

RG 44  
Vol. 251  
#5

ROYAL COMMISSION ON THE  
DONALD MARSHALL, JR., PROSECUTION

VOLUME XXXVI

Held: DECEMBER 11, 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

Clayton Ruby, Ms. Marlys Edwardh, and Ms. Anne  
S. Derrick: Counsel for Donald Marshall, Jr.

Michael G. Whalley, Q.C.: Counsel for City  
of Sydney

Ronald N. Pugsley, Q.C., Joel Pink, Q.C.:  
Counsel for John F. MacIntyre

Donald C. Murray: Counsel for William Urquhart

Frank L. Elman, Q.C., and David G. Barrett:  
Counsel for Donald MacNeil estate

Jamie W. S. Saunders, and Darrel I. Pink:  
Counsel for Attorney General

James D. Bissell: Counsel for the R.C.M.P.

Al Pringle: Counsel for Correctional Services  
Canada

William L. Ryan: Counsel for Evers, Green  
and MacAlpine

Charles Broderick: Counsel for Carroll

S. Bruce Outhouse, and Thomas M. Macdonald:  
Counsel for Wheaton and Scott

Guy LaFosse: Counsel for Davies

Bruce H. Wildsmith, and Graydon Nicholas:  
Counsel for Union of Nova Scotia Indians

E. Anthony Ross, and Kevin Drolet: Counsel  
for Oscar N. Seale; E. Anthony Ross, and Jeremy Gay  
Counsel for Black United Front

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

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COURT REPORTER'S CERTIFICATE

INQUIRY RECONVENED AT 9:34 o'clock in the forenoon on Friday, the 11th day of December, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia.

1 MR. PRINGLE:

2 My Lords.

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

4 BY MR. PRINGLE:

5 Q. Mr. MacIntyre, my name is Al Pringle. I have some questions  
6 on behalf of the R.C.M. Police for you. Sir, you gave some  
7 evidence in the last few days about your practice of keeping  
8 notes. Did you have a police notebook as such when you were  
9 in the Detective Division in 1971?

10 A. We had small notebooks that we -- I carried in my pocket, yes.

11 Q. And you carried such a notebook in 1971?

12 A. When I was doing investigation work, yes.

13 Q. And you had one for this particular investigation in 1971?

14 A. I made notes on this particular investigation also.

15 Q. And would that be, sir, the sort of notes like the standard  
16 police notebook where you put the time and the date in for a  
17 particular event?

18 A. They're just small notebooks that were bought by the --

19 A. Yes.

20 A. They were bought in quantity.

21 Q. And would you put the time and the date in for a particular  
22 note?

23 A. No, there'd be notes we'd be making at the time. Sometimes  
24 they weren't dated, no.

25 Q. Okay. What happened to that notebook, sir?

- 1 A. Well, many of my notebooks were destroyed.
- 2 Q. Do you know when that particular notebook was destroyed?
- 3 A. No, sir, I don't, no.
- 4 Q. Did you have it in November of 1971 when Inspector Marshall came  
5 to see you?
- 6 A. I couldn't tell you when I destroyed it, sir.
- 7 Q. Wouldn't it be usual for you to keep that notebook while the  
8 matter was still before the Courts?
- 9 A. Yeh, I would say, yes.
- 10 Q. If you had it, would it be usual for you to show it or to give  
11 it to Inspector Marshall?
- 12 A. No, I was quite familiar with the case at that time, sir, and  
13 I -- unless he asked for it or if I had it.
- 14 Q. All right. Knowing that the matter had been looked at, reviewed,  
15 or re-investigated or whatever in November of 1971, and if  
16 you still had your notebook at that time, would that not cause  
17 you to want to keep that notebook -- to retain it?
- 18 A. No, I thought that the matter was over at that time, to be  
19 honest with you, but it apparently wasn't.
- 20 Q. So you have no recollection today --
- 21 A. No.
- 22 Q. -- as to when that notebook was destroyed?
- 23 A. No, sir. No. No honest recollection.
- 24 Q. Okay. Was it destroyed or was it lost?
- 25 A. I would destroy them because I wouldn't want them to --



- 1 Q. Do you know whether it was destroyed before 1974, '75, when  
2 Sergeant Cole --
- 3 A. I can't answer that, sir.
- 4 Q. If you don't know, that's fine.
- 5 A. No. No.
- 6 Q. Would you agree with me, sir, that it is a good practice for  
7 an investigating police officer to keep such a notebook with  
8 dates and times of his investigation and the people he saw, and  
9 so on?
- 10 A. Yes, it would be a good practice, yes.
- 11 Q. Indeed a very desirable practice; so, in fact, if events have  
12 to be looked at after the fact, you have the best recollection.
- 13 A. It would be, yes.
- 14 Q. You agree with that?
- 15 A. Yes.
- 16 Q. And you agree that a policeman -- a police officer who did  
17 keep such notes should have a better recall of events after  
18 a period of years -- sixteen years, eleven years, or whatever?
- 19 A. If he had those notes.
- 20 Q. Yes. Thank you. Now, when Inspector Marshall arrived to see  
21 you in November of 1971, do you now, sir, actually recall  
22 what you gave him, or are you testifying as to what you thought  
23 or think you may have given him?
- 24 A. My best recollection is that I gave him the file and it's in  
25 the back of my mind that Sergeant McKinley was with him.

