

RG44
Vol. 251
#3

ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION

VOLUME XXXIV

Held: DECEMBER 9, 1987

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

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

Counsel: George MacDonald, Q.C., Whyllie Spicer, and
David Orsborn: Commission Counsel

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Al Pringle: Counsel for Correctional Services
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William L. Ryan: Counsel for Evers, Green
and MacAlpine

Charles Broderick: Counsel for Carroll

S. Bruce Outhouse, and Thomas M. Macdonald:
Guy LaFosse: Counsel for Davies

Bruce H. Wildsmith, and Graydon Nicholas:
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E. Anthony Ross, and Kevin Drolet: Counsel
for Oscar N. Seale; E. Anthony Ross, and Jeremy
Counsel for Black United Front

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COURT REPORTER'S CERTIFICATE

INQUIRY RECONVENED AT 9:30 o'clock in the forenoon on Wednesday, the 9th day of December, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia.

1 JOHN F. MacINTYRE, resumes testimony, as follows:

2 BY MR. MacDONALD:

3 Q. Yesterday, I asked you about the arrest of Junior Marshall and
4 whether he had denied having done this killing, and then you
5 had said he did not. Do you recall that a Corporal Clark
6 from Baddeck of the R.C.M.P. was with you when you picked up
7 Mr. Marshall?

8 A. There was -- Yes, I think his name was Clark.

9 Q. Yes. Corporal Clark made notes of that time and said this,
10 that --

11 MR. PUGSLEY:

12 Have we seen these notes?

13 MR. MacDONALD:

14 I'm not sure, Ron. I've asked if they're in the books, and I don't
15 know. There's so many handwritten notes in there, I can't tell, but
16 I'll certainly give them to you.

17 BY MR. MacDONALD:

18 Q. I'll just read you from his diary notes, and Corporal Clark can
19 be called to speak to these.

20 Detective MacIntyre gave the police
21 caution, read the warrant to Marshall...

22 That's what you told us.

23 ...There was no reply. Detective
24 Urquhart then handcuffed Marshall,
25 and we drove to Baddeck. About
halfway there, Marshall had been
sobbing and had put his handcuffed

1 hands over his head. Detective
2 MacIntyre told him to sit up, and
3 at that time he said, "I did not
4 do it."

5 Do you have any recollection of that, of Junior Marshall sobbing
6 and saying that he didn't do it?

7 A. I can't recall anything about that.

8 Q. Okay, let me go back then to where we were yesterday, the state-
9 ments that were taken on June 17th from Patricia Harriss.

10 A. Yes.

11 Q. Okay. And I said I wanted to refer you to some evidence, and
12 this is the evidence of Mrs. Harriss -- Eunice Harriss.

13 A. Yes.

14 Q. And I was -- I'm reading from 2953, which is in Volume 16.
15 Now -- It's not in that, Chief. It's the evidence.

16 A. Oh. All right.

17 Q. And I'll just read it to you.

18 A. Okay.

19 Q. She says that when she got to the police station; that is,
20 when they got there around eight fifteen at night, that you
21 and Detective Urquhart were there, but it was Detective Urquhart
22 that was doing all the questioning. Now, do you remember being
23 there when Detective Urquhart was questioning Patricia Harriss?

24 A. No, I don't.

25 Q. Are you saying you weren't there or you just don't remember?

A. No, as far as I'm concerned, I wasn't there.

1 Q. You weren't there?

2 A. No.

3 Q. Now, Mrs. Harriss also says that during the course of question-
4 ing by Mr. -- by Detective Urquhart there were many occasions --
5 She said:

6 I think up to a dozen times.

7 Whenever Patricia Harriss would say there were two men there,
8 Detective Urquhart would take the statement he was writing,
9 crumple it up and throw it on the floor; so that at the end of
10 the time, there were about twelve scraps of paper on the floor.
11 Any recollection of that? Does that refresh your memory?

12 A. None whatsoever.

13 Q. And Mrs. Harriss also testified to this. And this is on
14 page 2956: -- After --

15 ...an hour, or say an hour and a
16 half, whatever, and Detective
17 MacIntyre asked if I would step
18 outside the room and -- which I did,
19 and he said, "Sometimes it works
out better this way," he said,
because he felt Patricia was not
co-operating."

20 Would you tell tell Mrs. Harriss to step outside the room
21 because it might be better that way?

22 A. I have no recollection of that at all.

23 Q. Do you say you have no recollection or it did not happen?

24 A. It did not happen.

25 Q. And she testified to that again on -- Chief, on page 2960. She

1 | said:

2 | A. He asked me if I would mind
3 | leaving the...room and then
4 | he came out and he said,
5 | "Sometimes...work out best
6 | this way," you know, and he
7 | felt she wasn't co-operating.

8 | You say that did not happen:

9 | A. Are you talking about the eight --

10 | Q. Mrs. Harriss.

11 | A. No, but are you talking, sir, about the eight fifteen statement?

12 | Q. I'm talking about any time -- any --

13 | A. No, but there was two statements: eight fifteen and one at
14 | midnight. So --

15 | Q. Well, let me give you the opportunity then, Chief.

16 | A. I'm asking --

17 | Q. At any time that night on June 15th, 1971, did you advise
18 | Mrs. Harriss that she should step outside the room and you --
19 | things might work out better that way.

20 | A. I don't recall anything about that.

21 | Q. Okay. And are you saying that that did not happen?

22 | A. As far as I'm concerned.

23 | Q. Thank you. Let me take you to the Harriss statements then.

24 | They're on page 63 of Volume 16, and we start on page 63.

25 | Volume 16 at page 63. That's the handwritten -- I'm sorry, the
typewritten copy of -- Chief MacIntyre, the following pages,
handwritten.

1 A. Yes.

2 Q. And I believe that's Detective Urquhart's writing, is it not?

3 A. That's correct.

4 Q. The handwritten -- I'm sorry, the typewritten part is not on
5 Sydney Police paper, at least it doesn't appear to be. Do you
6 know if that was typed up in the Sydney Police Department?

7 A. No, there's nothing connected -- nothing saying that it was
8 or it wasn't. I don't know where this came from.

9 Q. When did you first see the handwritten statement that's on
10 page 64?

11 A. I couldn't tell you just when I seen it. It was in the file in
12 the -- with the rest of the statements.

13 Q. When did you know that Patricia Harriss had given a statement
14 at eight fifteen, approximately, on June the 17th of 1971?

15 A. I likely knew that night, sir.

16 Q. Would you not have read the statement?

17 A. Either read it or was told about it.

18 Q. Now, in that statement, Patricia Harriss describes people who
19 were with Mr. Marshall, and she describes:

20 A. One man was short with a long
21 coat. Gray or white hair, with
a long coat.

22 A. Yeh.

23 Q. You were aware that she said that on -- in the early evening of
24 June 17th?

25 A. I would say that I knew about this statement, that I knew the

9:38 a.m.

1 contents of it.

2 Q. That description corresponds at least somewhat, does it not, with
3 the statement -- the description you were given by Junior
4 Marshall on May the 30th and by George McNeil and Sandy McNeil
5 on May the 31st?

6 A. Yes, it -- clothing was different. She doesn't say what type
7 of coat here. It was a long coat.

8 Q. Well, she says a long coat.

9 A. McNeil said it was a grey or a white coat, Junior Marshall said
10 it was a blue coat, five foot ten -- five foot eight or ten.

11 Q. Junior Marshall said, and this is on his statement on page 17:
12 ...a long blue coat...

13 A. Yes.

14 Q. McNeil said just:

15 ...grey or white top coat...

16 But what do you take a top coat to be?

17 A. A top coat would be more of a summer/fall wear, I guess.

18 Q. But a long coat?

19 A. I would take it be.

20 Q. Long coat?

21 A. I would take it to be.

22 Q. Okay. So you have Junior Marshall, George and Sandy McNeil,
23 and Patricia Harriss all saying that there was a man with
24 Marshall who was wearing a long coat who had grey or white hair.

25 A. Yes.

1 Q. Didn't you consider that to be important?

2 A. Yeh, I took it as -- I said before, I -- There were several
3 descriptions on that situation there.

4 Q. But did you believe Patricia Harriss when you saw that statement?

5 A. Which statement, now, are you --

6 Q. I'm talking about this eight fifteen statement.

7 A. I -- On that same night, I took a statement, and it didn't agree
8 with this statement.

9 Q. Why did you take another one?

10 A. I didn't take -- I say I took a statement from another individual
11 by the name of Gushue.

12 Q. Why?

13 A. Because Gushue was with Harriss on this particular night.

14 Q. Let's look at the chronology.

15 A. Yeh.

16 Q. Was Harriss's statement taken first?

17 A. That's correct.

18 Q. And then was Gushue called for?

19 A. Gushue was -- His statement was taken the same night, I believe,
20 around eleven forty, the statement.

21 Q. And why did you have Gushue brought in? Or was he there all the
22 time?

23 A. No, I think somebody had located him and brought him to the
24 station. That's my recollection.

25 Q. Let me take you to your -- the affidavit that we referred to

1 yesterday. It's in Volume 15, and I'm referring to page 13 of
2 that volume. I guess page 12 first. In paragraph 15, this is
3 the -- This your affidavit?

4 A. Yes, sir.

5 Q. THAT on the 17th day of June, 1971,
6 I am informed and do verily believe
7 that one Patricia Harriss, who at the
8 time was 14 years of age, was inter-
9 viewed by Detective Sergeant William
Urquhart at the Sydney Police Station
and that she did at 8:15 p.m., before
my arrival, give to Sergeant Urquhart
a written statement,...

10 Who informed you that so that you could state that you believed
11 that?

12 A. Well, It'd be Sergeant Urquhart, I imagine.

13 Q. And it says that this was taken before your arrival. Is that
14 correct?

15 A. That's what I'm saying there, yes, sir.

16 Q. And you normally did not work in the nights, did you?

17 A. No, but there -- when something going on as you -- I've been
18 out there at nighttime. It wasn't my normal practice, no, at
19 that time.

20 Q. Do you know why you would've been brought that night?

21 A. Well, I can't tell you at this time, but I -- I was interested
22 in the case or any witnesses that might've been in this case.
23 Likely get a call. I don't know.

24 Q. Let me go to paragraph 18. This is talking about a statement
25 from Terry Gushue.

1 A. Yes.

2 Q. THAT in Exhibit 'G', Gushue stated
3 that he had been with Patricia
4 Harriss on the night of May 28,...
5 and that he had seen only one other
6 person in the Park with the Appellant
7 Marshall, and this contradicted what
8 Harriss had said...

6 Nineteen:

7 THAT on the 18th of June,...at
8 approximately 9:30 a.m., I took a
9 written statement,...from one Mary
10 Patricia...

10 -- O'Neil --

11 ...aged 14...who stated that she
12 had told...

13 -- by --

14 ...Patricia Harris about the grey
15 haired man mentioned by Harriss...

16 Twenty:

17 THAT, although Exhibit 'H'...

18 That is, that although the statement from Mary Patricia
19 O'Reilley

20 ...was not taken until after Harriss'
21 second statement,...it is likely that
22 I was aware of what O'Reilley was going
23 to say before I took...

23 -- it --

24 ...from Harriss. I have no independent
25 recollection of this sequence of events.

1 Twenty-one:

2 THAT Patricia Harriss remained at
3 the Police Station between the taking
4 of statements...

5 -- one and two --

6 ...and, although I recall...there was
7 someone at the Police Station with her,
8 I do not recall who that person was
9 nor whether that person was present
10 during the actual statement...

11 Now, twenty-two:

12 THAT the questioning of Patricia Harriss
13 probably continued because I believed
14 that she had not been truthful in her
15 first statement,...

16 Why did you -- And:

17 ...my belief was probably based upon
18 the facts deposed to in paragraphs
19 18-21...

20 So do I understand, Chief, that having had Patricia Harriss
21 give you information -- or give the police information on
22 June the 17th at eight fifteen that she saw Junior Marshall
23 with two men, one of whom was short with a long coat, grey
24 hair -- grey or white hair, subsequent events led you to believe
25 that she was lying to you?

26 A. I wasn't getting the same story from the two people who were
27 together on that particular night at a particular time. After
28 taking a story -- a statement from Gushue, Gushue stated that
29 there was only two there. In the statement that Mrs. Harriss
30 gave -- or Miss Harriss gave to Urquhart, she states there was

1 three -- two people there besides Marshall.

2 Q. Now, having then -- Let's go to Gushue's statement. That's on
3 page 69, paragraph 16. And the handwritten copy starts on
4 page 72, and that's your handwriting, isn't it?

5 A. Yeh, that my handwritten. That's my handwriting.

6 Q. In your handwritten copy, is there any note that you had another
7 policeman present?

8 A. No, not on here, sir.

9 Q. If you look at the typewritten copy, it says that -- It's signed
10 Detective Urquhart. Are you able to tell us how that happened?
11 It's on page 70.

12 A. No, I can't explain that at this time.

13 Q. Can you tell us today whether --

14 A. In my opinion, Urquhart would be with me, but I don't know why
15 he didn't sign the statement.

16 Q. Why do you have that opinion?

17 A. Because he was out there that night, and I'm of the opinion
18 that he was with me.

19 Q. It -- Was it --

20 A. But it is also my -- Usually, I have the people with me sign the
21 original statement.

22 Q. Yes, if Urquhart -- If you had followed the practice you
23 normally followed, Urquhart would've signed the handwritten
24 statement?

25 A. That's what I would say. On the other hand, I'm still of the

9:47 a.m.

1 opinion that he was out there that evening with me.

2 Q. And are you confident that he was present when Gushue gave his
3 statement?

4 A. I -- In my opinion, I think he was. Well, I'm looking back
5 to '71, I think Urquhart was there with me on that particular
6 night.

