

7   A.   There may have been some evidence, and if there was, I wasn't  
8       aware of it.

9   Q.   I see. Was anybody ever charged to your knowledge?

10  A.   Not to my knowledge.

11  Q.   Did you have any other involvement in the investigation?

12  A.   Not that I recall, sir, no.

13  Q.   In November of 1971, the R.C.M.P. came in and took a look at  
14       the matter. Do you have any knowledge of that review by the  
15       R.C.M.P.?

16  A.   No, sir, I did not.

17  Q.   Did you know they were in the building?

18  A.   No. No.

19  Q.   It wasn't a topic of discussion around the police station?

20  A.   Not to my recollection. No.

21  Q.   The R.C.M.P. again took a look at the matter in 1982. Do you  
22       have any recollection of being interviewed by any member of  
23       the R.C.M.P. at that time?

24  A.   In 1982?

25  Q.   Yes.

- 1 A. No, I don't recall. I had a call at one time from a member  
2 in Ottawa who -- and that's Gary Green, Constable Gary Green.  
3 He wanted to reassure himself on some of the matters that  
4 he was concerned about with respect to this second investigation  
5 or a second look at it in 1975 or thereabouts.
- 6 Q. What were the matters that he wanted to reassure himself about?
- 7 A. Constable Green had received some information as I understand  
8 it regarding the matter and he came down to the Sydney Police  
9 Department looking for myself and Detective MacLeod who is  
10 now Chief of Police in Wolfville. He remembers that -- He  
11 says the reason that he sought us out was because we had  
12 worked on a recent case.
- 13 Q. When was this roughly?
- 14 A. Pardon me, the recent case?
- 15 Q. No, no, when was it when Green came down to see you.
- 16 A. I'm not so sure of the year, it would have been probably  
17 1975 or somewhere in that era, and in our absence he apparently  
18 had a discussion with or says he had a discussion with  
19 another member of the Sydney Police Department about the  
20 matter and he just wanted to, I guess, reassure him that, in  
21 fact, he had not contacted me as he had set out to that  
22 day.
- 23 Q. So in 1974 or '75 you had no contact, direct contact with  
24 Constable Green, Corporal Green?
- 25 A. No, sir. He didn't raise it with me because I think he raised

1           it with some of our people and then later with some members  
2           of the R.C.M.P.

3           Q.   Yes.

4           A.   That's my understanding.

5           Q.   But in 1982 were you interviewed by any member of the R.C.M.P.?

6           A.   I don't recall that I was.  I may have been.  I do recall a  
7           re-investigation of the matter and I recall going over and  
8           sitting through the hearings at the Supreme Court.  Certainly  
9           I wasn't called as a witness or anything like that.

10          Q.   You sat in on the Reference Hearings?

11          A.   Yes, sir.

12          Q.   The Hearings leading to Mr. Marshall's acquittal?

13          A.   Yes, sir.

14          Q.   Why would you do that?

15          A.   Just as a matter of interest from the Commission's point of  
16          view, not that the Commission really had a -- I suppose it  
17          was sort of a two-fold thing, my own personal interest in  
18          the matter, it being from my old Department and also the  
19          Commission agreed that probably I should go and sit in on  
20          it, and not that we would have had any right or reason to --  
21          to review the matter from the Commission's point of view.

22          Q.   When you say Commission, you mean the Nova Scotia --

23          A.   The Nova Scotia Police Commission, yes.

24          Q.   All right.  Did you provide a report to the Police Commission  
25          following the Court Hearings?

1 A. No, sir.

2 Q. Did the Commission at any time consider making its own review  
3 or investigation of the role that the Sydney Police Department  
4 had played in the matter?

5 A. No, sir. They may have considered it. I can't really speak  
6 for the Commission but in any event, that incident happened  
7 prior to the proclamation of the Police Act, so thereby --  
8 therefore, it would have been something that happened prior  
9 to the Police Commission having any authority to look through  
10 any matters in policing.

11 MR. ORSBORN:

12 I might point out, Mr. Chairman, it would be the intention to call  
13 evidence at a later date probably from Mr. MacNeil concerning the  
14 Police Commission as a more -- on a more general basis and any  
15 contacts that it's had with the Sydney Police Department in later  
16 years in terms of assessment and reviews. I would not propose  
17 to do that at this time, and the only evidence I would propose  
18 to adduce from Mr. MacNeil at this time would be the Sydney --  
19 the Nova Scotia Police Commission and any consideration of the '71  
20 Sydney Police Department.

21 MR. CHAIRMAN:

22 I take it the Police Commission  
23 was not in existence in 1971. Is that correct?

24 THE WITNESS:

25 That's correct, sir, April the 1st, 1976.

EDWARD MacNEIL, by Mr. Orsborn

BY MR. ORSBORN:

1 Q. In 1982, could the Nova Scotia Police Commission have initiated  
2 a review of the role of the Sydney Police Department played  
3 in this matter?

4 A. No, sir, not in that matter but in any event any occurrences  
5 after 19 -- after the Proclamation of the Act, there was  
6 only one of two ways that the Nova Scotia Police Commission  
7 can get involved and that is by either at a request of a  
8 municipal board or council, Municipal Board of Police  
9 Commissioners or their counsel in the absence of the Board  
10 of Police Commissioners or on the direction of the Attorney  
11 General.

12 Q. You sat through the reference hearing, did you hear the  
13 witnesses testify to the effect that they had been pressured  
14 to change their stories?

15 A. Yes, sir.

16 Q. Did that give you any cause for concern about the -- the  
17 role the police played in the investigation?

18 A. Certainly I was concerned that that people had apparently  
19 -- well, now we're saying that they had perjured themselves  
20 in that earlier trial that caused a person to be convicted.

21 Q. Yes.

22 A. I don't recall that I was concerned that --

23 Q. Was there any question --

24 A. -- they were abused by members of the Sydney Police but if  
25 that's the point of your question, sir.



- 1 Q. No, was there any question raised into your mind as to why  
2 they had change their stories? Why they had perjured  
3 themselves?
- 4 A. I can simply assure you to ask yourself that question  
5 as to why they had but, you know, what the answer is is  
6 something else again.
- 7 Q. That's true. In that you were sitting there presumably on  
8 the instructions of the Police Commission, were you alert  
9 or sensitive to possible role of the police in that --
- 10 A. Certainly.
- 11 Q. -- in that -- those stories being changed?
- 12 A. Certainly I would, yes.
- 13 Q. Did you make any suggestions to anybody that this should be  
14 looked at? There maybe a problem here?
- 15 A. No, I don't recall that I did.
- 16 Q. May I ask why?
- 17 A. Again, I can only say that the Police Commission had no  
18 authority to, to instigate anything of what happened back  
19 in 1971 and I'm not -- I'm not saying that to try to get  
20 around your question, sir, but that would have been the --  
21 actually I suppose you could say that I was there more in  
22 a role of sort of having I suppose a personal interest in --  
23 in the outcome of this matter in that it being involved in  
24 my old department.
- 25 Q. We'll just briefly go back to 1971 on the relationship

1 between the constable or the foot soldiers and the detectives.  
2 As a constable on the beat or on traffic, would you receive  
3 regular and formal briefings from detectives concerning cases  
4 they were investigating?

5 A. No, sir.

6 Q. How would they seek your assistance if in fact they wanted it?

7 A. Perhaps on a one to one basis. Or perhaps they may if it was  
8 someone they were looking for and wanted the person picked up  
9 for questioning whatever, they may probably in most cases  
10 advise the platoon sergeant to advise his shift when they next  
11 came on duty to -- to ask you to be on the lookout for certain  
12 things or people.

13 Q. Were you ever instructed to look for two men including an  
14 old man with grey hair?

15 A. No, sir.

16 Q. Were you ever instructed to look for a light blue Volkswagen?

17 A. No, sir.

18 Q. Again on a more general question, Mr. MacNeil, in your  
19 experience particularly in the late 60's early 70's, had you  
20 ever been involved in a situation involving tension between  
21 Whites and Blacks, Whites and Indians, Blacks and Indians?