JOHN F. MacINTYRE, by Mr. Pringle

1 Q. Yes. You knew Sergeant McKinley, did you not?

2 A. I knew Sergeant McKinley, yes.

3 Q. He worked in the G.I.S., the General Investigative Service of  
4 the R.C.M. Police here in Sydney.

5 A. That's correct, yes.

6 Q. And you had dealings with him before 1971?

7 A. I couldn't say how long he was there, sir, before that.

8 Q. Sure. But you had some dealings with him before November of  
9 1971 -- or June of '71. You had some dealings, did you not --  
10 working relationship with Sergeant McKinley before November of  
11 1971?

12 A. I could've had. I had good relations with the whole department,  
13 sir.

14 Q. That's right.

15 A. Yeh. And, in fact, you had worked on cases with Inspector Al  
16 Marshall prior to 1971?

17 A. Yes, I did. Yes.

18 Q. Right. Now, if you gave the file to Inspector Al Marshall  
19 when he came down from Halifax in November of 1971, I'm trying  
20 to understand, sir, why you would not do the similar procedure  
21 in 1982? Why wouldn't you turn your whole file over to  
22 Inspector Scott and Frank Edwards on February 3rd, 1982?

23 A. It's because I wasn't asked for the -- As I said in my evidence,  
24 that I did leave documents with them and whatever was left in  
25 the file, sir, it was available to them, and they never came

- 1 to the station to ask for the file.
- 2 Q. I understand that, sir.
- 3 A. Yeh.
- 4 Q. But Al Marshall came in, and as I understand his testimony at  
5 least, you had a package of material ready to give to him.
- 6 A. I think the '82 was a little different. The '82 -- They had  
7 come to my office in '71; the '82 I had a meeting with Inspector  
8 Scott and the Crown Prosecutor. At that time, I wasn't asked  
9 to leave everything there with them, and then when I understood  
10 that Wheaton was investigating it, he didn't ask me for it.  
11 Then it was there, sir, for him to take.
- 12 Q. Okay. I'm trying to understand the difference. Why is there  
13 a difference because somebody came to you -- your office and  
14 you went to someone else's office as to whether or not you'd  
15 give them the file?
- 16 A. That's what took place at that time, and the file was there  
17 for the asking; they didn't ask for it, sir.
- 18 Q. Okay.
- 19 A. Available.
- 20 Q. Thank you. Now, a note in 1982 after you received the direction  
21 from the Attorney General -- I think it was dated April 20th,  
22 1982. The letter to turn over all the documents?
- 23 A. Yes.
- 24 Q. Thereafter, you had prepared that inventory, which is Exhibit 88,  
25 and you had listed everything that Sergeant Wheaton took at that

1 | time, is that correct? And he initialled it.

2 | A. That's -- Yes, that's correct, yes.

3 | Q. You didn't do that in 1971 with Inspector Marshall, did you?

4 | A. No.

5 | Q. Why not?

6 | A. Well, I didn't do it, sir.

7 | Q. Okay.

8 | A. Yeh.

9 | Q. Now, when Inspector Marshall arrived to see you in November  
10 | of 1971, did you know, before he came, that he was the person  
11 | that was coming?

12 | A. No. No, sir.

13 | Q. Did you know in fact whether anyone --

14 | A. I --

15 | Q. -- was coming from Halifax or whether someone was coming from  
16 | Sydney or R.C.M. Police or what?

17 | A. I didn't know, sir. No.

18 | Q. What did you know?

19 | A. I knew that the Assistant Crown Prosecutor had made a call  
20 | to Halifax.

21 | Q. That would be Mr. Matheson.

22 | A. And I knew the request that I had made, sir, and I didn't know  
23 | who was coming, and I had nothing to -- I had no information.

24 | Q. And did you know when they were coming?

25 | A. No, sir.