7 Q. Now, was that statement from Gushue -- Would it contain every-
8 thing that was said that night?

9 A. I would say, yes. Except --

10 Q. In the --

11 A. Except whatever opening words I said to him. The rest of the
12 statement is in question/answer form.

13 Q. Is that the first time you had seen Gushue?

14 A. Yes, I had no dealings with Gushue on this before that.

15 Q. Gushue has testified that he gave you an earlier statement.

16 A. Gushue -- I had no earlier statement from Gushue, sir.

17 Q. You did have no earlier --

18 A. I had no earlier statement from Gushue, no.

19 Q. How did you know that -- That's -- Okay. Now, in the first
20 long answer on page 69, he talks about having been kicked out
21 of the dance and going down to the park, and there's that name,
22 Robert Patterson, again. That's the fellow that you never found.

23 A. That's correct, sir.

24 Q. Did you make any further effort after you spoke to Gushue to
25 find Patterson who seemed to have seen a lot in the park that

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1 night or spoken to a lot of people?

2 A. Yes, the police were looking for him, and he wasn't located.

3 Q. Did you ask Gushue where Patterson lived?

4 A. No, I don't believe I did.

5 Q. Even though by this time, you'd been looking for him since
6 May the 30th?

7 A. Yes, I would've liked to have questioned Patterson if he showed
8 up.

9 Q. If he showed up?

10 A. Yes, if they'd come in -- if they'd ran into contact with him.

11 Q. But you had a man here who knew him.

12 A. Yeh.

13 Q. Why wouldn't you have asked him where he lives?

14 A. I didn't, sir.

15 Q. And then Mr. Gushue goes on to say:

16 I remember seeing Donald Junior
17 Marshall on Crescent St. with
another man.

18 Do you see that?

19 A. Yes. Wait now.

20 Q. You never asked him at any time whether there was more than one
21 man?

22 A. No, he said with another man. I was taking his answer for
23 the -- what he was giving me at the time.

24 Q. Why would you take his answer and not Patricia Harriss's?

25 A. Well, we had her answer before that.

1 Q. But you didn't believe it?

2 A. There was something -- It wasn't the same evidence in the two
3 statements when I was through with this statement.

4 Q. You don't seem to ask him to describe the other man. Why
5 wouldn't you have done that? Wasn't that of interest to you?

6 A. Well, I -- He said there was another man there, and I asked him
7 if he knew the other man, and he said no. I asked him if he
8 knew Sandy Seale; he said no.

9 Q. But it would seem to me to be pretty fundamental to ask him --

10 A. Yeh.

11 Q. -- "What did the guy look like? How old was he? What was he
12 wearing?"

13 A. Yeh.

14 Q. You didn't ask him any of those questions.

15 A. No, the questions I asked him are written down here, sir.

16 Q. I realize that, Chief. You've told us that.

17 A. Yeh.

18 Q. I'm trying to find out why you wouldn't have asked him those
19 very basic questions?

20 A. I have no answer for that at this time.

21 Q. But in any event, based on what Gushue said at eleven forty,
22 you decided to take another statement from Patricia Harriss, is
23 that correct?

24 A. That's right, yes.

25 Q. And you said in your affidavit, that we had already looked to,

9:52 a.m.

1 in paragraph 20, that at that time, you were probably aware of
2 what O'Reilley was going to say the next morning. Am I correct?

3 A. Yes, that's what I'm saying there, yes.

4 Q. That's a sworn statement from you by what these -- Appeal
5 Division of our Supreme Court.

6 A. That's right.

7 Q. Now, with that -- When you then were ready to take a statement
8 from Patricia Harriss at eleven twenty a.m. on June the 18th,
9 you believed that she had been told by the O'Reilley girl to
10 say that there'd been an old, grey-haired man present?

11 A. I would say at that time that I must've had some information,
12 because I believe the next morning early, the O'Reilley girls
13 were asked to come to the station. So I must've had some
14 information at that time of what they were going to say, yes.

15 Q. Okay.

16 A. That's my recollection of it, sir.

17 Q. And what they were going to say?

18 A. That's what my recollection is, yes.

19 Q. What they were going to say is that they had told Patricia
20 Harriss to tell the police that an old, grey-haired man was
21 present with Junior in the park?

22 A. I wouldn't say "they," sir. I thought it was --

23 Q. Okay, one.

24 A. I thought it was one of the O'Reilley girls.

25 Q. One of the girls had told her that? That's what you --

1 A. I would say that I had that -- must've had some information on
2 that the night before because at nine thirty the next morning,
3 I interviewed one of those O'Reilley girls, and shortly after
4 that, I interviewed the other girl, and that was hours later
5 after the Harriss statement.

6 Q. In fact, Chief, you've sworn an affidavit that said you likely
7 were aware of what O'Reilley was going to say --

8 A. Likely, yeh.

9 Q. -- before you interviewed Harriss.

10 A. Yeh.

11 Q. Before you interviewed Harriss.

12 A. I would likely have some information that evening and when I
13 was calling the O'Reilleys the next morning to see what they
14 had to say.

15 Q. But, more than that, you were aware of what they were going
16 to say.

17 A. No, I wouldn't know what they were going to say until I took
18 a statement from them.

19 Q. What did you mean in paragraph 20 of your affidavit then?

20 A. No, I said I would likely have some conversation with somebody
21 telling me what they did say to somebody else. I don't -- You
22 know, I must've had -- I'm telling you, I must've had some
23 recollection of what one of the O'Reilley girls must've --
24 would likely say. I wouldn't know that until I took a state-
25 ment from them the next morning, of course, whether they would

1 | say that or not.

2 | Q. But you had some idea then of what one of them was likely going
3 | to say?

4 | A. I would say that I likely did, yes.

5 | Q. And why didn't you say to Patricia Harriss -- Or did you
6 | confront her with her first statement, the one she had given
7 | to Urquhart, and say, " I don't believe that."? That's the
8 | Urquhart statement. Did you put that in front of her and say,
9 | "I don't believe that, Miss Harriss. That's not the truth."?

10 | A. I could've said that we -- that I didn't think I was getting
11 | the truth. After all, as I said before, there was two people
12 | together on that particular night, and I had two different
13 | statements, and it could've been either her or Gushue that
14 | wasn't telling the truth.

15 | Q. How do you know that from what Gushue told you that he didn't
16 | see an old man with grey hair and a long blue coat on?

17 | A. I didn't ask for a description, sir; so I guess I wouldn't
18 | know. If he didn't tell me, I wouldn't know.

19 | Q. But he may have seen the same thing as Harriss, at least one
20 | of the same people.

21 | A. He seen one person there. She seen two, sir.

22 | Q. Now, you put the statement in front of Harriss and -- or you
23 | probably did, at least the one that she had given to Urquhart
24 | or referred to it?

25 | A. I didn't put any statement in front of Miss Harriss. I told her

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1 that I wasn't getting -- I didn't know if I was getting the truth
2 or not and I would like to -- words to that effect, I imagine
3 at this time, and that I seen fit I was trying to get another
4 statement.

JMR

1 Q. Did you tell her that if she didn't tell you the truth she
2 was going to be in trouble or she might be going to gaol?

3 A. No, I didn't. I don't tell people that when I'm taking a
4 statement, sir.

5 Q. And specifically you did not tell that to Patricia Harriss?

6 A. No.

7 Q. And she testified -- you heard her testify that you did?

8 A. Yes, I heard her testify, yes.

9 Q. That throughout the evening she was told about perjury and
10 if she didn't tell the truth she would go to gaol?

11 A. Yes, I heard that, yes.

12 Q. And you deny that?

13 A. I'm denying that, yes.

14 Q. Tell me then what you would have said to Patricia Harriss before
15 you took the statement from her -- before you starting writing
16 it down at eleven-twenty -- I'm sorry, at twelve zero seven
17 on June the 18th?

18 A. That's -- That's on page --

19 Q. That's on page 67. What would you have said to her before you
20 started to take that statement?

21 A. I couldn't remember my exact words at this time but I guess
22 I would have told her that -- that -- I don't know whether
23 I told her I interviewed Gushue or not but there was two
24 different stories about her -- what she seen and what Gushue
25 seen and I wanted to see if she was telling the truth. That's

1 about all I can tell you, and she was quite adamant at that
2 time that there was two other parties there and then I
3 remember talking to her for a few minutes, and then let in or
4 out. Now she had a guardian there and as you know at the
5 time I was -- when I was questioning her before I wasn't sure
6 which one -- I knew there was two Harriss women in that house.
7 It was a woman that was there, and I wasn't sure whether she
8 was in with her or not at that statement and if she wasn't in
9 it was because that she wanted to stay out. I've heard the
10 evidence of Mrs. Harriss -- or Ms. Eunice Harriss here today
11 and she said she was in on that statement. My recollection
12 is poor on that, whether she was in or out, but you said she
13 was in most of the time and then -- I told -- was it
14 at that time I told her to leave or was she talking about eight-
15 fifteen. I don't know.

16 Q. She says that when she arrived, and we can go through the
17 evidence in detail if you like but my -- my understanding is
18 she said they arrived at eight-fifteen, you and Mr. Urquhart
19 were both there?

20 A. Yeh.

21 Q. After an hour and a half or so of questioning and crumbling up
22 of paper and throwing it on the ground, you asked her to
23 leave. That's what she said.

24 A. Well, I just took one statement from her and I didn't crumble
25 any paper up.

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1 Q. And you did not ask Ms. Harriss to leave, Eunice Harriss?

2 A. I don't recall calling -- asking Mrs. Harriss to leave at
3 any time.

4 Q. Now you said a moment ago, Chief --

5 A. Yeh.

6 Q. --that before you took the statement from Patricia Harriss that
7 she was adamant that there had been two people there?

8 A. That's right. That's right. Yeh.

9 Q. Now I don't see anything written down about that?

10 A. No, because that wasn't part of the statement then. I wasn't--
11 She -- I wasn't getting much out of her and I decided that I
12 would let her go outside and I -- I was of the -- I am of the
13 opinion that her mother was outside.

14 Q. So you --

15 A. Anyhow I'm -- Anyhow I left her out -- I told her to go
16 out, whoever was there with her, put it that way. And a few
17 minutes later then I called her in and I asked her if she wished
18 to give me a statement and this is the statement I took after
19 she went outside, sir. Now that's my best recollection of it
20 at this time.

21 Q. Now let me -- let me get it straight then?

22 A. Yeh.

23 Q. You do recall then being in the room with Patricia Harriss and
24 she was adamant that there were two people there?

25 A. She was, yes.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. And you at no time wrote that down?
- 2 A. No, I didn't, no. No.
- 3 Q. But you wouldn't accept that from her?
- 4 A. Well, that -- that was --
- 5 Q. Were you telling her -- Let me finish the question.
- 6 A. Yes.
- 7 Q. Were you telling her Gushue says there's only one, there
- 8 couldn't have been two? Were you telling her things like
- 9 that?
- 10 A. No, I told her -- I would have told her that I had a
- 11 statement saying there was only one. That's quite possible.
- 12 Q. So you would have told her that?
- 13 A. But I wouldn't tell her that she had to agree with it.
- 14 Q. You wouldn't say she had to agree with it?
- 15 A. No.
- 16 Q. But you took the statement from Gushue. If you'd just look to
- 17 Gushue's --
- 18 A. Yes, I took the statement from Gushue before that, yes.
- 19 Q. Just look at that again if you would.
- 20 A. Yeh.
- 21 Q. That starts in your handwriting at eleven-forty?
- 22 A. Right.
- 23 Q. And it finishes at twelve zero three.
- 24 A. Yes.
- 25 Q. And Harriss's statement commences at twelve zero seven?

10:03 a.m.

1 | A. Yes.

2 | Q. But that's only four minutes. When were you telling Patricia
3 | Harriss that notwithstanding that she was adamant that two
4 | people were there that you had a statement from someone else
5 | that there was only one?

6 | A. That is my recollection of what took place on that particular
7 | evening, sir, at this time.

8 | Q. But you couldn't -- I suggest you couldn't do all of that in
9 | four minutes?

10 | A. Well, there wasn't too much to talk about as far as she was
11 | concerned. All I was trying -- All I wanted to know on that
12 | particular evening is what -- what they did see and where they
13 | were at, and -- and --

14 | Q. Let me --

15 | A. Just a minute please. According to -- According to Mr. Gushue
16 | he said he was standing on Crescent Street near the scene where
17 | this was supposed to happen and he wouldn't know that because
18 | he wasn't present when anything happened and that the Gushue
19 | girl was with him and that Mr. Marshall and a friend or somebody
20 | else was standing there with her.

21 | Q. Let me go back over what you've told us today. You've said
22 | you were not there when Ms. Harriss was giving her statement
23 | to Urquhart, at least you don't remember being there?

24 | A. No, I don't. No.

25 | Q. You do remember being present when Patricia Harriss was adamant

1 in saying there were two people there with Junior Marshall.
2 You then sent her out of the room to talk to somebody outside.
3 You said you told her that you had a statement from someone
4 who said there was only one. She was adamant there was two.
5 And yet you didn't take a statement from Gushue. You didn't
6 finish it until twelve zero three and you started the statement
7 from Harriss at twelve zero seven?

8 A. Yeh.

9 Q. I can't get all of that reconciled. Can you reconcile that?

10 A. Well, it was just a few minutes that -- that's the question
11 that I -- that I asked her and -- and there seemed to be a
12 stalemate there and I sent her out for a while.

13 Q. And before sending her out she --

14 A. Knowing that her mother --

15 Q. --she was adamant --

16 A. Knowing that her -- some lady who came with her or was with
17 her, was outside.

18 Q. Before you sent her out she was adamant though --

19 A. Yeh.

20 Q. --that there was two people?

21 A. Oh, yeh, that's true. That's true.

22 Q. And you were telling her, I have a statement from someone
23 that there was only one?

24 A. That's right. That's right.

25 Q. That's right. Thank you. Let's go to the statement that you

1 | took from Patricia Harriss then, Chief?

2 | A. I have it.

3 | Q. That's on page 65, the handwritten --

4 | A. Yeh.

5 | Q. --or the typewritten copy?

6 | A. Yes.

7 | Q. Now in that first paragraph -- First of all, you said that
8 | there was some sort of preliminary comments that you would
9 | have made. Can you tell us now -- summarize for me what
10 | those comments would have been?