22 A. No, I don't recall having been involved. And again, I can  
23 recall a concern within the Department in the spring of 1971  
24 prior to this incident whereby, I think it was -- it was my  
25 best recollection, that we felt that we were going to have

1 problems that year in the Park and so on -- and we were  
2 sort of --

3 Q. And when you say problems, what do you mean?

4 A. Problems between the Blacks and the Indians that didn't  
5 materialize. It was perhaps as a result of this incident --  
6 and then maybe there was nothing to it in any event but --

7 Q. You're telling us that that prior to this incident there was  
8 a feeling in the Department there would be problems with  
9 Blacks and --

10 A. Once -- Once the youth started hanging out in the Park again  
11 as they had on previous years, that we would probably have  
12 some problems that --

13 Q. Had you had problems in previous years?

14 A. Nothing that was of an alarming nature, no. Not that I recall.

15 Q. Are you suggesting there --

16 A. There would be skirmishes within the Park or calls about  
17 drinking in the Park. That was usually the -- drinking and  
18 smoking up, that was usually the two reasons.

19 Q. Can you suggest any reason why in the spring of 1971 it would  
20 be suggested to anticipate problems between the Black and  
21 the Indians?

22 A. They may have been as a result of some information that some  
23 of the police had in passed on for the general knowledge of  
24 the members of the Department.

25 Q. Why not Whites and Indians?

1 | A. I don't know. No doubt there would have been Whites involved  
2 | too, I'm there would have been. There usually was.

3 | Q. Usually was?

4 | A. Usually was, yes.

5 | Q. You say the expected trouble did not materialize?

6 | A. No, sir, no.

7 | Q. When you say trouble what are we speaking of -- great gangs  
8 | of people in open warfare?

9 | A. I think clashes between gangs, I think, really is what we  
10 | were -- we were anticiapating.

11 | Q. Were there Black and Indian gangs in existence then to your  
12 | knowledge?

13 | A. I believe there was, yes.

14 | Q. Were there any White gangs in existence?

15 | A. I'm sure there was, yes.

16 | Q. But the only potential trouble that you heard of was between  
17 | the Blacks and the Indians?

18 | A. Yes, sir, as I recall it, yes.

19 | Q. And was -- did you say that the Park was the sort of the  
20 | focal spot for this kind of trouble?

21 | A. Yes, it was. It was the gathering ground. It was central  
22 | and there was a lot of areas in it -- areas -- bushed areas  
23 | that they could hide in and around bushes and drink or smoke  
24 | up or --

25 | Q. Were you ever called to the scene of a fight between a Black

1 gang and an Indian gang?

2 A. Not that I recall, no.

3 Q. Between a White gang and a Black gang?

4 A. Not that I recall.

5 Q. Any gang fights at all were you involved in?

6 A. Not that I recall, I may have been involved in calls to the  
7 Park but there was certainly nothing of any significance that  
8 would cause me to remember, you know, a knock-down-drag-out  
9 sort of situation, no.

10 Q. In these sort of fights, would there be any weapons involved?

11 A. Not to my knowledge. There may have been. Nunchucko sticks  
12 were not uncommon at that time or the young people were --

13 Q. I'm sorry.

14 A. Nunchucko sticks.

15 Q. Nunchucko sticks -- I'm a Newfoundlander, tell me what that  
16 is?

17 A. It's two sticks tied together with a chain. It's a Karate --  
18 term used for a Karate weapon, I guess, is the best way to  
19 explain it.

20 Q. Were they common among any particular group?

21 A. No, they were too common among all persons really. Until  
22 charges started, you know, started laying charges --

23 Q. I'm sorry.

24 A. Until charges were laid against a few people for they're a  
25 prohibitive weapon.

1 Q. What about guns?

2 A. No, sir, never any suggestions of guns.

3 Q. Knives?

4 A. I don't recall any suggestions of knives either. There may  
5 have been, but I don't recall.

6 Q. If somebody spoke to you of a gang of Black youths, would you  
7 associate them with carrying knives?

8 A. Not necessarily, no.

9 Q. Gang of White youths, would you associate them with carrying  
10 knives?

11 A. No, sir.

12 Q. Indian youths?

13 A. No, sir.

14 Q. We anticipate that we will hear some testimony from one or  
15 more White girls who will testify to the effect that if they  
16 were to go out with Indian boys or be seen on the street with  
17 Indian boys, that the police would give them some degree of  
18 trouble and would phone their parents and say "Did you know  
19 that your daughter was out with an Indian boy? We don't  
20 think this is very good." Did you ever phone a White girl's  
21 parent to complain about her being with an Indian boy?

22 A. No, sir, nor would I unless it was a juvenile and there was  
23 some good cause -- you know, a juvenile with an older person  
24 it wouldn't matter if it was -- what his race was. If there  
25 was such an age different or the character of that person

1 I may very well advise the -- but certainly if it was person  
2 probably sixteen or over, I wouldn't --

3 Q. Have you had occasion then to --

4 A. I don't recall ever having made such a call, no.

5 Q. If you saw a thirteen year old girl with an eighteen year old  
6 guy, would you as a matter of practice phone her parents?

7 A. Not necessarily so.

8 Q. What --

9 A. Unless there was something about the relationship that that  
10 didn't sit well.

11 Q. What sort of things about that relationship would not sit well?

12 A. Drinking, smoking-up, sex, you know.

13 Q. Would the fact that the boy was an Indian be sufficient to  
14 cause the relationship not to sit well?

15 A. No, sir.

16 Q. To your knowledge, did any member of the Sydney Police  
17 Department have occasion to phone the parents of White girls  
18 to complain about them being seen with Indian boys?

19 A. Not to my knowlege.

20 Q. Was this the type of thing that would be discussed among  
21 police officers?

22 A. It may have been if -- if a person -- he may discuss it with  
23 your partner or something of that nature if that were to  
24 happen. But that really wouldn't be too worthy of mention  
25 I wouldn't think or too worthy of talk around the booking

1 desk at the police station.

2 Q. I'm sorry.

3 A. Too worthy of conversation around the booking desk at the  
4 police station.

5 MR. ORSBORN:

6 Those are all my questions, Mr. Chairman, thank you.

7 THE CHAIRMAN:

8 Maybe we should --

9 BY COMMISSIONER EVANS:

10 Q. Before you adjourn, I missed the first part, officer, I wasn't  
11 too awake, I guess; but you're appointed to the -- you joined  
12 the Force in 1955 and then you worked traffic around 1970?

13 A. Yes.

14 Q. And then later you went to the -- you became an investigator  
15 in 1974?

16 A. '74, yes.

17 Q. Now at that time did they have an Identification Officer prior  
18 to your appointment?

19 A. Yes, sir, they did.

20 Q. And how long had that position been in place?

21 A. At least two years.

22 Q. Two years.

23 A. We moved to the new quarters on the Esplanade in 1972 and at  
24 that time space and facilities were provided for -- for  
25 Ident services. We had nothing in the old police station.



1 Constable Gerard MacNeil may have worked -- I suppose he did  
2 take the course prior to that and was certainly prepared to  
3 go in to the new quarters as an Ident person.

4 Q. So he probably was the first one then, was he?

5 A. He was the first one, yes, sir.

6 Q. Who introduced that system?

7 A. To the Department.

8 Q. Yes.

9 A. The Chief of Police of the day would have been Gordon  
10 MacLeod. The late Gordon MacLeod.

11 Q. And you went to the Police College in '74, now prior to that  
12 I take it that your immediate predecessor had gone to the Police  
13 College; but was that a routine procedure?

14 A. It's the only procedure whereby you can become a qualified  
15 Ident person.

16 Q. So that --

17 A. It's a very -- it's a very -- it's an eight week course.  
18 It's a difficult eight week course and no nonsense sort of  
19 course.

20 Q. Yes, I understand the course, sir, I was wondering whether  
21 Sydney Police Commission or Police Council sent their officers  
22 to the course and when they started it?

23 A. Yes, it would have been -- the request would have gone forward  
24 to the Canadian Police College from the City and this would  
25 have been, I guess, probably in 1971, that's when Constable

1 MacNeil went, I believe, in later on in 1971, yes.

2 Q. That didn't depend upon seniority, did it? It seems that if  
3 you lived long enough you became the Chief, is that right?

4 A. I believe perhaps in his case, he was of -- he didn't enjoy  
5 good health. And there was an exception made with respect  
6 to seniority in his case. Whereby he was either do light  
7 duties or -- or be dismissed from the Department.