- 1 Q. But you had some material or material prepared and waiting for  
2 them when they arrived?
- 3 A. I had material, yes.
- 4 Q. Waiting for them when they arrived?
- 5 A. That's right.
- 6 Q. Okay. Did you ask Inspector Marshall when he arrived what his  
7 instructions were?
- 8 A. No. No, sir.
- 9 Q. Did he tell you?
- 10 A. No, I didn't think that -- No, he didn't tell me, no.
- 11 Q. Were you not curious, sir, to see what his instructions -- what  
12 his mandate might be when he's investigating or reviewing or  
13 whatever a murder case that you had investigated and that had  
14 just gone through the Courts? Wouldn't you be curious to see  
15 what he was up to at that point in time?
- 16 A. Well, I knew what he was -- Put it this way, I knew he came  
17 down to look into it because of my request.
- 18 Q. I understand that and then, therefore, wouldn't you say to  
19 him, "Al" -- Inspector Marshall, whatever -- "What are you  
20 going to do? You know, are you going to look at all the  
21 witnesses? What are you going to do?"?
- 22 A. No, sir, I didn't say that, no.
- 23 Q. You gave him your views of the case, did you?
- 24 A. Yes.
- 25 Q. And did you, to quote you words of yesterday, "man to man,

JOHN F. MacINTYRE, by Mr. Pringle

1 | police officer to police officer," give him your views?

2 | A. That what I always done, and that's what I would do in that  
3 | case, sir, yes.

4 | Q. And your views at that time was certainly that you had the  
5 | right man, the right man was convicted?

6 | A. Definitely so, sir.

7 | Q. And you impressed those views upon Inspector Marshall, didn't  
8 | you?

9 | A. I likely related to him without any doubt what my views were  
10 | but they --

11 | Q. Sure.

12 | Q. That was at that time.

13 | A. Yes.

14 | Q. For example, Mr. MacDonald has gone through a list of things  
15 | that were in -- that are in Inspector Marshall's report -- And  
16 | we don't have to look at that now. I just thought there was  
17 | one extra one, and I want -- that I want to ask you about. Did  
18 | you say anything to Inspector Marshall in 1971 about whether  
19 | or not Junior Marshall took care to stand out of the way so  
20 | that he couldn't be seen by the late Sandy Seale on the night  
21 | of the incident. Did you say anything to Inspector Marshall about that?

22 | A. I can't recall that at this time, but there was evidence to that  
23 | effect at that time, I believe, that would lead one to believe  
24 | that what you said there would be true. I think there was  
25 | evidence of that in the -- what Constable Mroz said, of what

JOHN F. MacINTYRE, by Mr. Pringle

- 1       Maynard Chant said. Maynard Chant said, if I recall right,  
2       that he stayed fifteen or twenty feet behind --
- 3   Q.   Yeh.
- 4   Q.   -- Seale that night when he got over there, that Mroz said that  
5       when he arrived -- I think he said that he was two hundred feet  
6       away leaning against a tree.
- 7   Q.   Yeh.
- 8   A.   I mean, that would -- I think, you know --
- 9   Q.   Okay. Certainly it was a view that you held in 1971?
- 10  A.   What my view was, yes, sir.
- 11  Q.   And you would've impressed that view upon Inspector Marshall?
- 12  A.   I would what?
- 13  Q.   Have impressed that view -- conveyed that view to Inspector  
14       Marshall?
- 15  A.   Well, whatever -- whatever I --
- 16  Q.   Sure. In fact, sir, as late as January 17th, 1983, according  
17       to Frank Edwards notes, you were still conveying that view to  
18       Mr. Edwards. Do you recall that?
- 19  A.   Of my thoughts at that time?
- 20  Q.   Of your thoughts about whether that Mr. Marshall had taken  
21       care to stand out of the way. You were still talking to Frank  
22       Edwards about that in January of 1983. And that's Volume 17,  
23       page 17, if we want to look at it.
- 24  A.   Well --
- 25  Q.   Recall that?

- 1 A. They were my thoughts, sir.
- 2 Q. Yeh, okay.
- 3 A. They were my thoughts.
- 4 Q. Still were your thoughts in January of seventy -- of eighty-
- 5 three?
- 6 A. I still had thoughts, as I said, yes.
- 7 Q. Okay. Now, I'm a bit -- I don't understand exactly what your
- 8 evidence was about when, if at all, you met with Inspector
- 9 Marshall after he finished his work here in Sydney. Did you
- 10 meet with him a second time?
- 11 A. Not -- I recall something about him at the police station. It
- 12 was kind of a good-bye thing. "Everything is all right. You
- 13 can forget about that," and I think, you know --
- 14 Q. What did you take -- What did you understand that to mean?
- 15 A. Well, I understood from that he was through and things went
- 16 aground.
- 17 Q. Did you ask him what he had done?
- 18 A. No, as I said yesterday, sir, I think I was tied up with some-
- 19 body else in the office at the time, and it was a -- just a
- 20 quick thing.
- 21 Q. Do you remember what you were tied up in the office with?
- 22 A. No, I think I was talking with some other -- somebody else in
- 23 the office at the time.
- 24 Q. And --
- 25 A. That's my recollection again, sir.