11 | A. I think when she came back in -- again I can't give it --
12 | I probably asked her was she ready to tell me just what did
13 | take place on that night at that time because as you can see
14 | by the first paragraph she started to talk and then when she
15 | finished about Terry getting a match from him I -- it was
16 | all question and answer from there down, sir. That's the best
17 | of my recollection at this time in regard to this statement.

18 | Q. Were you not a little concerned, Chief, that you're dealing
19 | with a fourteen year old kid who'd been at the police station
20 | since eight-fifteen that night, who had told Detective
21 | Urquhart there was two men there, who was adamant with you
22 | that there were two men there. Weren't you a little concerned
23 | that that kid should get some advice and bring someone in, do
24 | something? I mean this is getting -- four hours.

25 | A. She wasn't with me four hours, sir.

1 Q. She was at the police station for four hours?

2 A. Well, she says she was and I have no recollection whether she
3 was or -- you know, or -- she wasn't -- we weren't interrogating
4 her for four hours.

5 Q. Well, we know that there was a statement taken at eight-fifteen?

6 A. Yes. Yes.

7 Q. And we know you were in there at least some time when she was
8 adamant that there were two men there?

9 A. That was later on.

10 Q. And I put it to you that someone is not adamant about anything
11 unless they're being questioned, isn't that so?

12 A. That was her story, yes.

13 Q. And you weren't concerned that you had a fourteen year old
14 child there --

15 A. No, there was some --

16 Q. --for that length of time?

17 A. There was somebody there with her, sir.

18 Q. Outside the room?

19 A. Yeh.

20 Q. Yes?

21 A. To my recollection, but to her mother's recollection she said
22 she was in there. I don't recall that, sir.

23 Q. Her mother said, Chief, that she was asked to leave?

24 A. Yeh, but her mother also said that she was in there for quite
25 some time with her. Now I -- you know, I --

1 | Q. I won't argue.

2 | A. I think that's what she said.

3 | Q. If we go back to Ms. Harriss' statement, she also talks about
4 | Robert Patterson. For there is someone else who saw Patterson
5 | in the park that night?

6 | A. Yeh.

7 | Q. You didn't ask her where did Robert Patterson live?

8 | A. Not to my recollection, no.

9 | Q. And if you had I take it it would be written in the statement?
10 | Can we assume that?

11 | A. Yeh, I have no recollection of asking about Robert.

12 | Q. If you had asked it--Chief, if you had asked the question, can
13 | we assume that the answer would be here?

14 | A. It should have been -- It would be here, yes.

15 | Q. Thank you. She said:

16 | ...we went up Crescent St. and by
17 | the green apt. building, we met
 Junior Marshall.

18 | Is that the building, the same building that has the railing
19 | up the middle that was talked about by Chant?

20 | A. No, the -- Well, it's the next building to it, yeh.

21 | Q. Then you asked this question:

22 | Q. Was there anyone with Junior Marshall

23 | A. Yes

24 | Q. Who was it

25 | A. He had a dark jacket on

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Was it Sandy Seale.

2 That's a pretty leading question. And you're suggesting to
3 her who was there, aren't you?

4 A. No, I was asking her a question at the time. I think there's
5 more to that question, then I said, "Do you know him"?

6 Q. You were the one --

7 A. Then the answer -- Then the answer was, "Yes, I know Sandy and
8 it looked like him".

9 Q. But it was the question that raised Seale?

10 A. That's the question --

11 Q. It was a volunteer from her?

12 A. No, no, I asked the questions for sure, yeh.

13 Q. And even though she had told Urquhart four hours earlier that
14 she did not see Sandy Seale in the park you put the question
15 to her anyway?

16 A. I put the question to her, yes.

17 Q. And on the next page you asked:

18 Q. How were they facing

19 Why was that of importance to you?

20 A. I suppose it was the question I seen fit to ask at that time.
21 I don't see anything wrong with it.

22 Q. Did you tell Ms. Harriss that you expected the O'Reilley girl
23 would tell you that she had been in contact with Harriss?

24 A. No, sir.

25 Q. No mention of that?

10:12 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 | A. No, sir.

2 | Q. Were you prepared at any time that night to accept from
3 | Patricia Harriss her statement that she saw Junior Marshall
4 | with two men, one of whom was short with a long coat, with
5 | grey or white hair?

6 | A. If she had said that after she came in, there was nothing else
7 | I could do about it, sir. It was her statement.

8 | Q. There's nothing else you could about it?

9 | A. Well, I mean after me asking her about it, no.

10 | Q. Did you ever discuss this case with Patricia Harriss again before
11 | the trial?

12 | A. No.

13 | Q. Why didn't you ask her if she knew Mary O'Reilley?

14 | A. Well, I just wanted her statement on that particular night
15 | when she was -- what she would tell me when she was accompanied
16 | by Gushue when they were on Crescent Street that night at
17 | midnight or shortly before midnight --

18 | Q. But you knew --

19 | A. I was interested in that fact.

20 | Q. You knew what O'Reilley was likely to tell you the next
21 | morning?

22 | A. Well, I didn't know until I took a statement from the
23 | O'Reilley --I had information. I'm telling you I likely
24 | had information of what the O'Reilley girl said to somebody
25 | or information along them lines --

10:14 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. You were --
- 2 A. --but until I took a statement from her I wouldn't know what
3 she was going to say.
- 4 Q. You were aware of what O'Reilley was likely going to say to
5 you the next morning, isn't that correct?
- 6 A. I had some idea, yes.
- 7 Q. And yet you didn't ask Patricia Harriss if she knew O'Reilley?
- 8 A. No, I don't think -- No, it's not here, sir.
- 9 Q. You didn't know -- You didn't ask them if they were friends,
10 confidants?
- 11 A. No.
- 12 Q. No questions about the O'Reilley's at all?
- 13 A. No, they would be here, sir, if I did.
- 14 Q. Can you turn to page 129 of volume 16, please. This interview
15 that you had with Patricia Harriss on the night of June 17th,
16 is that the only time you met Patricia Harriss, the only
17 time you talked to her about this case?
- 18 A. Yes. I'd have to say yes.
- 19 Q. Okay. Now this is your handwriting, Chief, is it on page 129?
- 20 A. Yes.
- 21 Q. It's not dated?
- 22 A. No.
- 23 Q. Can you help me at all in to say when it may have been
24 prepared?
- 25 A. No, I can't tell you what date I wrote it in here if it's not

1 | dated.

2 | Q. Can I just -- I want to read through it and you tell me if
3 | it's correct.

4 | Mary O'Reilley said to Ms. Harriss
5 | that Sandy Seale ran up to the
6 | corner where Pollett's is to tell
7 | his girlfriend that he was going
8 | with Junior. Mary is Margaret
9 | O'Reilley's sister.

8 | Is that what that says?

9 | A. Yeh, that's what that says, yes.

10 | Q. Where did you get that information?

11 | A. I can't tell you at this time, sir. It was, you know,
12 | information that was relayed to me.

13 | Q. Relayed to you by somebody?

14 | A. By somebody, yes.

15 | Q. That Mary O'Reilley said that to Harriss?

16 | A. That's right.

17 | Q. And then you go on to say, I think:

18 | The Reilley twins told...

19 | Is that "me"? Is that what that says?

20 | A. The girls told -- to tell the story.

21 | Q. The Reilley twins told me to
22 | tell the story about the grey
23 | haired man.

23 | Is that what it says?

24 | A. It looks like that, yeh.

25 | Q. And who would "me" be?

10:16 a.m.

- 1 A. "Told...to tell", I don't know what that is there to be honest
2 with you.
- 3 The Reilley twins told... to tell
4 the story about...(a) grey haired
man.
- 5 Q. Doesn't that say told me?
- 6 A. Me, yes.
- 7 "Told me to tell the story.
- 8 Q. And who do you understand the O'Reilley twins told to tell the
9 story about the grey haired man? It's only Patricia Harriss.
- 10 A. Yeh, just Patricia Harriss, that's right.
- 11 Q. So that "me" can only refer to Patricia Harriss if it's "me"?
- 12 A. If it's "me", yes.
- 13 Q. Then it goes on to say:
- 14 Junior is a good friend of theirs.
15 They hang around with the Indians.
Mary told me...
- 16 Is that -- There's no doubt that that's "me" is it?
- 17 A. Yeh, I would say that was the Harriss girl.
- 18 Q. Mary told me that in school last
19 Thursday...
- 20 A. Yes.
- 21 Q. ...she went with Pius Marshall. Now
22 she goes with Steve...
- 23 Something. "Steve?".
- 24 A. Yeh.
- 25 Q. That reads -- Now doesn't that, in fact -- If you'd put the "me"

10:18 a.m.

1 | for Patricia Harriss it would say:

2 | Mary told...

3 | Patricia Harriss...

4 | ...that in school last Thursday...

5 | And if it's Patricia Harriss it also says above:

6 | The O'Reilley twins told...

7 | Patricia Harriss...

8 | ...to tell the story...

9 | A. Because they went to the same school, I believe, Central
10 | School.

11 | Q. Can that not -- Isn't that necessarily, Chief, that writing
12 | something that would have to be told to you by Patricia Harriss?

13 | A. I -- I don't know just when I had that. All I can say is that
14 | I must have had it. I must have been aware of that at the
15 | time but I have no date on that.

16 | Q. Yeh, but you're not answering my question.

17 | A. Yeh. I know --

18 | Q. I suggest to you that that can only be a result of something
19 | that Patricia Harriss told you, what's written on this page,
20 | don't you agree?

21 | A. That's what it looks like to me, yes.

22 | Q. Now are you saying that Patricia Harriss told you at some
23 | time that the O'Reilley twins told her to tell the story
24 | about the grey haired man?

25 | A. It's a little confusing, sir, because it was the next morning

JOHN F. MacINTYRE, by Mr. MacDonald

1 that I seen the O'Reilley girl and I took a statement at that
2 time and that's what was told to me, but I see -- I see that
3 note and that note is written by -- by me.

4 Q. Are you saying that at any time Patricia Harriss told you that
5 the O'Reilley twins told her to tell the story about the
6 grey haired man?

7 A. I haven't any recollection of that at this time, but I still
8 think that I had information on that on that particular night
9 that I took that statement.

10 Q. Did Patricia Harriss ever tell you that the O'Reilley twins
11 told them -- told her that Junior was a good friend of theirs
12 and they hung around with the Indians?

13 A. I can't recall that, sir, to be honest with you. That is my
14 handwriting, sir, and I wrote that down, but I can't --

15 Q. If you can't help us at all on when you --

16 A. No, I can't. No.

17 Q. But you're not suggesting, are you, Chief, that Patricia
18 Harriss ever told you that the O'Reilley twins tried to
19 convince her to lie to you?

20 A. I don't remember a discussion with her over the O'Reilley girl
21 at this time (I don't remember.)-or the O'Reilley twins.
22 I don't remember any discussion at this time.

23 Q. Don't you think that if Patricia Harriss had ever told you
24 that that you would have put that in the affidavit that you
25 filed with the Court, that, in fact, Patricia Harriss admitted

1 to you that the O'Reilley twins told her to lie to you?

2 A. Well, I can't answer that at this time, sir.

3 Q. Can you give me any explanation that would explain that
4 handwritten note that's on page 129?

5 A. Really I can't, no. That is my handwriting, sir, and that is --that
6 would have to be the information that I received.

7 Q. You did tell me today that you did not speak to Patricia
8 Harriss before she gave you -- before you took a statement from
9 her on June the 17th?

10 A. I didn't see her, not until that night, no. No, I didn't
11 know the girl before that.

12 Q. Now the reference then to last Thursday in that note gives
13 me some concern. Thursday on June the 17th--June the 17th,
14 when you took the statement from Patricia Harriss was a
15 Thursday, that was a Thursday if you can just accept that?

16 A. Yeh.

17 Q. What could the reference that:

18 Mary told me...

19 Patricia Harriss

20 ...that in school last Thursday.

21 What could that possibly be referring to?

22 A. Well, it looks there that them other girls told her to tell
23 that story.

24 Q. But if she told it last Thursday, that would seem to me
25 that you would have to have been speaking with Patricia Harriss

10:23 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 | some time before June the 17th?

2 | MR. PUGSLEY:

3 | In fairness to the witness, he says he cannot be of any assistance
4 | on this memorandum. There could be all kinds of explanations.
5 | It could have been something he took down over the phone being
6 | advised by Sergeant Urquhart, but he doesn't know. He doesn't
7 | recall. And for my friend to try and put suggestions to him
8 | as to what it means is not really of assistance. He's asking
9 | the witness to speculate on things that he cannot recall.

10 | MR. CHAIRMAN:

11 | So far, Mr. Pugsley, Mr. MacDonald has been giving this witness
12 | every opportunity to try and explain the notes that are made here
13 | in his handwriting. I agree that he doesn't -- he says that he
14 | can't recollect making them. Now I don't know if there's any --
15 | it's been suggested that maybe the third line from the bottom
16 | that there is a period after school. Maybe that's a new
17 | sentence. I don't know. That's another possibility.

18 | MR. MacDONALD:

19 | I'll get the original, My Lord, and I'll see.

20 | _____
21 | _____
22 | _____
23 | _____
24 | _____
25 | _____

JMB

JOHN F. MacINTYRE, by Mr. MacDonald

1 BY MR. MacDONALD:

2 Q. While we're waiting for that, Chief, if I can just go back
3 to a point I missed. On page 67.

4 A. Yes.

5 Q. And that's the statement you took from Patricia Harriss.

6 MR. CHAIRMAN:

7 That's the --

8 MR. MacDONALD:

9 That's the handwritten.

10 MR. CHAIRMAN:

11 And it -- the typed copy is on page 65.

12 MR. MacDONALD:

13 The typed copy, My Lords, is on page 65.

14 MR. CHAIRMAN:

15 All right.

16 BY MR. MacDONALD:

17 Q. Once again, Chief, there is no note on the handwritten copy
18 that Detective Urquhart was present but the type-written copy
19 says he was. Can you offer me any explanation of that?