8 Q. Special --

9 A. And he was allowed to go ahead of other persons, myself included.  
10 He was actually considered to be junior to me; although, we  
11 were both appointed the same night. This is how it went back  
12 then. I was number three of eight appointments so --

13 Q. They ran that seniority pretty tightly?

14 A. Indeed they did, sir, indeed they did.

15 COMMISSIONER EVANS:

16 That's all I have.

17 THE CHAIRMAN:

18 Okay.

19 INQUIRY ADJOURNED: 10:47 a.m.

20 INQUIRY RECONVENED: 11:05 a.m.

21 THE CHAIRMAN:

22 Ms. Edwardh.

23 MS. EDWARDH:

24 Thank you, my Lord.

25

1 BY MS. EDWARDH:

2 Q. Mr. MacNeil, could I just ask you to turn your mind back to  
3 the question of Identification Services in early 1970's. I  
4 understand from the evidence that you've given, sir, that in  
5 1971 there would not have been anyone specially designated in  
6 the Force or anyone trained in the Sydney Police Department?

7 A. That's correct.

8 Q. And the custom then was to call upon the R. C. M. P. for their  
9 assistance?

10 A. Yes, it was.

11 Q. And do I understand that there was any difficulty in obtaining  
12 R. C. M. P. services or were they made readily available to  
13 you at your request?

14 A. They were always made readily availabe as far as -- to my  
15 knowledge.

16 Q. You certainly hadn't heard anything to indicate that there  
17 was any such difficulty?

18 A. No, I had not.

19 Q. And the general view of the Force or members of the Force  
20 who had occasion to deal with the R. C. M. P. was -- they  
21 did a competent job?

22 A. Certainly.

23 Q. Now you said in answer to a question from Mr. Orsborn that you  
24 couldn't shed any light on why there was a refusal in this  
25 case to utilize their assistance. Can you shed any light by

1 asking or let me ask you the question is there any explanation  
2 that you can think of that would have -- would account for the  
3 refusal?

4 A. There's no logical explanation that I think of, no.

5 Q. Now you also stated that you knew Mr. Ebsary by sight?

6 A. Yes.

7 Q. So I take it that you may have had occasion to have some  
8 dealing with him or had received some information about him  
9 in the past?

10 A. Well, I'm not sure if I had or had just seen him in the area.

11 In my patrol area, on my beat from time to time, that's --

12 Q. Do you recall, sir, what he was wearing on the night you  
13 arrested him or the day you arrested him?

14 A. No, I do not.

15 Q. I take it you have no notes or notebook that takes you back  
16 to that time period?

17 A. No, I do not. My notebooks were -- became lost in my move  
18 to Halifax and I doubt that if I had my notebooks today, I  
19 doubt that they would tell me much more if anything than is  
20 on the occurrence report, the copy of which you have there.

21 Q. Do you have a recollection and I know so many years in the  
22 past, do you have any real recollection of what Mr. Ebsary's  
23 physical appearance might have been in that time period 1970?  
24 So for example, would it be fair to describe him as someone  
25 who was short?

1 A. Certainly.

2 Q. And during that time period, would it also have been fair to  
3 describe him as someone with grey hair?

4 A. I'm not certain. I guess he probably did have then but I'd  
5 only be guessing.

6 Q. And he probably did but you're not certain?

7 A. He probably did.

8 Q. Was he and we have seen him very recently, would it be fair  
9 to say he was not the frail gentleman that we saw here in  
10 1987 when you saw him in 1970?

11 A. That's correct. He was never really a robust person but  
12 he certainly has changed considerable.

13 Q. And indeed if he were wearing a heavy or substantial dark  
14 coat, he might well have the appearance of being short and  
15 somewhat stocky? Do you agree with that?

16 A. Yes, I would accept that.

17 Q. Now do you recall if he wore glasses during this time period?

18 A. I do not recall.

19 Q. Although you say there was nothing peculiar that you observed  
20 in your contact with Mr. Ebsary, did you ever see him wearing  
21 an array of medals for example?

22 A. Not that I recall.

23 Q. Did you ever see him wearing any unusual hat?

24 A. Not that I recall, no.

25 Q. Now when you --

1 | A. Nothing of an unusual nature of dress, no.

2 | Q. -- when you say you don't recall, is it a fair statement that  
3 | today you're being asked to recall something that you may  
4 | have even well observed in 1970 or '71; but ten or twelve  
5 | years later when you first even became aware you had arrested  
6 | Mr. Ebsary, you're not capable of that kind of recollection.  
7 | Is that a fair statement, sir?

8 | A. I think that if a person were around dressed in any sort of  
9 | peculiar manner or have any peculiar mannerisms about him,  
10 | you'd probably -- that would be something that would stick  
11 | in your mind I would think.

12 | Q. Would you, for example, if someone was wearing a captain's  
13 | hat think that was unusual or given the area we're dealing  
14 | with, Sydney and the proximity of the ocean, would that not  
15 | be unusual for you?

16 | A. Well, that would be an unusual circumstance I would think.

17 | Q. So I take it your knowledge of Mr. Ebsary would exclude even  
18 | hearing that he was a man who used to regail people with  
19 | stories of sinking the Bismark, you had no knowledge of him  
20 | as that kind of person?

21 | A. No, I did not.

22 | Q. If you had been aware of that, would you then regard that  
23 | as peculiar or unusual?

24 | A. Unusual I guess, yes.

25 | Q. Now you had arrested him and have described the incident

1 involved as an unusual incident in your own career, as  
2 arresting someone with a twevle inch knife?

3 A. Yes.

4 Q. And it's clear if you read the notes of Sergeant Wood. Could  
5 I ask you just to turn them if you have them. We're dealing  
6 with exhibit 40. If you read the notes made that Saturday  
7 morning prior to Mr. Seale's death; but after the stabbing,  
8 now what the R. C. M. P. appear to be doing is to "discussing  
9 other incidents where knives have been utilized. Or other  
10 people with criminal records in the area." Is that correct?

11 A. Yes.

12 Q. Have you in fact ever had occasion to deal with arresting  
13 someone for a knife other than Mr. Ebsary?

14 A. No cases that come readily to mind. There may have been but  
15 I don't remember.

16 Q. In this time period I take it it would be highly unlikely  
17 that --

18 A. That's correct. It's an unusual incident.

19 Q. And it's your evidence today, sir, that at no time did you  
20 even recall the fact that you had arrested someone who was  
21 an elderly or relatively elderly person with grey hair and  
22 that was never brought to the attention of anyone. That's  
23 your evidence today?

24 A. That's correct.

25 Q. Did you ever hear anyone around the police station discuss

1 the fact that this description that was given might bear some  
2 relationship to Mr. Ebsary?

3 A. No, I did not.

4 Q. Was Mr. Ebsary known to other members of the Police Department  
5 to the best of your knowledge?

6 A. I'm not aware. I expect he probably was but I'm not aware.

7 Q. So they would have known him in the same way you had known  
8 him as a person they had seen as they did their beat?

9 A. Yes.

10 Q. Would officers when they come in usually read the reports,  
11 is that the standard way of proceeding?

12 A. You were required to read the occurrence reports from the  
13 previous shifts, yes.

14 Q. And would it be fair to say that when you read about someone  
15 who is carrying a lengthy knife, that's the kind of thing  
16 that you try and file away for future reference?

17 A. File away, you mean in your mind -- in your memory.

18 Q. In your mind, in your mind -- in other words if you're --

19 A. Well, it would certainly be there whether there would be  
20 something in the future to trigger that again would be  
21 something else to trigger a recollection of that.

22 Q. But it's sufficiently unusual and involves a sufficient  
23 degree of say danger to the community?

24 A. Yes.

25 Q. That that is the kind of incident that officers look at



1 | carefully, make a note of it and then go about their duties?

2 | You don't just simply --

3 | A. I would doubt that any member made a -- they would make a  
4 | mental note. I wouldn't make a physical note of that incident  
5 | in their -- in their notebooks.

6 | Q. Surely after -- after Mr. Ebsary was arrested most people  
7 | who would come in and read this would be at least slightly  
8 | surprised that a gentleman of this character was carrying  
9 | around a blade of that kind?

10 | A. Well, they would certainly -- they would certainly be aware.