JOHN F. MacINTYRE, by Mr. Pringle

- 1 Q. I understand, but here's a man that's come down to have a look  
2 at what you had done in a major case -- a murder case --
- 3 A. Yeh.
- 4 Q. -- and he comes back in the office and says, "That's okay," or  
5 words to that effect, and you don't question him about what  
6 he did?
- 7 A. Again, I wouldn't say he came in -- I didn't say he came in the  
8 office, sir. He came to the door, and I was -- I forget  
9 what I was tied up with at the time, but this was -- He was on  
10 his way anyway, and that's all I can recall, sir.
- 11 Q. Okay. Did you ever follow that up and call him in Halifax and  
12 say, "What happened?"
- 13 A. No, I didn't because I figured that he'd be responsible to his  
14 own commanding officer for -- I never got any report. I didn't  
15 ever see a report or anything like that.
- 16 Q. Did you ever ask for one, sir?
- 17 A. No, sir.
- 18 Q. Wouldn't you want something on your file that he'd through this?
- 19 A. I mean I -- What's that, sir?
- 20 Q. Wouldn't you want something on your file? You'd just gone  
21 through this murder, the case, the trial, and then someone has  
22 a look at it. Wouldn't you want something on your file?
- 23 A. No, I didn't look at it that way at the time, sir.
- 24 Q. Okay. Did you ever ask the Sergeant McKinley, who you knew,  
25 who was here in Sydney, who had worked with Inspector Marshall

JOHN F. MacINTYRE, by Mr. Pringle

1 on the matter to some extent. Did you ever ask him what happened?

2 A. No, I don't -- I can't recall it. I can't recall asking him  
3 anything.

4 Q. Were you interested in what happened with Al Marshall's investi-  
5 gation or review?

6 A. I left that to them, sir. I didn't ask -- As I said before, I  
7 don't recall asking any questions.

8 Q. The question was, Were you interested in what the results of  
9 their review was?

10 A. I was interested at the point that I figured that the thing  
11 went aground. Then there was nothing more to it.

12 Q. Okay.

13 A. Yeh.

14 Q. May I suggest to you, sir, that you perhaps thought they were  
15 checking Mr. MacNeil's story, and that's what Inspector Marshall  
16 meant when he said, "That's okay."?

17 A. No, I can't say that to you, sir, because I wasn't in on the --  
18 on any of that stuff that took place -- the meetings between  
19 the Crown and the R.C.M.P., and the polygraph tests, and their  
20 meetings that they had at their offices --

21 Q. Yeh.

22 A. -- and at the hotel. I wasn't --

23 Q. Right. You knew they were polygraph tests? You didn't know?

24 A. Yes, I did, yes.

25 Q. When did you find out the results of those tests?

9:48 a.m.

JOHN F. MacINTYRE, by Mr. Pringle

- 1 A. Oh, I would say it was -- I couldn't just say. It was around  
2 that time. And from who, I couldn't say.
- 3 Q. All right. You had no great familiarity with polygraph machines  
4 in 1971, I take it?
- 5 A. No, sir. No.
- 6 Q. All right. Do you remember, Mr. MacIntyre, when and how you  
7 got the file back from Inspector Marshall?
- 8 A. No, it's just that at this time, there was a large envelope in  
9 my file with George -- from George McKinley.
- 10 Q. Was it --
- 11 A. I would say -- I would --
- 12 Q. Yes.
- 13 A. I would think there was -- that McKinley brought the file  
14 back.
- 15 Q. There was a large envelope in your file --
- 16 A. Yeh.
- 17 Q. -- from George McKinley?
- 18 A. Yeh.
- 19 Q. And Mr. --
- 20 A. Yeh.
- 21 Q. When you got that envelope, was there still anything on your  
22 file, or was everything from your file in that envelope?
- 23 A. What are you saying, sir?
- 24 Q. I'm saying, when you got that envelope from Mr. McKinley, was  
25 there anything else in your file besides what was in that

JOHN F. MacINTYRE, by Mr. Pringle

1 envelope?