20 A. No, no, I can't except that I -- I would say that he was
21 with me.

22 Q. You would say that he was?

23 A. Yes.

24 Q. Why would the typist put his name down typing the handwritten
25 copy -- typing from the handwritten copy; why would she add

10:27 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Urquhart's name to the type-written copy?

2 A. I -- I couldn't say, sir.

3 Q. Would you have advised her to?

4 A. I couldn't -- I couldn't say at this time, sir.

5 Q. Thank you.

6 MR. CHAIRMAN:

7 But I would draw the attention of counsel to this. On this
8 statement, you will notice a period is not used at all after
9 any of the sentences --

10 MR. MacDONALD:

11 Yes.

12 MR. CHAIRMAN:

13 There's one, but again it seems various sentences started with
14 a capital.

15 MR. PUGSLEY:

16 Yes.

17 MR. CHAIRMAN:

18 Which would indicate that probably are separate and distinct
19 sentences.

20 MR. MacDONALD:

21 I'll have that marked, My Lord, so that we'll have it for the
22 record. Exhibit 86, My Lord. Thank you.

23 BY MR. MacDONALD:

24 Q. Chief, there's the original of your handwritten notes that
25 are on page 129.

JOHN F. MacINTYRE, by Mr. MacDonald

1 | A. No, I have no recollection of that.

2 | Q. You've no recollection of making it?

3 | A. No, I did make it. That's my handwriting, sir. But I can't
4 | comment on it at this time.

5 | Q. It looks like it's just written on a piece of letter paper
6 | or something like that?

7 | A. That would be out of a tablet, yes.

8 | Q. Is that was your normal practice to make notes on those sort
9 | of things?

10 | A. Well, at times I'd have that with me, I suppose, a tablet.
11 | I'd write that. I don't know just where I got it at this
12 | time.

13 | Q. That would not be unusual to just use a piece of tablet paper?

14 | A. No, no.

15 | Q. All right, let's go to the O'Reilley statements, please.
16 | On page 74 of Exhibit 16. Do you know how Patricia --
17 | Mary Patricia O'Reilley arrived at the police station?

18 | A. No, not at this time. I would have -- I would have sent
19 | for her but I think that I wanted to see two O'Reilley
20 | girls that morning.

21 | Q. Yes, you did, spoke to both of them.

22 | A. I did?

23 | Q. Yes.

24 | A. No, I can't tell you at this time, sir.

25 | Q. Do you recall taking those statements?

10:30 a.m.

- 1 A. Yes, that's my handwriting.
- 2 Q. That note we just looked at talked about the O'Reilley twins.
- 3 That is the note that's on page 129?
- 4 A. Yes.
- 5 Q. Where it said:
- 6 Mary O Reilly said to Miss
7 Harriss that Sandy Seale
8 ran up to the corner...
- 9 Do you remember we saw that? Miss O'Reilley, on page 74 the
10 statement you took from her, said she did not know Sandy
11 Seale. Do you see that? You asked her the question and
12 she said she didn't know.
- 13 A. Yes, I see that question there.
- 14 Q. Is that a surprise to you?
- 15 A. Well, this is her statement, sir. This is the first time I
16 talked to her -- to her.
- 17 Q. Now you had an idea of what she was going to say, Mary
18 O'Reilley was going to say, before you took this statement,
19 is that -- that's correct isn't it?
- 20 A. Well, I had a note there. I don't know just when that note
21 was taken but that note --
- 22 Q. Which note?
- 23 A. That note that I was shown there. I'd like to read through
24 the statement first, please?
- 25 Q. Yes, sure.
- A. Yes.

10:33 a.m.

1 Q. Now this is another fourteen year old girl. Were her
2 parents present with her?

3 A. No, I don't -- no, I don't think so, no.

4 Q. And this is another statement where Detective Urquhart is
5 not shown to be present on the handwritten copy but is on
6 the type-written. Is that so?

7 A. Yeh, I see that, sir.

8 Q. Now again, could you give us any explanation why the person
9 who typed these statements would put Detective Urquhart as
10 being present when the handwritten copy does not show him
11 to be so?

12 A. No, I can't, sir. My recollection is that he was.

13 Q. You, on page 2, asked Mary O'Reilley if she discussed the
14 matter with Patricia Harriss and that's because you had an
15 idea that she had?

16 A. Yes, I would -- I would say so.

17 Q. But you hadn't asked Patricia Harriss if she had discussed
18 it with Mary O'Reilley? You didn't give Patricia Harriss
19 an opportunity to comment on that, did you?

20 A. Not at that time, no.

21 Q. Or at any time?

22 A. No, not that I recall. It would be there if I did.

23 Q. Okay. Were you present when Mary O'Reilley gave evidence
24 here at the Inquiry?

25 A. I was, yes.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. And I want to refer you -- I'll read you some of the evidence
2 that she -- she gave. This is on page 3301 I'm not sure the
3 volume number on that. 18 -- thank you. On 3301, Chief,
4 of the transcript that Miss Csernyik or Mrs. Csernyik was
5 referred to the portion of her -- of her evidence -- of
6 her statement on page 74 about Junior calling her on
7 Saturday morning and the conversation. And she said that
8 she did not recall speaking to Junior and in fact, she says
9 it's not -- on page 3302, she was asked this:

10 Are you telling us now that you
11 would not have given this answer
to Sergeant MacIntyre?

12 Her answer was:

13 I don't recall giving it.

14 The question:

15 Okay, but is it possible that
16 you could have given it (to
him) then?

17 The answer was:

18 No.

19 It's not possible that she gave you the answer that was
20 written by you on June the 18th of 1971?

21 A. That's Mary you're talking about?

22 Q. Yes.

23 A. Yeh. That she was talking to him Saturday morning?

24 Q. Yes.

25 A. That is what she said on that date:

10:37 a.m.

1 When did you see him

2 Q. When did you see him

3 A. He called Saturday morning.

4 Q. So when she said it's not possible that she gave that answer,
5 she's wrong?

6 A. Well, that's correct. That's correct.

7 Q. Now, I want to refer you to page 3304 of the transcript. I'll
8 read this to you. She is being referred to that portion of
9 the statement where she was asked:

10 Did you discuss the matter with
11 Patricia Harriss?

12 And

13 Did (she)...tell her about the gray-
14 haired man?

15 And she was asked this:

16 Do you recall telling the police that
17 you told Patricia Harriss to tell the
18 two man story?

19 Her answer:

20 No, I don't. No.

21 Is it possible that you told that --
22 told the police that you had told
23 Patricia about the two men?

24 The answer is:

25 No.

 Why are you so certain?

 I'm certain because I never discussed
 it. You know. Like her and I -- It'd
 be different if we hung around together.
 We knew other.

JOHN F. MacINTYRE, by Mr. MacDonald

1 (It's just)...you know.

2 MR. PUGSLEY:

3 "I just knew her".

4 BY MR. MacDONALD:

5 Q. I just knew her as -- You know.

6 So she says it's not possible that she told you that she had
7 related that story to Patricia -- to Patricia Harriss. What
8 do you say to that?

9 A. What -- the question was:

10 What did he say

11 A. He said there was a grey haired
12 man down there. He said 2 men.
13 One man asked him for a cigarette.
14 Then Sandy Seale Didn't have a
15 cigarette. When Jr. said that,
16 one fellow said...

17 Wait now --

18 Q. She says it's not possible she gave you that -- that answer
19 -- those answers?

20 A. Yeh, I'm looking for what she said here, sir.

21 Q. Well, on page 7 --

22 A. Yes, it's right here -- 75?

23 Q. Yes.

24 A. Right.

25 Q. But she said that's not possible. She didn't give you that
answer?

A. She did give me that answer, sir, in this statement here on

1 | that particular date.

2 | Q. And finally I want to refer you to page 3308 and 3309. This
3 | was what was put to her by Mr. Orsborn:

4 | Now the statement that you gave
5 | to the police says quite clearly
6 | and you did sign it, it says
7 | quite clearly that you discussed
8 | the matter with Patricia Harriss
9 | and that you told her about the
10 | grey haired man. I can think of
11 | three possibilities of how that
12 | got there. The first possibility
13 | is that you, in fact, made the
14 | statement. The second possibility
15 | is that someone perhaps suggested
16 | it to you and you agreed. Another
17 | possibility is that you didn't make
18 | the statement at all and somebody
19 | put it there. Are there any other
20 | possibilities that you can think
21 | of as to how that got on that piece
22 | of paper?

23 | And her answer was:

24 | No. Your third possibility is right.
25 | Somebody must have put it there
26 | because I didn't.

27 | A. Well, I don't agree with that, sir.

28 | Q. Did you discuss this matter with
29 | Patricia Harriss

30 | A. Yes

31 | Q. Did you tell her about the grey
32 | haired man

33 | A. I told her there was supposed to
34 | be a grey haired man there. I
35 | told her if she was questioned
36 | by the police, she should tell
37 | about the grey haired man that
38 | Jr. told me about

10:40 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. I know what it says, Chief. Her evidence to the Commission
2 appears to be --
- 3 A. Yeh.
- 4 Q. -- that somebody put it there because she didn't say that.
5 You -- you would not agree with that?
- 6 A. No, I won't agree with that, sir, no.
- 7 Q. Thank you. And then you also took a statement that morning
8 from Catherine O'Reilley. And that's on page 78 and the
9 hand-written copy starts on page 80.
- 10 A. Yes.
- 11 Q. And you'll see that that one is, in fact, signed by Detective
12 Urquhart?
- 13 A. Yes.
- 14 Q. And that was your normal practice, wasn't it?
- 15 A. Yes.
- 16 Q. You don't appear to have asked, you can take the chance or
17 the time to read it if you like, you don't appear to have
18 asked Catherine O'Reilley if she had discussed anything
19 with Patricia Harriss. Why wouldn't you have asked her
20 that?
- 21 A. The answer to your question, sir, I thought that she was
22 talking -- that he was talking to Mary O'Reilley about that?
- 23 Q. You -- you thought it was only -- she only talked to one of
24 them?
- 25 A. I'm looking at this now, sir. Yes, I thought she was only --

10:42 a.m.

1 | that he was talking to Mary O'Reilley about that. The sister.

2 | Q. Okay. There's only a couple other statements that you took
3 | prior to the trial and I'll just refer to those quickly. On
4 | page 85, there's one from Rudy Poirier on July the 2nd. Was
5 | Rudy Poirier one of your informants?

6 | A. No, sir.

7 | Q. What led you to him?

8 | A. I can't tell you at this time, sir.

9 | Q. He refers to the Sunday after the stabbing being on the
10 | steps of John Pratico's home with Glen Lamson and John
11 | Pratico. Did you ever speak with Lamson?

12 | A. I can't recall, sir.

13 | Q. Turn to page 127, please. That's your handwriting?

14 | A. Yes.

15 | Q. Rudy Poirier seen Jr. Marshall
16 | at John Pratico's Sunday morning
after stabbing re story to tell.

17 | A. Yeh, that's right.

18 | Q. We looked at that yesterday, do you have any idea when that
19 | was made, that note?

20 | A. No, I'd say. No, I can't tell you. No date on this.

21 | Q. Does it mean "re story to tell"?

22 | A. Well, I -- it tells me that I should see him. That what
23 | story he has.

24 | Q. As opposed to telling John Pratico what story he was to tell
25 | the police? You don't read it to mean that?

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 | A. I would say it means to what story Rudy Poirier might be able
2 | to tell.
- 3 | Q. Okay, thank you.
- 4 | A. And he was questioned. There was a statement taken from him.
- 5 | Q. And we've already -- I think yesterday we looked at Poirier's
6 | statement which is on page 85 and that's where the reference
7 | is to the white Volkswagen?
- 8 | A. Yes.
- 9 | Q. Yes?
- 10 | A. Yes.
- 11 | Q. And the description of the men that -- that is in his
12 | statement is consistent with the one that Junior Marshall
13 | had given you on May 30th, is it not?
- 14 | A. No this says that
15 | He said one guy was about 50 yrs. old
16 | with grey hair and he said...
17 | the other fellow -- and the other fellow -- and the other
18 | fellow that stabbed Sandy. He
19 | said the other fellow tried to
 stab him - he was about 35 yrs.
 old.
- 20 | Q. Yes.
- 21 | A. That's a little different to what Junior Marshall told me.
- 22 | Q. Well, turn back to page 17 and let's see if it is. Down at
23 | the bottom describe the two people.
- 24 | A. Yes.
- 25 | Q. the small fellow was 5-9-10 - 190

10:47 a.m.

1 lbs. hair - grey combed back.
2 ...glasses...age 50 yrs.

3 Do you see that?

4 A. Yes.

5 Q. And then down below:

6 The other fellow - brown cordroy
7 short coat - 5-11 - 150 - hair-
8 black. short hair - age 35...

9 Those are the same type of descriptions, isn't it?

10 A. No, I'm -- pardon me, sir. But you're talking about
11 description and I'm talking about what he said -- what
12 he said at that time according to Poirier. He said that
13 the:

14 He said the other fellow tried to
15 stab him - he was about 35 yrs.
16 old.

17 Q. I see, okay, I see what you mean, sorry.

18 A. The younger man tried to stab him while the older gent was
19 supposed to have stabbed Seale. That's what I get from
20 that, anyway.