11 | Q. Certainly be aware. Now in answer to a number of questions  
12 | by Mr. Orsborn you used the and he used the word "gang". And  
13 | there maybe many different associations or meaning that can  
14 | be attached to that word and I just want to make it quite  
15 | clear what your view of what a gang is. Are you really, sir,  
16 | talking any more than a group of teenagers who were gathered  
17 | together in the Park on a fairly regular occasion?

18 | A. No, I suppose not. That's probably a fair -- fair way to  
19 | put it.

20 | Q. Those of us who have exposed to the literature about organized  
21 | gangs that carry weapons and that have discreet territories  
22 | that may exist in other urban centers, you're not talking  
23 | about that kind of gang at all are you?

24 | A. No, I'm not.

25 | Q. Now with respect to the term -- I think you've described Mr.

1 Marshall as using or liking to use the designation "Chief",  
2 other's using it. I take it you have no direct experience  
3 with that that's just information received from officers?

4 A. No, I do not, that's correct.

5 Q. And I take it -- are you aware of what position his father  
6 holds?

7 A. Yes, I am.

8 Q. And what is that, sir?

9 A. I'm personally acquainted with his father, yes.

10 Q. And what position does he hold with respect to the Micmac  
11 Nation?

12 A. He's Chief of the Micmac Tribe in Nova Scotia.

13 Q. And do you know whether that is a hereditary position?

14 A. I'm not aware.

15 Q. If it were --

16 A. He's held it for some time but I'm not aware.

17 Q. -- if it were hereditary that would make his son, his eldest  
18 son the next in line, correct?

19 A. That's correct.

20 Q. With respect to your observation that nunchocko sticks were  
21 too common during this time period, I take it you do not,  
22 sir, make the suggestion that the Native community -- the  
23 group of teenagers that were in the Park in May of 1971,  
24 were known to you to use any kind of weapon including  
25 nunchucko?

1 | A. No -- no particular group that I can recall off or class of  
2 | person used them. Every -- I shouldn't say everyone had  
3 | them, certainly everyone didn't have them; but they were  
4 | certainly around and we're being -- and people were being  
5 | picked up with them.

6 | Q. Okay, what I'm trying to get at though is that you don't  
7 | make a direct association in your own mind with the young  
8 | group of Native teenagers in the Park and those instruments?

9 | A. No, I do not.

10 | Q. They're a general problem within the Sydney area?

11 | A. They're a general -- they were, yes.

12 | Q. Okay, now as well -- if I could just ask you to just go back  
13 | to Woods notes. You said that first of all on the Saturday  
14 | morning it was unlikely that you would have offered the opinion  
15 | that Mr. Marshall was responsible and I take it, sir, that  
16 | your reason is first of all you have no recollection of  
17 | having any information of any kind that would have led you  
18 | to that opinion, is that correct?

19 | A. I would not have had any prior to eight o'clock in the  
20 | morning when I reported for duty at the police station.

21 | Q. And it had no involvement at all the night before?

22 | A. None what so ever.

23 | Q. I'm going to suggest that there's one other very real reason.  
24 | Assume for a moment as the notes indicated that you were  
25 | present with Detective Sergeant MacIntyre, okay, when this  
conversation took place.

1       Wouldn't you agree, sir, that it would be ludicrous  
2       for a junior police officer to, in front of the detective  
3       of -- the Sergeant of Detectives, to announce the theory  
4       of the homicide if he didn't agree? You not going -- you  
5       going to -- you not going to say to the R.C.M.P., this  
6       is the man responsible unless that is, indeed, what Sergeant  
7       MacIntyre is saying or has said?

8       A. I'm not sure that I'm the person that told Sergeant Wood  
9       that. It may very well have been Sergeant MacIntyre. I'm  
10      not sure.

11     Q. Indeed, it's unlikely that you would say it?

12     A. As I said, in direct examination, if I had that information  
13      it would have been second hand to me from, perhaps, Sergeant  
14      MacIntyre, perhaps some other member of the department.

15     Q. But if Sergeant MacIntyre hadn't expressed the view to  
16      the R.C.M.P., in your presence, even if you did say something  
17      on this occasion and what I'm trying to get at is, if  
18      he wasn't saying precisely that, you, as a junior officer,  
19      wouldn't have said it in those circumstances?

20     A. I would doubt that I would have said it.

21     Q. Especially in front of the senior detective. The man  
22      who was investigating it?

23     A. That's correct.

24     Q. Now --

25     A. You usually kept your place in the matter of the pecking  
    order of the ranks.

EDWARD MacNEIL, by Ms. Edwardh

1 Q. Especially when you're dealing with another police force?

2 A. That's correct.

3 Q. Now, you said that one of the possible reasons that Mr.  
4 Marshall was considered as a suspect, was because of his  
5 mere presence?

6 A. Yes, I expect that that's probably --

7 Q. Well, I'd like you to --

8 A. -- a pretty fine reason.

9 Q. Yes, I'd like you to look at the notes and I'm going to  
10 suggest to you that, during this conversation on Saturday  
11 morning, it's quite clear that being merely present had  
12 nothing really to do with it and that Sergeant MacIntyre  
13 actually had a theory of what happened. And if I can take  
14 you down to the area my friend read, the conversation  
15 with Edward MacNeil, Detective MacIntyre:

16           Feeling at the time, Marshall was responsible,  
17           an incident happened as a result of argument  
              between Seale and Marshall.

18 In fact, that's not mere presence at all. He has a --  
19 There is a concrete theory of what transpired in the park  
20 that night.

21 MR. PUGSLEY:

22 If I may I don't want to interrupt my friend but this man has  
23 no recollection of this conversation at all.

24 MR. CHAIRMAN:

25 I appreciate that.

EDWARD MacNEIL, by Ms. Edwardh

1 | MR. PUGSLEY:

2 | This is more of a form of argument than really trying to adduce  
3 | a recollection or evidence that has cogency before this  
4 | Commission.

5 | MS. EDWARDH:

6 | Let me rephrase the question to -- to --

7 | MR. CHAIRMAN:

8 | Well before we get into this line of questioning, I have to remind  
9 | you that the evidence of this witness so far is that he doesn't  
10 | recall it at all and he is only theorizing as to who -- as to how  
11 | he reached that conclusion if indeed he had reached that conclusion  
12 | and theorizing as to who would have made these statements to the  
13 | R.C.M.P. police officer and so as of now, this -- I've heard  
14 | nothing that would remove it from the category of theory and by  
15 | a man who understandably cannot recall this but is not prepared  
16 | to say that -- to deny that if the notes were made by an R.C.M.P.  
17 | police officer that the comments must have been made.

18 | MS. EDWARDH:

19 | Well, I had -- I had understood the evidence to be, My Lord, that  
20 | not that he was prepared to deny it at all but rather that he  
21 | accepts the comments were made. And perhaps I can put --

22 | MR. CHAIRMAN:

23 | Except -- but he doesn't recall making it nor does he know why.

24 | BY MS. EDWARDH:

25 | Q. Let me, then, put the question to you, sir, do you accept

1 the fact that this conversation, as recorded in the notebook  
2 or some version of it, occurred?

3 A. Yes, I do. I have no quarrel with Sergeant Wood's notes,  
4 whatsoever.

5 Q. Okay. And would you agree, with me, that assuming that  
6 the conversation occurred as recorded here, that the  
7 notion that this event occurred as a result of an argument  
8 between Mr. Seale and Mr. Marshall goes well beyond the  
9 theory of merely being present?

10 MR. PUGSLEY:

11 My Lord, excuse me. How does that advance -- how does that  
12 assist the Commission? The man has no recollection of what  
13 was said. My friend is putting a position to him that really  
14 is a matter of argument.

15 MR. CHAIRMAN:

16 Well, all of this is, as I say, pure speculation as I see it.  
17 And he had speculated earlier, and based on his professional  
18 experience, that it may have been that Marshall was the only  
19 person, that he knew at present, would reach that conclusion.  
20 Now, Ms. Edwardh is advancing another theory, that there  
21 may have been an argument. That's only one of a half a dozen  
22 catagories, none of which may have any validity.