2 A. Well, I considered that I gave him the whole file; so what I'd do  
3 is just put that --

4 Q. All right.

5 A. -- stuff back in the cabinet with the file.

6 Q. Can you assist us as to when and how you got that envelope  
7 back?

8 A. No, I can't at this time. No.

9 Q. Okay. Now, Mr. Magee -- Wayne Magee -- you know him?

10 A. Yes.

11 Q. He's testified here, and he has testified -- And it's Volume 20  
12 at page 3642. We don't have to look at.

13 A. All right.

14 Q. I'll just ask you a few questions. He's testified that he and  
15 you, Mr. MacIntyre, discussed Maynard Chant's June 4th, '71,  
16 statement, and that that discussion took place probably in 1982  
17 sometime. Now, do you recall that?

18 A. It could've.

19 Q. Could've?

20 A. Could've, yeh.

21 Q. Do you have any specific recall of it?

22 A. No, not just what the specifics were, no.

23 Q. Can you tell me why you would've discussed that in 1982? You  
24 and Mr. Magee?

25 A. Well, I suppose that was the only part of it that he was --

- 1 Q. Right.
- 2 A. -- that he was tied up with -- that he was present when I took  
3 a statement from Chant and --
- 4 Q. Yes, out in Louisbourg, yeh. On June 4th.
- 5 A. Yeh.
- 6 Q. Did you discuss with any of the other persons who were present  
7 at statements or anything else in 1971 what they're -- what  
8 happened in '71 -- in 1982. In 1982, did you call anyone else  
9 or talk to anyone --
- 10 A. No. No. I -- No. No. No.
- 11 Q. No?
- 12 A. No.
- 13 Q. Why Wayne Magee?
- 14 A. Well, he would be a person probably that I would run into, you  
15 know. I could've ran into him at the Court House or somewhere.  
16 I don't know what --
- 17 Q. Yeh.
- 18 A. -- the situation was. .
- 19 Q. And you don't recall any details about what you discussed with  
20 Mr. Magee?
- 21 A. No, I don't, to be honest with you, no.
- 22 Q. Okay. Do you remember whether that discussion took place  
23 before you heard about the 1982 re-investigation by Sergeant  
24 Wheaton and Corporal Carroll?
- 25 A. Before Aronson wrote me that letter, you mean, and they got

JOHN F. MacINTYRE, by Mr. Pringle

1 | into it?

2 | A. No. Before you heard anything about the --

3 | A. I couldn't tell you, sir. I couldn't tell you, sir, --

4 | Q. Okay.

5 | A. -- to be honest with you.

6 | Q. Now, on June 4th, sir, you went up to Whycomomagh along with

7 | Inspector Urquhart and --

8 | MR. PUGSLEY:

9 | Seventy-one.

10 | MR. PRINGLE:

11 | Did I say --

12 | MR. PUGSLEY:

13 | You said June 4th, --

14 | MR. PRINGLE:

15 | June 4th, '71, yes.

16 | BY MR. PRINGLE:

17 | Q. You went up to Whycomomagh with Inspector Urquhart and Corporal

18 | Clarke from the R.C.M. Police, Baddeck Detachment, correct?

19 | A. Yeh. That's right, yes.

20 | Q. And you had a warrant for the arrest of Mr. Marshall?

21 | A. Yes.

22 | Q. Did you, that afternoon or evening, make any attempt to get

23 | another statement from Mr. Marshall?

24 | A. Did I? No.

25 | Q. You did not?

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- 1 A. No.
- 2 Q. You had gone back and got second statements from Patricia --
- 3 Well, not -- Patricia Harriss and in particular, Mr. Chant
- 4 and Mr. Pratico because you had doubts about their first state-
- 5 ments. You had a statement from Mr. Marshall that Sunday after-
- 6 noon, May 30th; why wouldn't you try and ask him to give you
- 7 another one -- a warned one?
- 8 A. I just didn't take another statement from him.
- 9 Q. Okay. Now, there's a point here that I just want to ask you
- 10 about -- that plan, that sketch that you referred to in your
- 11 evidence -- that sketch of the park.
- 12 A. Yes, sir.
- 13 Q. And as I understand your testimony, you said that you were
- 14 quite busy on that Saturday and Sunday and Monday, and so on,
- 15 and that you had started or got something to do with that
- 16 planner's sketch of the scene very early in the week. It might
- 17 be the first of the week. Is that correct?
- 18 A. Well, I think what I said is that the engineering department
- 19 done that sketch, sir.
- 20 Q. On your instructions?
- 21 A. Yes, the part that I wanted done and what I wanted done, yes.
- 22 Q. When did they do that?
- 23 A. I -- In my estimation at this time, it was sometime the first
- 24 of the week.
- 25 Q. Okay. I'd like to refer you to Volume 1, page 126, and there's

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1 | some testimony in there from the surveyor, and I'll -- In fair-  
2 | ness to you, sir, it is a bit ambiguous, and I want you to  
3 | read it and explain it to us, if you can. It's Volume 1,  
4 | page 126. What I'm referring to Mr. MacIntyre, is the evidence  
5 | of the surveyor, Mr. Carl MacDonald, beginning at about  
6 | line 10 when he was questioned by Mr. Khattar at the trial in  
7 | 1971, that's the trial of Mr. Marshall in November  
8 | of 1971 -- or October of 1971.