21 Q. That's what you understood Poirier to be telling you?

22 A. Well, that's what's there, sir.

23 Q. Okay. And the other statement that you took is from
24 Merle Davis --

25 A. Yes.

Q. -- the R. N. Why were you taking a statement from her?

A. Page?

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. That's on page 88, sorry.
- 2 A. I think -- I think Mrs. Dav -- Mrs. Merle Davis was the
3 lady -- the nurse in charge of the -- when Junior Marshall
4 went and to have his arm looked at on that particular
5 night of the stabbing. And yes, she was.
- 6 Q. Okay.
- 7 A. I guess I wanted to know about the wound and what have you
8 from her. And I think --
- 9 Q. And that's -- that's the last statement, I think, that's
10 certainly the last one in the book.
- 11 A. And another thing that we wanted to know, I think, was
12 about the jacket. I see it here.
- 13 Q. You wanted to know who cut the sleeve of the jacket?
- 14 A. Wanted to know -- I wanted to know if they cut it.
- 15 Q. Yes, okay. And you found out that they didn't?
- 16 A. They said they didn't, yeh. That was right.
- 17 Q. Now did you turn over, and I think this question was asked
18 yesterday, but did you turn over your complete file to
19 the Crown Prosecutor?
- 20 A. Yes, that's what I would say, yes.
- 21 Q. Did you play any part in preparing the witnesses for the
22 Preliminary Inquiry or the trial?
- 23 A. No, sir.
- 24 Q. Did you visit the scene with any of the witnesses?
- 25 A. I can't recall, sir. I've no memory of that.

10:49 a.m.

1 | Q. Did you have any discussions with the Prosecutor's Office
2 | about the case?

3 | A. I could have. I don't recall, sir.

4 | Q. You knew the defense counsel, Mr. Rosenblum, Mr. Khattar?

5 | A. Yes, I did.

6 | Q. You had experience with both of them?

7 | A. I did.

8 | Q. And had you experience with either or both of them as they
9 | were Prosecutors?

10 | A. Previous to that you're talking about?

11 | Q. Yes.

12 | A. Yeh, yes, I would. I don't recall Khattar prosecuting.

13 | Was he prosecuting, I don't recall.

14 | Q. But certainly Mr. Rosenblum?

15 | A. Oh, yes, I recall him, yeh.

16 | Q. And he prosecuted cases in which you were the investigating
17 | officer?

18 | A. I would say so.

19 | Q. Yes.

20 | A. I would say so.

21 | Q. And was it the practice of the Police Department as far as
22 | you knew, all people in the Police Department, to turn over
23 | the complete file to the Prosecutor's Office?

24 | A. I know that I would -- when I was talking with them on a case
25 | I had my complete file with me. And whatever they wanted,

- 1 they took it.
- 2 Q. Is that what would happen, that you would keep the original
- 3 file at the police station?
- 4 A. I would leave -- I would leave the -- if they wanted the
- 5 whole file, I'd leave it with them. After all they were
- 6 the Crown, sir, I --
- 7 Q. I'm just trying to find out what the practice would be.
- 8 A. Or whatever they wanted, that's about the best I can tell you.
- 9 Q. So sometimes you would keep the originals?
- 10 A. What they would want or whatever they'd turn back to me, that
- 11 would be it.
- 12 Q. Okay.
- 13 A. Okay. They would know what was in the file.
- 14 Q. You were a witness at the Preliminary Hearing?
- 15 A. Yes.
- 16 Q. But not at the trial?
- 17 A. No.
- 18 Q. Between the time of the Preliminary and the trial, were you
- 19 aware that John Pratico was a patient at the Nova Scotia
- 20 Hospital?
- 21 A. I don't recall that.
- 22 Q. It was a practice was it not for Sydney Police to transport
- 23 patients from Sydney to the Nova Scotia Hospital?
- 24 A. It was, yes.
- 25 Q. And who would decide which police officer was to take a

10:52 a.m.

1 particular patient?

2 A. Well, I suppose that would be the -- a call to the station
3 that would -- that would -- that wouldn't be under me.

4 Q. Would you be aware if one of your men, that is one of the
5 detectives that you were responsible for, would you be aware
6 if one of them were transporting a patient to the Nova
7 Scotia Hospital?

8 A. I suppose I would be. If I was told about it.

9 Q. There is evidence, I think, of Mr. Pratico and his mother
10 that Detective MacDonald took Pratico to the Nova Scotia
11 Hospital in the summer of 1971?

12 A. I've no recollection of that, sir.

13 Q. If MacDonald did take Pratico to the hospital, would you
14 expect that he would have told you about it? And I'm talking
15 about M. R. MacDonald -- the "Red" Mike?

16 A. He could have and probably did. I can't recall, sir.

17 Q. Could have and probably what?

18 A. I say, you know, he might have taken him his day off or
19 I don't recall anything about that.

20 MR. MacDONALD:

21 Would this be a convenient place to take a break, My Lord.

22 MR. CHAIRMAN:

23 Yes.

24 INQUIRY ADJOURNED: 10:54 a.m.

25

JOHN F. MacINTYRE, by Mr. MacDonald

1 INQUIRY RECONVENED: 11:19 a.m.

2 BY MR. MacDONALD:

3 Q. Chief MacIntyre, I've put volume 14 in front of you--

4 A. Yes.

5 Q. -- and I want to refer you to the last two pages in that
6 volume. Page 237 and 238. This is an affidavit that was
7 sworn by William Urquhart and again was filed in the -- it's
8 contained in the files at the Appeal Division of the
9 Supreme Court of Nova Scotia. I want to refer you to
10 paragraph nine of that affidavit. It's on page 238.

11 And this is where Detective Urquhart Swears this:

12 THAT on the 18th day of June, 1971 at
13 approximately 1:20 a.m. I took a
14 second written statement, a copy of which
15 is annexed hereto as Exhibit 'D', from
the aforementioned Patricia Harris in
the presence of Detective Sergeant
John F. MacIntyre as he then was.

16 Now, do you have any knowledge of William Urquhart
17 taking a second written statement from Patricia Harriss?

18 A. No, sir.

19 Q. And if you just at the same time look at volume 16
20 at page 65. Do you see that? That is the type-written
21 copy of the Harriss second statement that you took.

22 A. Yes.

23 Q. And it shows at the top 1:20 a.m.?
24
25

JOHN F. MacINTYRE, by Mr. MacDonald

1 | A. Yes.

2 | Q. And that's the same time that Mr. Urquhart talks about
3 | in his affidavit.

4 | A. Yeh.

5 | Q. If you look at the handwritten copy which you took you'll
6 | see that the time is not one-twenty at all, it's twelve-
7 | o-seven.

8 | A. That's right.

9 | Q. Have you seen any written statements taken by Mr. Harriss -
10 | I'm sorry -- by Mr. Urquhart that would have been taken
11 | at 1:20 a.m?

12 | A. No, sir. No.

13 | Q. In fact according to your --

14 | A. I would think --

15 | Q. -- handwritten notes, Urquhart wasn't even present when
16 | that was taken. According to the handwritten notes of
17 | her handwritten copy of Harriss statement Urquhart wasn't
18 | even present.

19 | A. No -- No, his name is not shown on here but my recollection
20 | is that he was present.

21 | Q. Is it your recollection as well that you would have told
22 | the typist who typed the handwritten statement to put
23 | Urquhart's name on the type-written copy?

24 | A. No, it should have been on the original.

25 | Q. But it's not.

11:22 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. No, I know that.

2 Q. Did you tell the typist to put it on the type-written copy?

3 A. I have no recollection at this time about that. My
4 only recollection is that I -- I would say that Urquhart
5 was with me on that statement, sir.

6 Q. When you say that you took a written statement are you
7 -- is that because you took it, you wrote it down yourself?

8 A. Yes. Well, this is my handwriting here, yes.

9 Q. I'm just saying the phrase, if you said that you took
10 a statement, you would be talking about something you took
11 yourself?

12 A. Yes.

13 MR. PUGSLEY:

14 I guess the -- I don't mean to interfere but I guess the matter
15 could be cleaned up -- cleared up by taking a look at exhibit
16 D to Urquhart's --

17 MR. MacDONALD:

18 Yes, unfortunately, I don't have that.

19 MR. PUGSLEY:

20 No, but it -- Would that be on file in Halifax?

21 MR. MacDONALD:

22 I would expect it would.

23 MR. PUGSLEY:

24 One can, I think, only speculate, My Lord, that the person
25 who prepared these two affidavits, the Urquhart and the MacIntyre

JOHN F. MacINTYRE, by Mr. MacDonald

1 affidavit, looked at the type-written copy which says 1:20 a.m.
2 and used that -- that time in -- because certainly in Mr.
3 MacIntyre's affidavit which is found in volume 15 at page 12
4 paragraph 16:

5 THAT on the 18th day of June,...at 1:20 a.m.,
6 the aforementioned Patricia Harris gave
 me a written statement...

7 So the time is the same.

8 MR. CHAIRMAN:

9 Yes.

10 BY MR. MacDONALD:

11 Q. I guess what I'm trying to determine, Chief, as best I
12 can is that there wasn't another statement taken by
13 Mr. Urquhart. The only statement was taken by you?

14 A. By myself, yes. That's right.

15 MR. CHAIRMAN:

16 What you're trying to determine is whether the statement of
17 1:20 a.m. is the only statement in existence?

18 MR. MacDONALD:

19 That's correct. And Mr. Pugsley --

20 MR. CHAIRMAN:

21 And Mr. Pugsley says that can be easily ascertained by getting
22 exhibit D to the affidavit of William Urquhart.

23 MR. MacDONALD:

24 Yes, My Lord.

25

JOHN F. MacINTYRE, by Mr. MacDonald

1 COMMISSIONER POITRAS:

2 And surely there's some doubt as to whether a statement was
3 ever made at 1:20 a.m. and the indication would be that it
4 was taken at 12:07 a.m. That was a mistake by the typist --

5 MR. PUGSLEY:

6 Quite so. Yes.

7 COMMISSIONER POITRAS:

8 -- because the bottom of that statement shows 12:25 a.m.

9 MR. MacDONALD:

10 Well, there's no question about that, My Lord, it's just
11 unfortunate that we didn't have Mr. Urquhart at least not
12 yet --

13 COMMISSIONER POITRAS:

14 Yeh.

15 MR. MacDONALD:

16 -- to --

17 BY MR. MacDONALD:

18 Q. Were you present throughout the trial of Donald Marshall?

19 A. Yes.

20 Q. You sat in there? You were the informant and you sat
21 there?

22 A. That's right.

23 Q. You were called before the Grand Jury. They called you
24 in as a witness. Do you remember that?

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

11:26 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Okay, we'll come up with that in a moment, Chief and
2 we'll come to it.

3 MR. MURRAY:

4 It's at page 78 of volume 16 -- volume 1, sorry.

5 MR. MacDONALD:

6 Volume 1? Thank you. That's not it, My Lord.

7 MR. ELMAN:

8 I don't know what exhibit it is, but that's the sheet.

9 MR. MacDONALD:

10 It's been introduced as an exhibit I believe.

11 COMMISSIONER EVANS:

12 This is a list of witnesses is there and they're checked off.

13 I assume those were the ones that were called. That's the
14 Trial Division.

15 MS. EDWARDH:

16 (Inaudible. Microphone not transmitting) -- exhibit 80.

17 MR. MacDonald:

18 Exhibit 80. Yes, it is. Thank you. Exhibit 80.

19 BY MR. MacDONALD:

20 Q. Exhibit 80, Chief MacIntyre is the -- a form that would
21 have been prepared by the -- for the purpose of the
22 Grand Jury and every witness that's called, the foreman
23 puts his initials opposite the witness and it's shown
24 that the -- that your -- that you were called by the
25 Grand Jury.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Well, there's an initial opposite my name but I have
2 no recollection of being called at this time.

3 Q. You don't recall it?

4 A. No.

5 Q. You had no evidence to give, did you, other than the
6 fact that you had taken a statement from Donald Marshall?

7 A. Well, I took several statements. I don't know what the
8 purpose would be or what. I don't recall being called
9 to be honest with you.

10 Q. Okay. Thank you. Do you recall the event during the
11 trial when John Pratico, in the hallway, was trying to
12 change his story or advising that he had not told the
13 truth at the preliminary?

14 A. There was something happened in the hallway.

15 Q. Tell us what you remember about it?

16 A. I don't remember too much about it to be honest with you. I --

17 Q. That would have seemed to me to be a very startling type
18 of occurrence.

19 A. Well --

20 Q. Would it not to you?

21 A. I've -- Yes, it would be. Yes, sure. I agree with that.

22 Q. But you don't remember it?

23 A. I remember-- I'm telling you I remember something -- that
24 there was -- there was something took place there. I agree,
25 you know, I -- with Pratico. I did have the -- I did hear --

11:29 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 I did it hear it here but my recollection is very poor
2 on it.

3 Q. You don't remember then being in the Barrister's Library
4 at the court house with Mr. Khattar, Mr. MacNeil, Mr.
5 Matheson and Pratico?

6 A. No, I could have been. I'm not denying it. I could
7 have been but I don't -- on my own memory I'm just very
8 poor.

9 Q. So you don't have any recollection today?

10 A. No. No, I don't. I'm not saying it didn't take place.
11 I --

12 Q. Were you surprised at the verdict that came in at the
13 trial?

14 A. No, I wasn't surprised at the verdict that came in. No.

15 Q. You had thought you had the right man?

16 A. Well, that's what the jury decided on --the court decided
17 on, sir, the verdict and --

18 Q. And you thought you had the right man?

19 A. And I thought, yes. Sure.

20 Q. I want to move then to November the 15th of 1971 and that
21 is when Jimmy MacNeil and his brother showed up at the
22 police station. Do you remember that?

23 A. I remember them coming to the -- showing up there, yes.

24 Q. Tell me what you remember about it?

25 A. I remember the MacNeils showing up there that evening at the

JOHN F. MacINTYRE, by Mr. MacDonald

1 police station and as a result of talking with them a
2 statement -- statements were taken.

3 Q. Taken from the MacNeils?

4 A. MacNeils.

5 Q. If you want to go -- if you're looking for the statements --

6 A. I would like to. Please, yes.

7 Q. They're in volume 16 starting at page 171.

8 There's a statement from John MacNeil which is first.

9 That was taken by Sergeant M. J. MacDonald?

10 A. Yes.

11 Q. And then there's a statement from David MacNeil. Whose
12 handwriting is that starting on page 175?

13 A. John Joseph -- John -- The statement of November, 15
14 John Joseph MacNeil. Yes, okay.

15 Q. I'm sorry. I missed that, Chief.

16 A. The first statement you were talking about is John Joseph, is
17 it?

18 Q. Yes. And that was taken by Sergeant M. J. MacDonald?

19 A. No, Sergeant Urquhart witnessed by Detective Sergeant M. J.
20 MacDonald.

21 Q. Okay. And the second one, the one from David MacNeil -- the
22 handwriting on page 175. Whose handwriting is that?

23 A. That's my handwriting.

24 Q. That's yours. So you would have taken the statement from
25 David MacNeil?

11:32 a.m.