23 MR. PUGSLEY:

24 Precisely. And how does the evidence of this man, who has  
25 no recollection of it, assist this Commission?

1 MR. CHAIRMAN:

2 Well, it's not necessarily going to assist us. But I don't mind Ms.  
3 Edwardh putting the question --but the answer to it, I don't  
4 think it would be very --

5 MS. EDWARDH:

6 Well, perhaps I just might respond to my friends difficulty.

7 MR. CHAIRMAN:

8 Yes.

9 MS. EDWARDH:

10 The suggestion that his mere presence was a basis upon which  
11 he was viewed as a suspect is quite inconsistent with the note  
12 which indicates that either Sergeant MacIntyre or this officer  
13 had a theory of the events which had transpired, without any  
14 facts to justify that. And that's what I want to explore with  
15 this officer. Whether or not he will agree that that note  
16 indicates that mere presence was not the basis upon which --

17 MR. CHAIRMAN:

18 May not have been.

19 MS. EDWARDH:

20 -- may not have been the basis.

21 MR. CHAIRMAN:

22 Yeh, that's a vital difference.

23 MR. PUGSLEY:

24 Yeh, I'm sorry. I'll sit down after I make this final comment.  
25 The man, who made the notes, has no recollection of what was



1 | said of the conversation. This man has no recollection. The  
2 | man who made the notes said he put some notes down, whether or  
3 | not they were complete or not, he doesn't know. This witness is  
4 | asking -- this -- My friend is asking this witness to interpret  
5 | something written down by someone else who doesn't even recall  
6 | writing it down. Now, that seems, to me, to be stretching  
7 | relevancy a bit far.

8 | COMMISSIONER EVANS:

9 | A long stretch.

10 | MR. CHAIRMAN:

11 | I agree that it is a fairly long stretch and I have no difficulty  
12 | in accepting your submission, Mr. Pugsley, that this is primarily  
13 | argument. I think I could reach the logical conclusion that,  
14 | as of now, that theory would need a great deal of factual evidence  
15 | to give it any credibility. But I don't mind the question being  
16 | asked so we can have the benefit of the advise of this witness,  
17 | based on the knowledge that he doesn't recall the conversation and  
18 | the fact that the man who made the notes doesn't recall making  
19 | the notes, and so it's a tenuous piece of non-evidence, at best.

20 | BY MS. EDWARDH:

21 | Q. Let me go back and make this non-evidence a little better.  
22 | Do you recall sir, at all, around this time period on  
23 | Saturday or Sunday morning, any discussion about there being  
24 | a fight in the park between Mr. Marshall and Mr. Seale?

25 | A. No, I do not.

1 Q. And going back to the notes, for a moment, would you agree  
2 with me that those words 'that the incident happened as  
3 a result of an argument between Mr. Seale and Mr. Marshall'  
4 go well beyond just an indication of his mere presence as  
5 a basis for making him a suspect?

6 A. I would agree with that.

7 Q. My friend asked you about the incident where the park was  
8 searched -- the banks and the creek and the problems that  
9 occurred when the water was, obviously, released again.

10 A. Yes.

11 Q. You've attributed a comment to other officers at your --  
12 other people in the police department which was that the  
13 blame for that incident lay with the Indians?

14 A. Yes.

15 Q. I take it, although you said that you didn't know whether  
16 there was any evidence, was there any investigation conducted  
17 that you're aware of?

18 A. I'm not aware. I expect that there probably was but I'm  
19 not aware if there was.

20 Q. Do you know then -- I take it you wouldn't know the results  
21 -- you certainly know there were no charges laid?

22 A. I'm not aware of any charges that were laid.

23 Q. Now, when you say you assume there was an investigation,  
24 although you don't know, why, sir, do you assume it?

25 A. Well, in my view, that would have been an obstruction of police.

1 Q. A serious offense?

2 A. Certainly.

3 Q. And --

4 A. And certainly I would expect it would have been investigated.

5 Q. Such a record of an investigation should be there in the  
6 department?

7 A. If, in fact, one were carried out, yes.

8 Q. Yes. And if there was no investigation conducted, would  
9 you agree, sir, that that is the kind of blind racial  
10 assumption that is, unfortunately, made on occasion?

11 A. No, I wouldn't agree with that.

12 Q. Just blaming the other side?

13 A. No, I wouldn't agree with that.

14 Q. Was there a sense that Marshall was an Indian and all of  
15 the Indian community would, therefore, back him and do things  
16 to subvert the investigation?

17 A. That may very well have happened but I don't know that --  
18 that that was the sense or -

19 Q. I'm asking not that whether it happened. I'm asking you  
20 sir, whether the police had that sense or view of it?

21 A. I'm not sure, you know, certainly if -- I didn't have it.

22 Q. Did you share the belief or did you accept the statement  
23 that the Indians had broken the dam at that time?

24 A. I expect that I accepted it in that it wouldn't have been  
25 within my daily work to investigate it or whatever -- go out

1 and beat the bushes in an attempt to find out who did.

2 That wasn't my -- unless I had been specifically requested  
3 to interview some person or something which would have  
4 been unlikely.

5 Q. When -- Have you ever been involved, at any time in your  
6 association with the police force in Sydney, when there  
7 has been any suggestion that an investigation has not been,  
8 perhaps, conducted properly? When there is a suggestion  
9 that, perhaps, the wrong person was convicted? And I'm  
10 talking about leaving aside the Marshall case. And can  
11 you tell me whether -- if you've heard of such incidents or  
12 such questions being raised, that would have been general  
13 knowledge in the force?

14 A. In answer to your first question, no, I do not recall any  
15 incidents similar to this one, or even close to this one.  
16 Whether such matters would be general knowledge, it's possible  
17 that if they did occur that they may not be general knowledge.

18 Q. And why would they not have been general knowledge? Why  
19 would that not have precipitated discussion within the  
20 community of police officers to see whether there was  
21 any insight that could be gleaned in to what might have  
22 gone wrong, if anything did?

23 A. Well, I'm not aware that there were any other sort of  
24 similar incident. I -- I guess I've difficulty understanding  
25 you question. If --

1 Q. Okay. Let me put it this way then, let me go to the more  
2 immediate facts. Are you aware of anything that was done,  
3 after the facts of this case came to light, to change the  
4 structure, responsibilities or any other aspect of policing  
5 in the Sydney Police Department?

6 A. Not in the immediate future, there was not. Not to my  
7 knowledge. There most certainly has been since that time  
8 but --

9 Q. When you say the immediate future, you mean around the time?  
10 What time period are you --

11 A. Well, perhaps, within the next -- probably even eight, nine  
12 years.

13 Q. Okay. In the -- In the years --

14 A. I mean in specialized training. There were no -- no, sort of,  
15 changes within the department in it's operation.

16 Q. What about changes in response to this situation?  
17 What are you aware of, if any?

18 A. I'm not aware that there were any actual changes.

19 BY MR. CHAIRMAN:

20 Q. When did you leave the department?

21 A. 1977. September, 1977.

22 Q. So are we entitled to assume, from that, that no changes  
23 had been made up to the time you left?

24 A. Not to my knowledge. I am aware of some that we --  
25

1 Q. Other than the trade.

2 A. -- that the Commission were involved in, yes, at later times.

3 BY MS. EDWARDH:

4 Q. Now, perhaps, you can just go back and explain a little bit,  
5 in greater detail, how it is that when you sat through the  
6 reference and heard the allegations made about police  
7 interrogation of witnesses, you say you were not concerned  
8 about abuses by the police? That's my note that I -- perhaps,  
9 you would clarify it. Despite your personal interest, why  
10 is it, sir, that you weren't concerned about that?

11 A. I don't believe that I said that I wasn't concerned. I was  
12 concerned, certainly, that people had -- had perjured themselves.  
13 I -- There was, I guess, some evidence came forward about  
14 the mannerisms of the police officers doing the questioning  
15 of these people who came forward and said that they lied.  
16 And, of course, if those allegations were true I would  
17 be concerned, certainly.

18 Q. Well, in fact, there were a group of juveniles who described  
19 or made serious allegations and, to the best of your knowledge  
20 sir, did you take any of those allegations and at least raise  
21 them with anyone? Did you go back and say we should assess  
22 whether this kind of thing -- this kind of interrogation goes  
23 on? We should assess whether parents are always present?  
24 What is the responsibility that you felt given those allegations?