9 | A. Yeh.

10 | Q. And he was questioned:

11 | Q. When were your observations  
12 | made before preparing No. 5?

13 | And the answer:

14 | A. I began the survey on June 9  
15 | and I completed the survey and  
16 | the plan on June 15,...

16 | -- '71. --

17 | And I go on, and this is the part that's a bit ambiguous that  
18 | I want your comment on.

19 | Q. The data then you have on the  
20 | plan would be (the) data  
21 | accumulated...

21 | A. Pardon me, sir. (Microphone drops)

22 | Q. All right. Okay? We're back on track. The second question  
23 | was:

24 | Q. The data then you have on the  
25 | plan would be data accumulated  
26 | by you since the 28th day of



1                            May and beginning on June - when -  
2                            June 9th?

3                            Now, I'm not clear when I read that, sir, and I wonder if you  
4                            can assist us as to whether or not and when you gave your  
5                            instructions to the planners to get on with the job?

6    A. That's the questions that you're --

7    Q. Yes.

8    A. Yeh. I'm going to read it myself, sir.

9    Q. Sure.

10   A. Well, I suppose he's referring -- Yes, I suppose he's referring  
11        on the 28th day of May as the --

12   Q. That's the Saturday -- or that's the Friday, actually. The 28th.

13   A. Yes. Yeh. That's the --

14   Q. The date the incident took place.

15   A. -- date of the incident. Yes.

16   Q. He wouldn't have been out there drawing the thing that night?

17   A. No, no. No, no.

18   Q. Right.

19   A. But I think he probably just used that date to --

20   Q. Start point.

21   A. -- as a starting point.

22   Q. Okay.

23   A. And then, of course, he says that -- He says June the 9th, if  
24        I'm reading this proper, that --

25   Q. Yeh.

JOHN F. MacINTYRE, by Mr. Pringle

1 A. -- he made the -- that he started on the plan.

2 Q. Right. Okay.

3 A. Yeh.

4 Q. Just to go back to November 15th of 1971 for a moment, the  
5 night that you took the statements from Jimmy MacNeil and --  
6 Jimmy MacNeil and Roy Ebsary?

7 A. Yes.

8 Q. Did you consider that night in taking -- whether to take those  
9 men out to the scene -- out to the park and to go through the  
10 story with them there?

11 A. No, sir.

12 Q. Did you have any thoughts that night about trying to get a  
13 search warrant to search Mr. Ebsary's home?

14 A. No, sir.

15 Q. Why not?

16 A. Because as I said before, on that night I got in touch with  
17 the Crown.

18 Q. Yes, sir.

19 A. And that's what I had in mind, sir, that if this --

20 Q. Would you agree with me --

21 A. -- that if this -- if there was anything to what I was  
22 hearing, --

23 Q. Yeh.

24 A. -- that another -- that there could be a conflict of interest.  
25 I figured another department should take it over.

- 1 Q. Yes. You had a statement from Jimmy MacNeil where he referred  
2 to a -- the knife or at least a weapon and then people going  
3 back to Mr. Ebsary's home, correct?
- 4 A. Yes, that's right.
- 5 Q. Do you agree with me, sir, that the best possible time to look  
6 for a murder weapon or any kind of a weapon is immediately --  
7 not putting it off?
- 8 A. No, at that time, sir, I -- the data that I had, I figured that  
9 I should get in touch with the Crown at that time and ask for  
10 that request.
- 11 Q. And if there was a murder weapon, as in result there was, while  
12 you're getting in touch with the Crown and were waiting for  
13 someone else to come and look at it, what might  
14 happen to that weapon?
- 15 A. Well, this was on November the 15th, six months after this  
16 incident happened, sir.
- 17 Q. Yes. And we know that eleven years later, the weapon was  
18 found, don't we?
- 19 A. No, we don't.
- 20 Q. Don't we?
- 21 A. I don't think there's been any weapon identified as the weapon  
22 that -- There was several knives picked up, but --
- 23 Q. Right.
- 24 A. And I wasn't at this trial that -- and there was evidence given,  
25 but I don't know if there was a weapon pinned down as the weapon that done

1 the --

2 Q. Certainly there were weapons -- many knives --

3 A. But the weapon that done the stabbing wasn't identified.

4 Q. Yeh. Do you agree, sir, that certain other evidence was  
5 identified eleven years later, at least by the lab and put  
6 before the Court of Appeal in 1982 -- the fibres being on a  
7 knife, and so on? Do you recognize that?