1 | A. That's correct, yes.

2 | Q. Was was your reaction to getting that statement?

3 | A. I was quite surprised on that evening that -- of the
4 | knowledge that came to us.

5 | Q. Pretty --

6 | A. As a result of those people being taken to the station
7 | and questioned. Not those -- those people who came
8 | to the station I should say. The MacNeils.

9 | Q. And then you took the statement from Jimmy MacNeil --

10 | A. Yes.

11 | Q. -- which is contained on page 178.

12 | A. That's correct. And it's witnessed by Corporal Taylor.

13 | Q. Let me go back to the one from David MacNeil first. That's
14 | on page 174.

15 | A. Yes.

16 | Q. This is the first you would have heard about this altercation
17 | between Donald Marshall, Seale and two other people?

18 | A. Yes.

19 | Q. But it is -- you are being told then that there were two
20 | other people in the park that night and that one of them
21 | had stabbed Seale in the stomach? That's what MacNeil --

22 | A. Yes.

23 | Q. And that corresponds with what Junior Marshall had told
24 | you back in May 30th, that two other people were there
25 | and there had been a stabbing?

11:35 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 A. Yes.
- 2 Q. David MacNeil also said, on page 174 that he stabbed --
- 3 that he was told by his brother that Marshall had been
- 4 stabbed in the arm by Roy Ebsary. Isn't that correct?
- 5 That's at the --
- 6 A. Wait now. Where is it?
- 7 Q. -- end of that first big paragraph.
- 8 A. You mean of David William MacNeil?
- 9 Q. Yes. That Jimmy had told him Roy stabbed Marshall in
- 10 the arm.
- 11 A. Then he stabbed Marshall...
- 12 Yes.
- 13 Q. And then that they
- 14 ...went to Roy's house...
- 15 and...washed the knife under
- 16 the tap.
- 17 A. Yes.
- 18 Q. And then you took the statement from Jimmy MacNeil?
- 19 A. That's right.
- 20 Q. Had you known him before?
- 21 A. Yes, I did. I knew him to see him and I seen him around.
- 22 Yes.
- 23 Q. He's twenty-five years old?
- 24 A. Yes.
- 25 Q. What was your impression of him?
- A. I took him to be kind of a backward individual. I took this

1 statement from what he had to say, sir, and it was
2 quite a surprise to me what I --

3 Q. Quite a surprise to you?

4 A. Well, sure. Yes.

5 Q. Did you believe him?

6 A. Well, he had a story to tell and we didn't stop at that, sir.
7 We took other statements on that evening and then we
8 made a decision.

9 Q. Following the taking of the statement from Ebsary -- I'm
10 sorry -- from MacNeil, you knew that Roy Ebsary had a
11 wife, a daughter and a son and that they had seen Jimmy
12 at the house that night. Isn't that so? That's down at
13 the bottom of page 176.

14 He told me he had 2 children -
15 a girl and...(a)...boy and not
16 to say anything to the police.
17 I left then.

18 Who seen you at the house besides Roy?

19 His wife, daughter & son.

20 So you knew he had a wife, a daughter and a son?

21 A. Yes, I knew. Yes, I knew that, yes.

22 Q. And you knew that they had seen Jimmy MacNeil at Ebsary's
23 house at sometime?

24 A. Excuse me for a minute. I'm reading this statement.

25 Where were you at when you were asking those questions?

Q. I'm down at the bottom of page 176.

11:38 a.m.

- 1 A. Thank you.
- 2 Q. See the second last question on that page?
- 3 Who seen you at the house besides Roy?
- 4 His wife, daughter & son.
- 5 A. Yes, I see that there now.
- 6 Q. So at that time, May -- November 15th at seven-twenty-five
- 7 you knew that Roy Ebsary had a wife, a daughter and a son?
- 8 A. That correct, yes.
- 9 Q. Did you know Ebsary before that?
- 10 A. I don't recall knowing Ebsary before that.
- 11 Q. Well, what did you do after you took the statement from
- 12 Jimmy MacNeil?
- 13 A. Well, there was some other statements taken from the MacNeils.
- 14 Q. Well, there was the two brothers and then Jimmy MacNeil?
- 15 A. Yes.
- 16 Q. And then there's a break for -- you finished Jimmy MacNeil
- 17 at 8:00 p.m. I think the next statement is at eight-forty-
- 18 five from Mary Ebsary.
- 19 A. Yeh. That's right.
- 20 Q. But when you got the statements from the three MacNeils
- 21 what did you do?
- 22 A. Well, we sent for those other people, my recollection,
- 23 Mrs. Mary Ebsary and Greg Ebsary and Roy Ebsary.
- 24 Q. Why did you -- How did you do that? Did you yourself go
- 25 or did you send people to get them?

JOHN F. MacINTYRE, by Mr. MacDonald

1 | A. I can't recall at this time. I don't think I went.

2 | Q. Why didn't you send them to get the daughter?

3 | A. The daughter was very young at the time. She was 12 -- 12
4 | or 13.

5 | Q. Well, that respect didn't seem to bother you --

6 | A. No. No, but I mean at this time, sir, I took the statements
7 | -- took statements from those three.

8 | Q. Why didn't you ask them to bring the daughter?

9 | A. Well, I think -- I think at this time I had made a decision
10 | that I would get in touch with the Crown, sir and I did
11 | on that particular night and my recollection is that I
12 | asked the -- advised the Crown at that time that if -- if
13 | there was anything to this and it -- it bothered me at the
14 | time, that we would -- that I would like for another police
15 | department to take this over -- this second investigation
16 | and as a result of that Mr. Matheson, I think, came
17 | to the police station. He read the -- what we had and
18 | he got -- and my understanding is he got in touch with
19 | Halifax that same night as this was taken. --

20 | Q. Whom --

21 | A. So -- I --

22 | Q. I'm sorry.

23 | A. So that was as far as I went on.

24 | Q. When did Matheson come? Was it --

25 | A. He came that night.

11:41 a.m.

- 1 Q. Was it after all the statements had been taken or just
2 after the MacNeil statement?
- 3 A. I couldn't say, sir, if they were all taken when we sent
4 for him but I -- it was an alarming thing to me that I
5 wanted to get hold of Crown on it.
- 6 Q. I know it was alarming to you but I'm trying to find out
7 at what stage the Crown was involved. I understood from
8 Mr. Matheson that he was brought in after the MacNeil
9 statements.
- 10 A. No, we did -- I would say -- I would say that we had
11 other statements and I don't think I took all the statements
12 that I've --
- 13 Q. Well, if you want to just take a moment to look at that
14 you --
- 15 A. No, but I don't -
- 16 Q. You took the one from Jimmy MacNeil. You took the one
17 from Mary Ebsary, I believe, or maybe Mr. Urquhart took
18 that one.
- 19 A. Yeh, and Urquhart took the statement of John Joseph MacNeil
20 along with M. J. MacDonald.
- 21 Q. And you took the statement of Roy Ebsary?
- 22 A. Yes.
- 23 Q. But didn't Matheson get in early after MacNeil's statement
24 and didn't he tell you to make certain that you interviewed
25 everybody in the Ebsary home who had been around that night?

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 A. I -- I don't recall what stage Matheson arrived at the
2 station, sir, but --
- 3 Q. Did he not tell you to interview all of the Ebsarys who
4 were living in that home?
- 5 A. I don't recall that statement being made, sir.
- 6 Q. Would that not be just fundamental for you to do in any
7 event, knowing --
- 8 A. No, not at this time with the knowledge that I had at this
9 time with what I had here and what I had in mind, sir.
- 10 Q. But what you had here was Jimmy MacNeil telling you that
11 Roy Ebsary had stabbed Seale, that Roy Ebsary had cut
12 Junior Marshall, that he had washed the knife off at
13 his home, that he was back at Ebsary's home the next
14 day and that Ebsary had a wife, daughter and son.
- 15 A. Yes.
- 16 Q. So you knew that?
- 17 A. Yes.
- 18 Q. Wouldn't it just be basic fundamental steps to interview
19 Ebsary, his wife, daughter and son?
- 20 A. I would say that I had sufficient information at that time
21 took consult the Crown on that particular evening and
22 suggest to them what I had in mind that time, sir. I had
23 taken several statements. It was then getting late.
- 24 Q. But if you sent your people to get Roy Ebsary and his wife
25 and his son --

11:43 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Yeh, but they're --

2 Q. -- why wouldn't you say, get the daughter?

3 A. Well, I thought she was a -- very young at the time. I don't
4 know, sir, -- I didn't get her. That's the answer to
5 your question and I consulted the Crown and they came to
6 the station and told them what I had -- what I would like
7 to do and as a result of our conversation he was in touch
8 with somebody in the Attorney General's Department that
9 same night and the case was then taken over by somebody
10 else.

11 Q. But we'll come back to that.

12 A. Yeh.

13 Q. Where did you have the impression that Roy Ebsary's
14 daughter was very young? Where did you get that from?

15 A. I could have got it from probably one of the -- one of
16 those people. I don't know where I got it.

17 Q. One of what people?

18 A. From Roy or his mother or I don't know.

19 Q. After you got this statement from Jimmy MacNeil, let's
20 stop at that stage, Chief. You've taken the statement.
21 It's seven-twenty-five. It's eight o'clock when it's
22 finished and you've been told by Jimmy MacNeil that
23 Roy Ebsary had done this killing, that he and Roy
24 were at his house that night and the next day and that
25 Roy Ebsary had a wife, daughter and son. What I'm trying to

1 find out. You said you then sent your men to get

2 Ebsary, his wife and his son?

3 A. That's right.

4 Q. Why would you stop there? Why wouldn't you say get the
5 daughter?

6 A. Because I had in mind at that time that -- how I was
7 going to proceed in this case, if there was evidence there.
8 At that time I did discuss it with the Crown -- came
9 to the station.

10 Q. Well, why did you then send for any of the Ebsary's?

11 A. Well, I like to see -- I like to see what they had to
12 say in regard to this. Whether -- Whether what I was
13 hearing was true and after sending for the Ebsary's I -- and took
14 those statements I figured that this would have to be
15 gone into further at that time. I see nothing wrong with
16 that sir. I had seven or eight statements here at that
17 time.

18 Q. But if you'd taken a statement from Donna Ebsary that night
19 giving what -- given what she now says, that she saw her
20 father wash the blood off the knife, do you think that would
21 have been important evidence to get?

22 MR. PUGSLEY:

23 Well, it depends what Donna Ebsary would have said at the time.

24 I know that the statements given by Mrs. Ebsary and Greg Ebsary

25 changed as time went on and I think it's inappropriate to have

11:46 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 him speculate on that. He says he took seven or eight statements
2 and called in another police force. What more could he do?

3 MR. MacDONALD:

4 He would have done -- Well, I'm not going to argue, My Lord,
5 I'm trying to find out what he did do and why he did -- and
6 why he didn't do certain things --

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1 MR. CHAIRMAN:

2 The question I think that was put was, if -- Maybe you should put
3 the other -- another way.

4 BY MR. CHAIRMAN:

5 Q. If, as a result of interviewing Donna Ebsary, you had learned
6 that she saw her father wiping the blood from a knife that
7 night, the night of the stabbing of Sandy Seale, would you have
8 considered that a very significant piece of evidence?

9 A. It would be, My Lord, but after talking with the mother -- The
10 father denied it -- talking with the mother and the brother.
11 And there was nothing in there to state that, and they -- And
12 at that time, I had made a decision of what I was going to do,
13 and there would be further investigation by whoever took it
14 over.

15 Q. Do you know how the Ebsarys got to the police station that night?

16 A. Do I know? No, I can't be sure of that, My Lord.

17 Q. And you don't know where -- You have no idea where Donna Ebsary
18 was --

19 A. No, I have no --

20 Q. -- during the period her father.

21 A. No, I heard in the -- I heard here that she was supposed to be
22 out in the car, but I wasn't told that at that time that she
23 was out in the car because I had nothing to do with that; so
24 I think --

25

1 BY MR. MacDONALD:

2 Q. Well, we were heard here that Greg Ebsary only got to the police
3 station by pure happenstance. No policeman brought him there.

4 Q. How did he get there?

5 A. He was looking for his mother.

6 A. That's right.

7 Q. According to him.

8 A. Again, I told you that I don't -- They'd be sent for. We'd
9 want to see them, but, yes, according to what he said -- I
10 can't remember how they got there. I know that I -- we did take
11 statements from them, sir, on that night.

12 Q. Is it your evidence today that what you told your men was, "Go
13 get Roy Ebsary, his mother -- his wife, and his son."?

14 A. Go and -- That I told who?

15 A. You men.

16 Q. My men? Oh, yes, I see. Roy Ebsary wasn't mine for bringing.
17 Yes, I would say I sent for them, yes.

18 Q. Yeh, Chief, that's a pretty simple question. Is what you told
19 your men, "Go get Roy Ebsary, his wife, and his son."? Is that
20 what you told them?

21 A. I'm -- Well, what I'm looking for here, sir, is the party that
22 I took the first statement from, and I don't -- They were kept
23 apart, and I'm looking at this to bring back when the first
24 statement was taken from the Ebsarys, and I would suggest to
25 you that I did -- I wanted them brought at the station. Now,

1 | whether they were brought there at one time or separate times,

2 | I don't know.

3 | Q. Do you remember what you said that night?

4 | A. Well, I would've sent -- asked the Ebsarys. And I don't know
5 | at this time who went for them or how they got down there. They
6 | might've taken their own car down. I don't know.

7 | Q. Do you remember, Chief, what you said? Do you remember if you
8 | told your men --

9 | A. Not exactly what I said, no. No.