25 A. I don't recall. I suppose that I, undoubtedly, I guess I did

EDWARD MacNEIL, by Ms. Edwardh

1 sort of debrief the Chairman from day to day, the Chairman  
2 of the Nova Scotia Police Commission, on matters that had  
3 come forward but I don't recall -- I didn't make any  
4 specific recommendations as to -- as to what we should --

5 Q. And do you know if anything was done?

6 A. I'm not aware.

7 Q. And, I take it, if something had been done, in the ordinary  
8 course, you would be aware?

9 A. I expect that I probably -- I mean I wouldn't have been  
10 involved personally but I would have been aware.

11 MS. EDWARDH:

12 Those are my questions. Thank you.

13 MR. CHAIRMAN:

14 Mr. Pugsley?

15 MR. PUGSLEY:

16 I have no questions, My Lord. Thank you.

17 MR. MURRAY:

18 I have no questions, My Lord.

19 MR. CHAIRMAN:

20 Mr. Elman.

21 MR. ELMAN:

22 No questions.

23 MR. SAUNDERS:

24 No questions.

25 MR. BISSELL:

No questions.

EDWARD MacNEIL, by Mr. Gay

1 | MR. GAY:

2 | My Lord, I have a few questions of this witness.

3 | BY MR. GAY:

4 | Q. Mr. MacNeil, I have some question on behalf of the Black  
5 | United Front. You've indicated there are presence of gangs  
6 | in Sydney in 1970?

7 | A. Yes, sir.

8 | Q. And were these gangs or groups divided up on racial basis?

9 | A. Oh, perhaps to some degree but I don't think totally.

10 | Q. I believe you referred to Black gangs and Indians gangs  
11 | and White gangs?

12 | A. There were gangs comprised of those races of persons. All  
13 | races of persons, I guess, that --

14 | Q. So are you saying that where groups of --

15 | A. I mean --

16 | Q. -- Black youths that aggregated together?

17 | A. I suppose there was with, perhaps, some White mixed in with  
18 | them. Perhaps some Indians and vice-versa.

19 | Q. When did --

20 | A. There were --

21 | Q. When did this -- When did the presence of these gangs first  
22 | arise -- or groups -- perhaps it would be more accurate to  
23 | call them groups?

24 | A. Well, it seemed to me that, at least for a year or more  
25 | previous and perhaps even longer than that, that there were



1 problems at Rotary Park and in Wentworth Park.

2 Q. You say, a year previous. A year previous in 1970?

3 A. 1970. Perhaps in the later '60s and in the early '70s, yes.

4 Q. Yes, and you say there were problems associated with these  
5 gangs?

6 A. Gangs. Perhaps maybe groups of persons associate or congregating  
7 in one area may be a more appropriate term to use as opposed  
8 to gangs.

9 Q. Yes. Were these groups present on a year round basis or from  
10 time to time or when were they active?

11 A. Mainly when the warm weather would hit.

12 Q. Was the presence of such gangs or groups documented by the  
13 police at all?

14 A. I wouldn't think so, if you're referring to sort of an  
15 intelligence gathering sort of sense. No, there would be  
16 significant incident reports made on -- if there were, in  
17 fact, any incidents that were worthy of report causing, maybe,  
18 the arrest of persons or requesting persons or groups of persons  
19 to leave the park, leave the area.

20 Q. Yes. How did the -- these groups, then, become characterized  
21 as gangs in the department?

22 A. I suppose by the mere fact of the numbers of persons congregating  
23 in one area, I suppose, would be a slang type of term to use,  
24 calling them gangs.

25 Q. Do you know whether there was any particular event that

1 initiated this -- the development of these gangs?

2 A. I'm not aware.

3 Q. Were there any arrests made of members of these gangs in  
4 '69 or '70 or in those -- in or about that time?

5 A. Oh, I expect that there probably would have been but I'm  
6 not aware, personally, of any particular arrests.

7 Q. What's -- you say you're not --

8 A. Not aware.

9 Q. Would you know what sort of crimes these gang members  
10 would have been accused of?

11 A. Most of the offenses committed were the liquor offenses  
12 and perhaps some narcotic offenses.

13 Q. As far as the Black groups or gangs are concerned, do  
14 you know where they originated? These groups of Black  
15 youths originated?

16 A. No, I do not.

17 Q. Would such Black youth have been from Whitney Pier, do you  
18 think?

19 A. I would expect that -- that some, if not all, of them were  
20 in that the-- most of our Black community is situated at  
21 the Pier.

22 Q. You've mentioned that there were some incidents in 1970 in  
23 Wentworth Park. Were any of the incidents there racial  
24 in nature?

25 A. Not to my knowledge.

1 Q. And are you, then, just talking about cases of drinking  
2 and that sort of thing?

3 A. Perhaps creating a disturbance. There may be some fighting  
4 and that sort of thing to cause someone to call the police  
5 and/or the police to check on their own of people within  
6 the park.

7 Q. Yes. You've mentioned a meeting, in 1971, to express concern  
8 about the situation in the park? Is that right?

9 A. No, I don't recall. I didn't mention a meeting. No, sir.  
10 You misunderstood.

11 Q. Didn't you mention something about concern, expressed in the  
12 police department, about events occurring in Wentworth Park?

13 A. It's my recollection that we -- that the police department  
14 were concerned. That we may very well have problems within  
15 the park area during that summer.

16 Q. That would be the summer of 1971?

17 A. 1971, yes.

18 Q. And can you tell us just what kind of problems were you  
19 thinking that you were going to have?

20 A. I suppose it may have been gang related, if you like, or  
21 one group against another, if that's a better term, group.

22 Q. You say you were concerned about -- Why were you concerned  
23 about this, at this time, in '71?

24 A. I didn't say that I was concerned. I said the department as  
25 a whole --

1 Q. Oh, the department.

2 A. -- It's my recollection that, as a department as a whole,  
3 were concerned and it must have been as a result of some  
4 intelligence that some member or members of the department  
5 had gathered over the time and that would have been ferreted  
6 out to the -- to the members to, maybe perhaps, be aware  
7 or be a little more conscious of gatherings -- groups gathering,  
8 congregating.

9 Q. Would these concerns have been documented in the police  
10 department, at all?

11 A. They -- they may have been.

12 Q. And --

13 A. They may not. I don't know.

14 Q. Can you tell us how you would have been -- become aware  
15 of such concerns yourself, personally?

16 A. Perhaps by an instruction from some member within the  
17 department, I suppose, that --

18 Q. Do you recollect, now, how you became aware of such concerns?

19 A. No, I do not.

20 Q. Do you know whether the department took any actions to deal  
21 with this anticipated problem in Wentworth Park?

22 A. I'm not aware that they did.

23 Q. I believe you may have indicated that -- that the problem  
24 didn't -- no problems did arise in the park. Is that right?

25 A. It seems to me that, after this unfortunate incident, yes, that

1           there were no problems.

2           Q. You've mentioned this unfortunate incident. You're referring  
3           to the stabbing of Sandy Seale that --

4           A. Yes, I am.

5           Q. Did the stabbing, itself, raise any concerns in the police  
6           department that the event may have been racially motivated?

7           A. Not to my recollection.

8           Q. Are you aware of any rumors, at the time of the stabbing, of  
9           reprisals against the Indian community by members of the Black  
10          community?

11          A. No, I'm not.

12          Q. In 1971, Mr. MacNeil, were you aware of any incidences where  
13          police officers treated Blacks any differently than they  
14          did Whites?

15          A. No, I am not.

16          Q. Any incidences of harrassment -- or harrassment of Black  
17          youths --

18          A. Not to my knowledge or ever in my presence, no.

19          Q. Not to your knowledge or in your presence?

20          A. Or in my presence, no.

21          Q. In the unfair treatment of Blacks?

22          A. No, sir.

23          Q. Lack of respect shown to Blacks?

24          A. Lack of respect? No.

25          Q. Did you feel that some policemen had different attitudes

1           towards Blacks than they did Whites, at that time?

2           A. Yes, there was the -- perhaps the odd member who had  
3           a different towards certain ethnic groups, the Blacks  
4           being one.

5           Q. Would you describe that as prejudice against Blacks and  
6           other ethnic groups?

7           A. Yes, I would.

8           Q. And is that-- would that prejudice have been as a result of  
9           documentation by -- your knowledge of it as a result of  
10          documentation by the police department?

11          A. No, I don't think it would have been. I think it would  
12          have been, just sort of, a feeling that a person has toward  
13          maybe, comments made by someone else.

14          Q. And you say that this would have some members of the Sydney  
15          Police Department?

16          A. I would have been. I don't recall any particular incidents  
17          whereby these things -- you know, came to -- as a result  
18          of any charges or unfair charges as a result.