8 A. Well, I recognize that, yes. There was fibres found, and I  
9 also read the explanations of it.

10 Q. Yeh. Where? You mean in the --

11 A. No, I read the explanations of what the -- of what they had  
12 to say from the lab, yes.

13 Q. Right. And you accept that?

14 A. And I read -- and also what the Court had to say about it.

15 Q. Yeh. Do you accept that?

16 A. The -- About the fibres? Yes. What they had to say about it,  
17 yes.

18 Q. Okay. And you also accept, sir, -- And I'm just about finished.  
19 You also accept that Mr. Ebsary now did the stabbing. You've  
20 testified to that effect.

21 A. Yes.

22 Q. Right. And you accept, sir, that the Courts have found that  
23 Mr. Ebsary was the guilty party and, of course, that two R.C.M.  
24 Police officers in the main came along eleven years later and  
25 got the right guy. Do you accept that?

JOHN F. MacINTYRE, by Mr. Pringle

1 A. The Court has made that decision, and I accept the --

2 Q. Yes.

3 A. I accept the findings of the Court, sir.

4 Q. I want to ask you this question, Considering that and the time  
5 span, can you tell me what practices or procedures that you  
6 might think that Harry Wheaton and Jim Carroll followed eleven  
7 years later that you didn't in 1971 that led them to the right  
8 person after eleven years?

9 A. No, I think that's to come up before the hearing.

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JOHN F. MacINTYRE, by Mr. Pringle

- 1 Q. I see.
- 2 A. Yeh.
- 3 Q. You can think of nothing?
- 4 A. What's that, sir?
- 5 Q. Can you think of any practices or procedures that you might have  
6 followed in 1971?
- 7 A. Well, they interviewed -- re-interviewed the witnesses and  
8 re-interviewed people.
- 9 Q. Yeh.
- 10 A. And made their own observations, sir. I wasn't in on that.
- 11 Q. Okay. I notice, sir, in Volume 15 your affidavit. That's  
12 Exhibit -- Volume 15. Do you have that in front of you?
- 13 A. Yes.
- 14 Q. Volume 15 at page 14. That's the affidavit I understand was  
15 sworn on July 26th, 1982?
- 16 A. There's --
- 17 Q. Have you got that?
- 18 A. I have that on page 14.
- 19 Q. Right. And that's the affidavit that was sworn by you I  
20 understand on July 26, 1982, correct?
- 21 A. Yeh. The date is not -- 1982 is on it but I don't see --
- 22 Q. Okay.
- 23 A. But this is the affidavit, sir.
- 24 Q. Fair enough.
- 25 A. Yeh.

JOHN F. MacINTYRE, by Mr. Pringle

1 Q. Now on the next page, page 15 of Volume 15 you have another  
2 short affidavit where you make some changes to that first  
3 affidavit, correct?

4 A. Yes, I see that here, yes.

5 Q. Yes, and one of the changes that you make -- in fact, the change  
6 that you make is to delete paragraph 29 from the affidavit --  
7 from the first one, and paragraph 29 reads:

8 THAT at the conclusion of the R.C.M.P.  
9 investigation referred to in the  
preceding paragraph hereof...

10 And that's 1971.

11 ...I was informed and do verily  
12 believe that polygraph tests were  
13 administered to both MacNeil and  
Ebsary, the former showing  
inconclusive reports, the latter

14 And the paragraph stops there. Now why did you delete that  
15 paragraph later on that year? Why did you want that deleted?

16 A. I guess I wasn't sure at what time that I knew about the  
17 polygraph tests.

18 MR. CHAIRMAN:

19 It would be the affidavit on the next page, page 15, paragraph two.

20 MR. PRINGLE:

21 Yes, the sentence is incomplete, My Lord.

22 BY MR. PRINGLE:

23 Q. On paragraph two of the affidavit on Volume 15, page 15, you say:

24 THAT due to a photocopying error,  
25 paragraph 29 of the aforementioned  
affidavit is incomplete.

1 And it certainly is. If we look at it -- go back to page 14.

2 It stops with the word "the latter".

3 A. "...the former showing inconclusive results".

4 Q. And can you tell us what was incomplete? I think it's probably  
5 obvious what was incomplete.

6 A. Well, it wasn't in there what -- what happened to Ebsary on  
7 the polygraph, yeh.

8 Q. But do you wish to delete the actual paragraph incomplete or  
9 whatever because you weren't sure of what time you heard about  
10 the polygraph results. Is that your evidence?