10 | Q. You don't?

11 | A. No.

12 | Q. Is it your understanding that what you said is; "Get me Roy
13 | Ebsary, his wife, and his son."?

14 | A. I would say that that's probably what I said. I have no --

15 | Q. And if that's probably what you said, help me out if you can,
16 | and tell me why you wouldn't have said, "And his daughter."?

17 | A. No. I can't answer that at this time, sir.

18 | Q. Thank you. Did you know Roy Ebsary?

19 | A. I don't recall knowing him, no.

20 | Q. Did you look at the records of the Sydney Police Station to see
21 | if Roy Ebsary had any previous run-ins with your department?

22 | A. No, I just took statements, sir, on that night.

23 | Q. You could've -- I understand from the records available to you,
24 | you couldn've walked into the next room and flipped up a card
25 | on Roy Ebsary, if there was one there.

11:51 a.m.

- 1 A. I could've, yes.
- 2 Q. Yeh. And that wouldn't have taken much effort, would it?
- 3 A. No.
- 4 Q. Did you ever do that?
- 5 A. I can't recall, sir. I don't think I did.
- 6 Q. You don't believe you did?
- 7 A. I don't think I did, no.
- 8 Q. At any time, have you looked at the -- Ebsary's records?
- 9 A. I couldn't -- Oh, I wouldn't say at any time. I couldn't say,
10 sir. I have no recollection of that.
- 11 Q. You do know that had you looked that night, had you taken that
12 simple step, you would've found out that Roy Ebsary, a year or
13 so earlier, had been convicted of carrying a large butcher knife
14 on the streets of Sydney.
- 15 A. I understood that later, yes.
- 16 Q. When did you understand that?
- 17 A. I couldn't tell you that either. It was sometime later.
- 18 Q. Are we talking a matter of years, or days, or weeks, or --
- 19 A. No.
- 20 Q. Pardon?
- 21 A. No. No. Somewhere shortly after that.
- 22 Q. Shortly after that?
- 23 A. Yeh.
- 24 Q. After it was turned over the R.C.M.P.?
- 25 A. Yes, this was turned over to the -- to -- This consultation

- 1 | took place at the Attorney General's Department on the same
2 | night as I took those statements, November the 15th, '71.
- 3 | Q. I'm trying to find out if you looked up Ebsary's record after
4 | you turned the matter over to the R.C.M.P.
- 5 | A. I don't recall looking up Ebsary's records, sir.
- 6 | Q. Okay. When Ebsary arrived at the police station, was he
7 | wearing a blue Burberry?
- 8 | A. I'm not sure of that at this time, sir.
- 9 | Q. Mr. Ebsary has testified that he was. You don't remember?
- 10 | A. I'm not sure at this time what he wearing, no.
- 11 | Q. Would it be fair to describe him as -- if he was -- If he was
12 | wearing a blue Burberry when he showed up there, that this a
13 | man in his mid to late fifties, grey hair, flat on his head,
14 | wearing a long blue coat?
- 15 | A. As I said before, I don't recall what he was wearing that night.
- 16 | Q. If he was.
- 17 | A. He had grey hair.
- 18 | Q. If he was.
- 19 | A. If he was? Yes. He --
- 20 | Q. Did it occur to you that this man before you -- that you had
21 | in front of you and that Jimmy MacNeil, together, those two
22 | people may well fit the description that Junior Marshall had
23 | given to you on May the 30th?
- 24 | A. Well, if I recall the different descriptions, five foot eight,
25 | five foot ten, a hundred and eighty, a hundred and ninety pounds,

1 | this man, I understand, at that time, was five foot two and
2 | around a hundred and fifteen pounds.

3 | Q. Okay.

4 | A. And -- But he did have grey hair. I don't recall seeing
5 | glasses on him, to be honest with you. After all, this is back
6 | in '71, I don't recall seeing glasses on him that night.

7 | Q. When you have someone report to you that a crime has occurred
8 | or that someone may have committed a crime, is it not standard
9 | practice that you determine if you have any record on that
10 | person?

11 | A. That would come out in the investigation.

12 | Q. It would be standard thing to do?

13 | A. Oh, yes.

14 | Q. Would you agree with the description of Jimmy MacNeil that
15 | Al Marshall uses? I'll just read it to you.

16 | ...that he was of sub-normal
17 | intelligence and slightly mental.

18 | A. I only met him on that one occasion, and I didn't -- and took
19 | a statement from him.

20 | Q. You considered he was "backward." That was your word.

21 | Q. Who? Ebsary?

22 | A. No, MacNeil.

23 | Q. Oh, MacNeil. Oh, yes, I would -- I think I'd have to -- I'd
24 | go along with that -- what he says about MacNeil.

25 | Q. With what Marshall -- what Al Marshall says?

1 A. Read it again, please.

2 Q. ...that he was of sub-normal
3 intelligence and slightly mental.

4 A. He was a backward type of chap. I don't about his mental state,
5 sir. I'm not -- want to quote anything on that.

6 Q. If Jimmy MacNeil were telling the truth when he told you what
7 he did that night, then that necessarily would mean, would it
8 not, that Maynard Chant and John Pratico had lied to you?

9 A. I think there would have to -- There'd have to be more investi-
10 gation on that thing before you could arrive at that.

11 Q. If Jimmy MacNeil was telling you the truth -- if he was -- that
12 Roy Ebsary -- he saw Roy Ebsary stab Seale --

13 A. Yeh.

14 Q. -- and he saw Roy Ebsary --

15 A. Then you would have --

16 Q. -- slash Marshall --

17 A. Then you would have the two versions of it.

18 Q. If he was telling the truth.

19 A. If, yes. If he was telling the truth, he --

20 Q. Then Pratico and Chant would have to have been lying?

21 A. Yes, I would say so, yeh.

22 Q. Let me go to the statements with you, Chief. Mary Ebsary. And
23 that's -- The typewritten part is page 181; the handwritten,
24 on the next couple of pages. Is that your handwriting? Did
25 you take the statement from Mary Ebsary?

1 A. Yes.

2 Q. You knew from what she told you -- And that's about halfway down.
3 You see where the question is:

4 Q. What took place in the car

5 And after that:

6 A. The conversation was about
7 this boy Jim and my husband
8 being attacked that night
9 coming home by the park.

9 A. Yes.

10 Q. And you knew from what she said that there had been an attack
11 in the park that night and that she thought it was the Marshall
12 boy and the Seale boy involved?

13 A. Yes.

14 Q. You knew that?

15 A. Yes.

16 Q. You did not ask her if she saw Roy washing a knife -- blood off
17 a knife? You didn't ask her that?

18 A. No. No.

19 Q. But that's what Jimmy MacNeil had told you had happened on
20 that night. Why wouldn't you ask her that question?

21 A. I just took her statement at that time, sir, and --

22 Q. Well, what did you tell her you wanted her to tell you, Chief.
23 What -- How did it start? You brought her in and you put her
24 in front of you. What did you tell her?

25 A. I told her that there was -- And again, I'm not sure of my

1 exact words, what I told her, but I guess it would be somewhere
2 along the line that I was -- had a complaint from a party at
3 that time that -- I suppose I would mention Jimmy MacNeil's
4 name. Again, I can't be sure of it -- that her husband was
5 involved in the event that took place at the park -- the Seale
6 stabbing.

7 Q. When --

8 A. As I said, now, I'm not sure, but it would open it up somehow
9 like that, and that's why she was down here, that I'd to hear
10 if she had any information that she could give me.

11 Q. This is a statement, Chief, that's completely question and
12 answers.

13 A. Yes.

14 Q. And your practice was to take down everything that's said, isn't
15 that correct?

16 A. When I -- Yes, when I started taking this, but there would be
17 something before it. When I ask can somebody come to the
18 station that --

19 Q. Yes.

20 A. -- have to know what they were there for.

21 Q. But there's nothing that she said to you --

22 A. No, sir.

23 Q. -- that would not be on this statement?

24 A. That there wouldn't be on it, what I said to her opening it.

25 Oh, you mean when I started taking the station -- No, the

12:00 p.m.

- 1 question and answer form? No.
- 2 Q. Everything that she said to you that night is contained on this
3 statement, is it not?
- 4 A. To the best of my recollection, yes.
- 5 Q. And so you start out by asking her if she had a conversation
6 with anyone in regard to the Sandy Seale case? That was your
7 first question?
- 8 A. That's right, yeh. Yeh.
- 9 Q. And then you went on and the statement obviously reads for
10 itself. Now, you had been told by MacNeil that on that night,
11 he was at Roy's house, and Roy had washed the knife -- blood
12 from the knife. You knew that. Why would you not ask her that,
13 did she see Roy washing a knife on the night of the stabbing?
- 14 A. Well, I didn't ask her that. I can't tell you at this time,
15 sir.
- 16 Q. Why didn't you ask her what Roy was wearing that night?
- 17 A. This was my trend of thought at the time, the questions that
18 I did ask, sir. I can't -- I suppose there's a lot of things
19 I could've asked that -- This was this line of questioning that
20 I used on that particular night.
- 21 Q. You didn't ask her who was home that night? Anyone else in the
22 house? Would that not be a question that you should've asked?
- 23 A. It would be a good question to ask, yes.
- 24 Q. You didn't ask her about MacNeil's reported visit to the house
25 the following day when Roy said he had done it in self defence?

1 would that not have been a good question to ask her?

2 A. I think I was asking her questions about Jim, wasn't I? I'm
3 trying to -- I'm reading this now. I think the first question:

4 Q. Did you ever have a conversation
5 with anybody in regard to Sandy
6 Seale case

6 A. Yes, I did

7 Q. With whom?

8 A. A boy called Jim. I don't know
9 his second name

9 Q. Where does he live?
10

11 And she told me where he lived. That was the tying of Jimmy
12 MacNeil in there. I think I was interested in the conversation
13 she had with him and what it was about.

14 Q. Is that all you wanted to know was anything that MacNeil had
15 said to her?

16 A. I was questioning her at that time what -- Yes.

17 Q. You weren't interested in what she may have heard MacNeil say
18 to Roy?

19 MR. PUGSLEY:

20 On the bottom of the page.

21 MR. MacDONALD:

22 What about it?

23 MR. PUGSLEY:

24 The question and answer that appears there and --
25

JOHN F. MacINTYRE, by Mr. MacDonald

1 MR. MacDONALD:

2 Yeh.

3 MR. PUGSLEY:

4 -- it deals with that night.

5 BY THE WITNESS:

6 A. The question:

7 Q. Do you remember the night
8 that Seale was stabbed

9 A. Not particularly. I remember
10 reading of it in the paper.

10 BY MR. MacDONALD:

11 Q. Yeh. Let me put it expressly. You didn't ask her if she were
12 present -- I'm referring to Jimmy MacNeil's statement where
13 he said he had visited Roy again the next day and he -- It said:

14 Q. What did he say

15 A. He said it was self defence.
16 I told him he did not have to
17 kill him. He told me he had
18 two childre, a girl and a boy,
19 and not to say anything to the
20 police. I left then

18 Q. Who seen you at the house
19 besides Roy

20 A. His wife, daughter, and son

21 Now, whey then wouldn't you have asked her did she Roy at
22 the -- did she see MacNeil at the house the next day after the
23 stabbing?

24 A. I would say, like, as I said before, that I had sufficient at
25 this time to get in touch with the Crown, and if somebody else

1 | took over the investigation, they would go further with it.

2 | Q. Why didn't you ask or you didn't ask --

3 | A. It was getting late that night, and I wanted to get the Crown
4 | on this -- in on this on that particular night, and I thought
5 | I was doing the proper thing at that time, sir.

6 | Q. You didn't ask her if Roy carried a knife or he used knives?

7 | A. Again, I suppose there'd be a lot of other questions you could
8 | ask, sir, but those are the questions that I asked on that
9 | particular night.

10 | Q. Do you say now that that would've been a question you should've
11 | asked?

12 | A. Well, it could've been asked, yeh.

13 | Q. It should've been?

14 | A. Yes, it'd be a good question to ask.

15 | Q. You didn't ask --

16 | A. No.

17 | Q. -- "Was he a violent person?"?

18 | A. No, I don't know anything about that at that time.

19 | Q. But it was a completely question and answer --

20 | A. It was, sir, yes.

21 | Q. -- format. Whatever questions you asked, Mrs. Ebsary answered?

22 | A. That's correct.

23 | Q. Let's go to the statement of Roy Ebsary. That's down on
24 | page 191.

25 | A. Roy Ebsary, did you say?

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Yes. I'm sorry.

2 A. One eighty-six.

3 Q. That's right. I have the wrong one.

4 COMMISSIONER EVANS:

5 One eight six.

6 BY MR. MacDONALD:

7 Q. Now, you see at the top of that statement, in fact, at the top
8 of Mary Ebsary's statement as well, she was warned and so was
9 Roy Ebsary warned. What does that mean?

10 A. Well, that means that the evidence that I had earlier from
11 James MacNeil and that Roy Ebsary was involved in this, and
12 Mary Ebsary was his wife, and I was seeing what Roy Ebsary had to
13 stay.(sic)I thought it was only fair at that time to warn him
14 and which I did.

15 Q. And you warned his wife?

16 A. And I warned his wife.

17 Q. And his son?

18 A. It would be on the statement, sir, if I warned him. Yes, he was
19 warned too.

20 Q. What was your impression of Ebsary?

21 A. Well, not knowing the man, I -- He answered everything that I
22 asked him. He certainly denied knowing that he said there a
23 confrontation, I think in that statement somewhere, where he
24 did have a confrontation with somebody, and it was tied down
25 to being that night but that he never stabbed anybody, and his

12:07 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 answer was that he didn't.

2 Q. But there was a confrontation?

3 A. That's right. That's right. Yes.

4 Q. Did -- Was it your intention to take a full statement from
5 Mr. Ebsary?

6 A. A full statement?

7 A. Did you intend to deal with him fully about the event?

8 A. This is here -- I think there's -- I think this statement was
9 a good statement for me to get; except he denied in that state-
10 ment that he stabbed anybody.