19          MR. GAY:

20          That's all I have. That's all I have. Mr. Ross has a few  
21          for Oscar Seale.

22          MR. CHAIRMAN:

23          Before Mr. Ross starts his cross-examination, I'm getting -- I'm  
24          having difficulty with the interchange of words between groups  
25          and gangs. I envisage gangs in the connotation that they were used

1 in the '70s, particularly in the late '60s when people were, in  
2 some of the larger rural -- urban areas of North America, as  
3 people moving around attacking each other and protecting their  
4 territory.

5 BY MR. CHAIRMAN:

6 Q. Is that what you mean when you talk about gangs?  
7  
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25

- 1 A. No, My Lord, it's not. I guess, as I said, perhaps right or  
2 wrong probably a more fare term would be to call them groups  
3 of persons as opposed to organize -- they certainly weren't  
4 organized gangs in my recollection.
- 5 Q. These groups that you refer to, were they anything more than  
6 neighbourhood groups?
- 7 A. They were persons from certain areas of the City who would all  
8 --
- 9 Q. That's what I mean.
- 10 A. They would congregate at -- primarily in Wentworth Park.
- 11 Q. We used to fondly know as cliques?
- 12 A. Yes, perhaps that's --
- 13 Q. I used to be known as being in the Point Bulley gang but that's  
14 only because they could play football better than the crowd  
15 in the brook. But I don't think we had any criminal intent.  
16 I don't say that we shouldn't have been stopped but I'm concerned  
17 and having some difficulty with this interchange of reference  
18 to gangs. Were there structured -- To your knowledge, were there  
19 in 1970 or '71, either before or since in Sydney, structured  
20 gangs?
- 21 A. No, sir.
- 22 Q. With leaders.
- 23 A. No, not to my knowledge, no.
- 24 Q. Were there gangs that were -- were these gangs or groups --  
25 See, I'm getting caught up now in the same situation. Were they --



1 Was there any racial structure to them as opposed to neighbour-  
2 hood or area structures in these groups?

3 A. I couldn't say in fairness that there were -- any of the gangs  
4 were racially structured or not so but I'm sure that there were  
5 -- that each group of persons were infiltrated by other persons  
6 from other races.

7 Q. Am I entitled to assume that your concern at that time was  
8 primarily with respect to summer drinking amongst youths from  
9 various neighbourhoods in the -- and probably some use of drugs  
10 in the favorite congregation -- area of congregation in Sydney?

11 A. There may have been some suggestion and I don't recall  
12 specifically but that there -- there may have been some suggestion  
13 in that there was going to be some altercation between groups  
14 of persons. I'm not totally a hundred percent sure on that  
15 but --

16 Q. All right, but none of that happened you say?

17 A. No, sir, not to my -- no.

18 MR. CHAIRMAN:

19 All right, Mr. Ross.

20 BY MR. ROSS:

21 Q. Mr. MacNeil, my name is Anthony Ross and there's a few questions  
22 I want to ask you with respect to Oscar Seale. You indicated that  
23 as far as the groups were concerned, the Black group, my  
24 understanding is that it was predominantly people who lived in  
25 the Whitney Pier area. Is that correct?

- 1 A. That's correct.
- 2 Q. And could you perhaps tell me would there have been Black people  
3 from any area other than Whitney Pier which would be forming  
4 parts of these groups?
- 5 A. Oh, certainly there could have been, yes.
- 6 Q. Like from where?
- 7 A. Any other area where they may -- where they may live. There  
8 could have been some from Glace Bay perhaps --
- 9 Q. Or from Glace Bay but out of the Sydney area?
- 10 A. It could have been. I'm not aware of who they were, sir.
- 11 Q. Sure. I take it that you were not aware of any people coming  
12 from places out like Westmount to come over to the Sydney area  
13 to become involved in these gangs?
- 14 A. I'm not aware, no.
- 15 Q. Yes, as far as Sandy Seale is concerned, did you know him by  
16 reputation?
- 17 A. No, sir, I did not.
- 18 Q. There was evidence that he was quite an athlete or some variation  
19 of that and that many of the police officers knew of him as a  
20 hockey player or perhaps a baseball player. Did you know him  
21 in that capacity?
- 22 A. No, I do not follow sports. I was never involved in sports and  
23 I don't follow sports or sportsmen.
- 24 Q. I see. Now as far as these groups are concerned, for instance,  
25 I'm going to focus in for no reason than I'm particularly interested

1 | just that group. The group from Whitney Pier, how would they  
2 | have been travelling to and from Wentworth Park? It seems like  
3 | quite a long distance.

4 | A. I would expect that they would have walked.

5 | Q. Walked from Whitney Pier up?

6 | A. I don't recall automobiles being used in and around --

7 | Q. I see, and was there a fairly efficient bus service at the time?

8 | A. I expect about the same as there is today.

9 | Q. I see. Now there's another thing. You indicated that in your  
10 | experience there might have been situations of prejudice based  
11 | on race as far as certain members of the police force is  
12 | concerned. Am I correct of that?

13 | A. Yes, sir, perhaps maybe one or two members.

14 | Q. Sure I take it this would not have been any knowledge that was  
15 | just peculiar to you, other police officers would have recognized  
16 | this difficulty also?

17 | A. I'm sure they would have.

18 | Q. For instance, you see as I go down the list, we recall speaking  
19 | to Ambrose McDonald, Richard Walsh, Howard Dean, John Mallowney  
20 | and some others and when questioned they could not give us --  
21 | as I recall the answers, it would appear as though they had an  
22 | excellent relationship right across the board with the members  
23 | of the other ethnic groups. Now I don't want to be unfair to  
24 | these gentlemen but what I'm understanding from you is that  
25 | there were situations of racism and I just want to confirm that

1 if this was not knowledge that was just peculiar to you, other  
2 officers also knew about this.

3 A. Well, certainly my relationship with the black community was  
4 always one that -- I never had any problems personally, you  
5 know, with them, with those persons any more so than any other  
6 group of persons or any less perhaps.

7 Q. I take it you had a fairly close relationship with members of  
8 the black community?

9 A. Fairly close?

10 Q. Yes.

11 A. I was personally acquainted with several members of the black  
12 community, yes.

13 Q. Is it fair to say that because of your relationship with them  
14 a certain amount of confidence had developed between you and  
15 those people?

16 A. With some of those people, yes.

17 Q. Yes. Did they from time to time complain to you about the  
18 attitudes of other police officers?

19 A. Not that I recall.

20 Q. I see. And just 1 wrap-up question. As far as the presence of  
21 these little -- these groups -- these groups of youths, I do  
22 not call them gangs in the traditional "gang" sense, if you  
23 understand what I mean. Do you know whether or not there  
24 would be any way that this Commission could find if there  
25 was documentation as far as such existence is concerned?

1 A. I would doubt that there would be documentation.

2 Q. I see. Thank you very much, Mr. MacNeil. No more questions.

3 BY MR. WILDSMITH:

4 Q. Mr. MacNeil, I would like to ask you a few questions on behalf  
5 of the Union of Nova Scotia Indians. First of all, with respect  
6 to the rumours of racial tensions in this time period of 1970  
7 or 1971, are you aware of whether or not a tactical squad was  
8 formed by the Sydney Police Department in this time frame of  
9 1971.

10 A. No, sir, it was not formed at that time.

11 Q. Are you aware of when one was formed?

12 A. Yes, sir.

13 Q. When was that?

14 A. 1974.

15 Q. 1974?

16 A. And I recall that because it was after I had gone into plain  
17 clothes and had come back from my Ident course. It was after  
18 that that the tactical squad was formed.

19 Q. And can you help us out as to whether there was any particular  
20 reason why one was formed in 1974?

21 A. I think the mayor of the day saw the need to. It was just about  
22 that time that Sydney Police Department sort of started coming  
23 out of the Dark Ages, if you like, and became more modernized  
24 or to become more modernized -- one of them being a S.W.A.T.  
25 team or whatever name you care to deal with in emergency

1 | situations that might arise.

2 | Q. Would it, from your knowledge, have anything to do with racial  
3 | tensions at that time?

4 | A. No, sir, not to my knowledge.

5 | Q. Thank you. Are you aware of any meetings of the Sydney Police  
6 | Commission that may have been held in and around May of 1971?