11 Q. You didn't confront him with any of the things -- or perhaps
12 some of the things that MacNeil had said. You didn't ask him
13 if he washed off a knife that night at home.

14 A. No. No. Because I asked him the question if he was -- Find it
15 there somewhere. Did he stab anybody that night? I think his
16 answer is what?

17 A. Hell no.

18 -- I wouldn't --

19 Q. Do you carry a knife

20 A. No

21 Q. Now, Chief, if you had had walked into the next room and picked
22 up his record, you would've been able to show him that certainly
23 at some times he carried knives.

24 A. Yes. Oh, yes.

25 Q. But that didn't occur to you to do that?

- 1 A. But I don't think that would be my -- That didn't enter my
2 mind at that time.
- 3 Q. But when you did -- Ultimately, you went and looked at --
- 4 A. I couldn't say if I looked or somebody told me about it, sir.
- 5 Q. Yeh. I thought you said earlier that you had gone and actually
6 looked at his record at some time.
- 7 A. No, I don't think I said that at all. I thought I said that
8 I learned that he did -- that he did have a conviction at some
9 time about the knife.
- 10 Q. For a knife?
- 11 A. Yeh, that's what I'm thinking, yes.
- 12 Q. And you learned that he had a conviction for a knife?
- 13 A. Not at this time.
- 14 Q. No, but some time? Yes?
- 15 A. Some time, but it wasn't --
- 16 Q. Did it occur to you then that perhaps Ebsary hadn't told you
17 the truth when he said he didn't carry a knife?
- 18 A. Yes, he would be. He wouldn't be telling me the truth if I had
19 asked him about that. I didn't ask him about that, I don't
20 think.
- 21 Q. Al Marshall has testified here that you told him that you
22 were aware of Ebsary's previous conviction for a knife but it
23 was a trivial or inconsequential offence. Did you tell Marshall
24 that?
- 25 A. I don't recall making a statement like that, sir. I'm -- I

JOHN F. MacINTYRE, by Mr. MacDonald

1 | could've known that Ebsary had a conviction of a knife, but I
2 | wouldn't -- I didn't know anything about the -- don't remember --
3 | recall anything else being said, and I said I could've known that
4 | at the time, I don't know.

5 | Q. Let's look at page 1 of Volume 16. Just take a moment to look
6 | at that and tell me if you've ever seen it before.

7 | A. I can't recall. I knew that at some later date, and I can't
8 | tell you when, that he was convicted of this -- of knife, but
9 | as to this what he was going to do with it, I can't recall that.

10 | Q. Would you call what's described on page 1 of Volume 16 a trivial
11 | or an inconsequential event?

12 | A. I wouldn't call that a trivial thing, sir, no.

13 | Q. Carrying a twelve inch butcher knife around, looking for another man

14 | A. I wouldn't call that trivial, no.

15 | Q. But did you tell Al Marshall that the previous conviction --

16 | A. I have no --

17 | Q. -- that he had was trivial or inconsequential?

18 | A. I have no recollection of making a statement like that, sir.

19 | Q. Is it possible you could have?

20 | A. I don't think I could have.

21 | BY MR. CHAIRMAN:

22 | Q. Before you move along on that statement, I didn't -- I'm not
23 | sure I understood the answer or -- with respect to the warning
24 | that you gave --

25 | A. Oh, yes.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. -- Roy Ebsary before you started --
- 2 A. The warning that I did give him, My Lord?
- 3 A. Yes. Yes.
- 4 Q. It would be, "You need not say anything. You have nothing to hope
- 5 from any promise or favor, and nothing to fear from any threat
- 6 whether or not you say anything, and what you may say may be
- 7 used as evidence.
- 8 Q. That's the standard --
- 9 A. That is a standard warning --
- 10 Q. Standard police caution that you give.
- 11 A. -- My Lord. Yes. Yes. And in this case here, there was a
- 12 complaint made that night by MacNeil that Ebsary had done the
- 13 stabbing that night in the park; so me having that information
- 14 at that time, I thought it was proper to warn him in case he did
- 15 say something.
- 16 Q. Do you usually --
- 17 A. For that effect.
- 18 Q. Looking through the statements here, other than Mrs. Ebsary and
- 19 Roy Ebsary, I don't know about the son, --
- 20 A. Yes.
- 21 Q. I don't see any evidence that you had given similar warnings
- 22 to anyone else.
- 23 A. No, because the MacNeils -- It was just what their brother told
- 24 them. One fellow -- two or three weeks before November -- of
- 25 what he told them, and MacNeil himself made the complaint,

12:14 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 James MacNeil.

2 Q. Yes, I understand what you're saying, and I wasn't referring to
3 the MacNeils particularly, but the many statements that were
4 taken prior to the conviction of Donald Marshall by you, warnings
5 were not given. You didn't warn Chant, or you didn't warn
6 Patricia Harriss or you didn't give a police caution to any
7 of these people.

8 A. No, no, My Lord. I -- They weren't -- They would only be
9 witnesses if they knew something.

10 Q. They weren't --

11 A. I had no report that they had anything to do with the stabbing
12 at that time.

13 Q. So you treated Roy Ebsary, then, as a suspect?

14 A. As a -- At -- Because of the information --

15 Q. Or a possible suspect?

16 A. Because of the information that James MacNeil gave me, My Lord.

17 Q. The statement that you took from Donald Marshall, Jr., on
18 May 30th, I see no warning there. Do --

19 A. On May the 30th, no. No.

20 Q. Am I entitled to assume then that he was -- You didn't regard
21 him as a suspect?

22 A. He was regarded then as a -- in that statement there, as being
23 stabbed by somebody else.

24 Q. And not a suspect?

25 A. Not a suspect at that time, no.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Or not a possible suspect?

2 A. No.

3 Q. I see. All right.

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JOHN F. MacINTYRE, by Mr. MacDonald

1 | COMMISSIONER POITRAS:

2 | I wonder if I could ask a question too.

3 | BY COMMISSIONER POITRAS:

4 | Q. With reference to the statement of Roy Ebsary on page 186 --

5 | A. Yes.

6 | Q. --it is represented over a page and a half?

7 | A. Yes.

8 | Q. The starting time would appear to be nine-fifteen p.m.?

9 | A. Yes.

10 | Q. And it would have terminated at ten-ten p.m., almost an hour?

11 | A. Yeh.

12 | Q. Would that make sense?

13 | A. Well, it -- that might -- I --

14 | Q. My reaction is that it seems to represent a lot of time for
15 | little to have been said? I'm just wondering what your --

16 | A. Well, you know, I'd -- there was no -- yeh, that -- I'll tell
17 | you, My Lord, there was nothing in between. It was
18 | question and answer form that it went down. I don't know.

19 | COMMISSIONER POITRAS:

20 | Thank you, Mr. MacIntyre.

21 | BY MR. MacDONALD:

22 | Q. Roy Ebsary testified before this Commission, Chief, on page
23 | 244 that he told you he had made a swipe at Seale -- Seale,
24 | and that he had told you he had made a swipe at Marshall with
25 | the knife, but that's not --

12:17 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. No, he didn't tell -- he didn't tell me that at all, sir,
2 on that particular night.

3 Q. Did he tell you it at any time?

4 A. The question was asked, "Did you stab the man you were wrestling
5 with"? Answer, "Hell, no, why would I stab him".

6 Q. But he says he told you that he had made a swipe at him with
7 the knife?

8 A. No, he didn't tell me -- that he made a swipe at him with
9 the knife.

10 Q. So when he gave that evidence he's wrong?

11 A. Yes. Yes.

12 BY COMMISSIONER EVANS:

13 Q. Actually didn't he say that night he had no knife with him,
14 that he didn't carry a knife?

15 A. The question over on the next page is, "Do you carry a knife"?
16 Answer, "No".

17 MR. MacDONALD:

18 That's true, and we've already pointed that out, I think, to -- or
19 the Chief has pointed that out already.

20 THE WITNESS:

21 Yeh.

22 BY MR. MacDONALD:

23 Q. Greg Ebsary's statement, that's on page 191, and perhaps we
24 can clean up something that Justice Poitras just asked you.
25 You'll see that that statement is taken by you, is it not,

1 Chief MacIntyre?

2 A. Yes.

3 Q. And it's supposed to have started at nine fifty-five?

4 A. Yes.

5 Q. And yet Ebsary's wasn't finished until ten-ten?

6 A. Yes.

7 Q. How could that be?

8 A. Yes, I can't answer that, sir. There's a mistake in the time
9 there somewhere.

10 Q. And Greg Ebsary's statement is shown to be finished at
11 ten-twenty?

12 A. Yes.

13 Q. And that's a twenty-five minute period if these -- if it's
14 accurate. He's testified here that he was at the station for
15 four hours and that the statement does not contain everything
16 that he said that night or that was said. What do you say to
17 that?

18 A. I would say that the statement contains what he said. If you --
19 And as far as the four hours are concerned, he wasn't
20 interrogated for that length of time and I can't tell you just
21 how long he was at the -- at the station.

22 Q. Now again you didn't ask Greg Ebsary if his father carried
23 a knife. You didn't ask him if he was home the night of
24 the stabbing?

25 A. No, I --I have to read this, sir. No, I was questioning him

JOHN F. MacINTYRE, by Mr. MacDonald

1 I think along the lines of what I have heard already
2 to see what he'd have to say about it.

3 Q. What you'd heard already was from Jimmy MacNeil?

4 A. Yeh.

5 Q. At least from Jimmy MacNeil saying that Roy had -- Roy Ebsary
6 had stabbed Seale and Marshall, and that they then went to
7 Roy's house. Why would you not then find out from Greg Ebsary
8 if his father carried a knife, if Greg was home the night of
9 the stabbing, if he saw a knife being washed off? Why wouldn't
10 you ask him those questions?

11 A. Again I thought I had -- that I -- I could have -- And again
12 your -- in answer to your question, I could have asked those
13 but I didn't.

14 Q. Okay.

15 BY MR. CHAIRMAN:

16 Q. Did the Crown Prosecutor stay in the police station during
17 the period you were taking statements?

18 A. The Crown Prosecutor was there, sir -- My Lord, but I -- he
19 was there for quite awhile when he came down, but I thought
20 it was somewhere -- you know, it was late when he came down
21 and, well, this statement here was started at nine fifty-five.
22 He'd be down -- I don't know what time he arrived to be
23 honest with you, but it was at my request that he did arrive.

24 BY MR. MacDONALD:

25 Q. And is it your understanding that you requested him to come

12:20 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 down after you had all of these statements?

2 A. I'm not saying that, sir. I'm not sure if we were finished
3 with them all, but at some point during the taking of those
4 statements he was called to come down and he was around
5 there for some time.

6 BY MR. CHAIRMAN:

7 Q. Did the Crown Prosecutor Mr. Matheson call Halifax from the
8 police station?

9 A. Yes, that -- that night, and he was quite concerned with
10 those -- with the material that we had at hand on that night.

11 Q. And my recollection is, and I may be wrong on this --

12 A. Yes.

13 Q. --that Mr. Matheson testified that he had -- as soon as he
14 came down right after supper, and I think he told us he was
15 interrupted eating supper. It was a result of your call that
16 he came down, read the MacNeil statements, briefly interviewed
17 Jimmy MacNeil and then issued the instructions that the
18 Ebsarys would be picked up and statements obtained from them
19 before anyone else got to them.

20 A. I don't recall those specific instructions at this time,
21 My Lord, and I knew he was there for quite some time at the
22 station. I knew I had called him and we discussed what I
23 had at the time and -- and I made -- I made a request of
24 him at that time, what I would like to do with this
25 particular situation here.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Can you recall whether you -- when you completed taking the
2 statement from Roy Ebsary whether you then showed it to
3 Mr. Matheson?

4 A. I would say my opinion is that Mr. Matheson seen all those
5 statements on that night.

6 Q. That night?

7 A. That night, yes, sir, that night.

8 BY MR. MacDONALD:

9 Q. And is it your evidence that it was you who said you wanted
10 another police force brought in?

11 A. That is my evidence, sir.

12 Q. Yeh, and Mr. Matheson has testified that he made that decision?

13 A. I called him at the station and he seen this and I asked another
14 police force -- I'd like for another police force to take this
15 over because I had handled, I think it was case number one and
16 I'd like for somebody else to handle this and look into it to
17 see what was there and I thought that was the proper thing
18 to do on that particular night.

19 Q. You wanted the R.C.M.P. or some other force to come in and
20 do what?

21 A. Take over the evidencethatwehad here and carry on a further
22 investigation into this and if there was anything there, that
23 they handle it.

24 Q. What did you expect they would do?

25 A. I expected that they would investigate it further and make a

12:23 p.m.

1 | decision.

2 | Q. Now you've already taken statements from some of the
3 | Ebsary's and the MacNeil's. What were you expecting the
4 | R.C.M.P. to do?

5 | A. I had discussed this with the Crown that particular night
6 | and if the R.C.M.P. came in I expected them to do a re-investigati-
7 | and I wasn't going to tell them what to do. I could tell
8 | them what I'd done, plus this here.

9 | Q. But you said you expected them to do a re-investigation.
10 | I know you weren't going to tell them what to do --

11 | A. Yeh.

12 | Q. --but what did you expect them to do?

13 | A. Well, I expected them to come up with the answers.

14 | Q. You expected they would -- You said re-investigation; well,
15 | what did you mean by that?

16 | A. Well, if this here was true there'd be something wrong with
17 | the case that I went -- that I had just handled because there
18 | was a man already convicted, sir, of this, and it was
19 | a very serious -- a very serious matter.

20 | Q. Yes.

21 | A. And I thought that somebody else should get involved with it.
22 | And I thought on that night that I had done the thing that was
23 | right and done it on that particular night.

24 | MR. CHAIRMAN:

25 | Maybe before we proceed any further into this area of your

1 examination we should adjourn for lunch.

2

3

4 INQUIRY ADJOURNED AT: 12:25 p.m.

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