7 | A. No, I would not be aware.

8 | Q. Can you help us out at all with understanding the role of the  
9 | Sydney Police Commission in 1971?

10 | A. Their role at that time would have been very similar to the  
11 | role of the Board of Police Commissioners today, I would  
12 | think, in that they were and are the governing body, the  
13 | Chief of Police of course being the head of the department  
14 | and the administrator and responsible for it.

15 | Q. Yes.

16 | A. Responsible to the Police Commission -- to the Board of Police  
17 | Commissioners.

18 | Q. Do you know whether or not they had any responsibilities  
19 | relating to handling the complaints about particular police  
20 | officers or particular police conduct?

21 | A. Complaints that would have come to them at that time I would  
22 | expect would have been passed on to the department for  
23 | investigation and to see if there was a basis to them. There  
24 | is a procedure today to be followed, but there was not back  
25 | then. It wasn't a sort of a --

- 1 Q. If I'm understanding you correctly, you're saying there was  
2 no formal complaint in the process in 1971?
- 3 A. No formal complaint procedure in 1971. No, sir.
- 4 Q. Either within the Police Commission, to your knowledge, or  
5 the Sydney Police Department.
- 6 A. That's correct.
- 7 Q. Thank you.
- 8 A. Or provincially as far as I know.
- 9 Q. All right. Dealing with this question of complaints, are you  
10 aware of any complaints that may have been made by Indians or  
11 the Indian community about police conduct towards them?
- 12 A. I am not personally aware of any, no.
- 13 Q. I believe you had the opportunity at the break to read these  
14 two yellow sheets that, for the record, I have shown to other  
15 police officers --
- 16 A. Yes, I did see them.
- 17 Q. Had you seen these two sheets prior to --
- 18 A. I saw a photocopy of what I believed to be the original of  
19 that prior to -- I saw it just the other day for the first  
20 time.
- 21 Q. Yes. In preparation for coming today?
- 22 A. Yes.
- 23 Q. Thank you. And do you have any knowledge of the incidences  
24 that are listed here?
- 25 A. No, I do not.

- 1 Q. And you did not otherwise hear about these complaints or see  
2 these sheets before the --
- 3 A. Prior to just this week, I guess, or last week perhaps.
- 4 Q. Okay. Now, you told my learned friend about some members of  
5 Sydney Police Force exhibiting prejudice against Blacks and  
6 other ethnic groups.
- 7 A. Excuse me, sir. I did not say, "against other ethnic groups."  
8 I said, "Blacks."
- 9 Q. I'm sorry. Maybe I misunderstood you. I thought you did say  
10 other ethnic groups.
- 11 A. I'm sorry. No. I did not mean other ethnic -- If I said  
12 that -- No.
- 13 Q. Okay. My next question then was: Is this a comment that would  
14 apply with respect to the Indian community as well as the  
15 Black community?
- 16 A. Not to my knowledge, no.
- 17 Q. You referred to the term, "Chief" being used with reference  
18 to Junior Marshall. Is this a term that you or other police  
19 officers used with respect to other Indians?
- 20 A. No, sir. I believe there was one other member of that com-  
21 munity who also referred to himself -- who was called  
22 "Chief."
- 23 Q. I see. I take it from your previous testimony that you had  
24 not heard this term, "Chief" used in a derogatory way?
- 25 A. No, I did not.



1 Q. But you would agree with me that it would be possible to use  
2 that term in a derogatory way?

3 COMMISSIONER EVANS:

4 Just in court.

5 BY MR. WILDSMITH:

6 Q. The simple point is that the inflection of your voice in the  
7 circumstances in which the word is said could lend a  
8 derogatory term to the word, "Chief."

9 A. Yes. I think you would have to stretch your imagination pretty  
10 far to --

11 Q. All right.

12 A. -- to agree with that scenario.

13 Q. We've heard some evidence of other terms used in relation to  
14 Indians. In particular, the terms, "Piutes," "wagon burners,"  
15 and "broken arrows." Are those terms that you've heard used  
16 yourself?

17 A. Yes, sir.

18 Q. Used by members of the Sydney Police Department?

19 A. I expect that's where I heard them, yes.

20 Q. Yes? And would you agree with me that they are derogatory  
21 terms?

22 A. Yes. I suppose if I were a member of that group, I may take  
23 exception to them. I'm not saying that they were said in the  
24 derogatory sense. Police officers are notorious for slang  
25 words and the use of slang words and --

- 1 Q. Yes. What other slang words were used with reference to  
2 Indians?
- 3 A. Those are the two that come readily to mind -- wagon burners  
4 and whatever the other one --
- 5 Q. Broken arrows?
- 6 A. Broken arrows, yes, broken arrows.
- 7 Q. Piutes, as well?
- 8 A. I don't recall the term, "Piute."
- 9 Q. Can you add to this list any other terms?
- 10 A. No, it seems to me that the most common of them would be the  
11 broken arrows and the wagon burners.
- 12 Q. Can you recall any other conversations involving police  
13 officers dealing with Indians and Indian relations?
- 14 A. No.
- 15 Q. No chit chat around the station or around the booking office  
16 on Indians in general?
- 17 A. Not on Indians in general. Maybe some specific cases from time.  
18 I was involved in some specific cases with members of that  
19 community.
- 20 Q. No other comments that you would say were of an insulting or  
21 derogatory nature?
- 22 A. No, sir.
- 23 Q. The terms that you've indicated that you've heard other officers  
24 use, I take it that you would expect other officers who were at  
25 the Sydney Police Department at this time to be familiar with

EDWARD MacNEIL, by Mr. Wildsmith

1 those terms being used in relation to Indians?

2 A. Oh, I'm sure every member of the department is familiar with  
3 those terms, yes.

4 Q. Thank you. That's all the questions I have.

5 MR. MacDONALD:

6 No redirect.

7 MR. CHAIRMAN:

8 That's all. Thank you, Mr. MacNeil.

9 MR. MacDONALD:

10 Terry Gushue is the next witness.

11 MR. PUGSLEY:

12 My Lord, I'd like to make a motion before Mr. Gushue's evidence  
13 is called; namely, if Patricia Harriss is present in the room,  
14 I would move that she be excluded from hearing Mr. Gushue's  
15 evidence and that there be no communication to her with respect  
16 to the evidence that Mr. Gushue gives while on the stand. There'll  
17 be certain areas where the two -- in the evidence that the two will  
18 overlap as is obvious from anyone who has read their previous  
19 evidence and that -- I think it would be consistent in the interest  
20 of justice that she be excluded if she is present.

21 MR. MacDONALD:

22 I don't believe Ms. Harriss is present at the moment, My Lord.  
23 She was earlier this morning. She's not here, My Lord.

24 MR. CHAIRMAN:

25 Pardon?

1 MR. MacDONALD:

2 She isn't here.

3 MR. CHAIRMAN:

4 If she isn't here -- Well, that still doesn't answer the question.  
5 She may be here during the testimony of this witness, and if there's  
6 any possibility of influencing, I -- I guess it all depends on the  
7 jurisdiction you come from. I've never been a subscriber to the  
8 view that witnesses should be excluded, but the more sensitive  
9 jurisdictions seem to follow it as a matter of practice, but I  
10 guess --

11 MR. PUGSLEY:

12 They say they were together the night of the incident --

13 MR. CHAIRMAN:

14 I appreciate that --

15 MR. PUGSLEY:

16 And they were together the night the statement was taken.

17 MR. CHAIRMAN:

18 Anyway, I have no difficulty in -- objection to ordering that  
19 Ms. Harriss not be present during the testimony of this witness  
20 and that she avoid communication between now and then. The  
21 second part is not the easiest to enforce.

22 MR. PUGSLEY:

23 Thank you, Your Honour.

24 MR. MacDONALD:

25 Perhaps they will just instruct the bailiff at the back of the

1 room that in the event Ms. Harriss shows up that she be instructed  
2 of that.

3 MR. CHAIRMAN:

4 Well, I guess the bailiff heard that ruling that if Patricia Harriss  
5 should appear, she will have to wait outside or upstairs in a  
6 comfortable place until this witness concludes his evidence.

7 MR. MacDONALD:

8 Thank you. And do you have the original statement there? Thank  
9 you.

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18 *J.M.*  
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