11 A. It could be.

12 Q. Okay.

13 MR. PRINGLE:

14 Thank you, Mr. MacIntyre.

15 BY MR. T. MACDONALD:

16 Q. Chief MacIntyre, my name is Tom Macdonald, and I'm asking  
17 you questions today on behalf of Inspector Don Scott and  
18 Staff Sergeant Harry Wheaton of the Royal Canadian Mounted  
19 Police. Chief MacIntyre, what I'd like to ask you about are  
20 meetings that you had with Inspector Scott and with Staff  
21 Sergeant Wheaton, and as I understand your evidence that you've  
22 given to this point during this week, you recall a meeting  
23 of February 3rd, 1982, Frank Edwards' office with Frank Edwards  
24 and Inspector Scott?

25 A. Yes.



JOHN F. MacINTYRE, by Mr. T. Macdonald

- 1 Q. And I believe, sir, you've testified that they took things  
2 from your file, but you were never asked for your full file  
3 at that meeting?
- 4 A. Or at any meeting, sir, yes.
- 5 Q. But I'm speaking --
- 6 A. But not that meeting, no.
- 7 Q. Yes. Okay.
- 8 A. No.
- 9 Q. Chief, did you ever offer to give Inspector Scott or Mr. Edwards  
10 other material from your file at that meeting on February 3rd  
11 in Mr. Edwards' office? Did you offer, sir?
- 12 A. Well, I -- they had got some material at that time and any  
13 material they wanted at that time they could have had.
- 14 Q. Yes. What I'm saying is other than the material they took,  
15 did you offer --
- 16 A. I couldn't say at this time that I offered. I was of the  
17 opinion that what they wanted, sir, is what they took and  
18 I took the rest back to the office.
- 19 Q. After that meeting, Chief MacIntyre --
- 20 A. Yes.
- 21 Q. --do you recall a meeting with Staff Sergeant Wheaton in your  
22 office at the Sydney police station when he came and told you  
23 that he was investigating the matter as a result of the Aronson  
24 letter?
- 25 MR. PUGSLEY:  
Could you give us a date on that?

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 MR. T. MACDONALD:

2 Well, I'm asking --

3 BY MR. T. MACDONALD:

4 Q. Perhaps, Chief, if you could give us a date. I can give  
5 you one, but I'm just wondering if you have an independent  
6 recollection?

7 A. Well, I -- I -- the only recollection I have is that -- and  
8 I would have to say --

9 Q. Yes.

10 A. I remember Staff Sergeant Wheaton coming to my office on more  
11 than one occasion.

12 Q. Yeh.

13 A. And discussing -- discussing individuals.

14 Q. Well, sir, if I were to tell you that I'm instructed that on  
15 February 4th of 1982, Staff Sergeant Wheaton came to your  
16 office at the Sydney City Police Station to let you know that  
17 he was investigating the matter, would you agree with that?

18 A. I thought -- I thought it was -- We had that meeting; when  
19 did you say with Inspector Scott and Mr. Wheaton, on  
20 February 3rd?

21 Q. February 3rd, '82, sir, is when you -- when you say you had  
22 it.

23 A. Well, I thought -- in my recollection it was several days  
24 later.

25 Q. All right. You do recall do you, Chief, that you did have a

1 meeting with Inspector -- I'm sorry, with Staff Sergeant  
2 Wheaton when he came to your office and told you that he  
3 was going to be investigating the case after you met with  
4 Frank Edwards and Don Scott?

5 A. I knew that he was on the case, yes.

6 Q. Yes. Okay. What was discussed at that meeting with Staff  
7 Sergeant Wheaton?

8 A. On one or two occasions when he came to the office he had --  
9 there was another party with him. I don't recall who they  
10 were at this time.

11 Q. Well -- I'm sorry, go ahead.

12 A. He was discussing I think it was Pratico and Chant, I believe,  
13 and another time I think it was the Harriss girl.

14 Q. Well, what I'd -- what I'm asking you, Chief, is the first  
15 time you met with Staff Sergeant Wheaton after your initial  
16 meeting with Frank Edwards and Inspector Scott, the first  
17 time you met with Staff Sergeant Wheaton after that meeting,  
18 what was discussed, sir?

19 A. I couldn't say -- It was individuals I would say and he  
20 could have been asking other questions about the case. I  
21 don't -- I just can't recall.

22 Q. Is it fair to say, sir, that you had a thorough discussion  
23 with Staff Sergeant Wheaton that day?

24 A. No, I wouldn't say that. I can't recall any thorough discussion  
25 I had with Staff Sergeant Wheaton. I understood that he was

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 coming there on things that -- that he had known at that time.

2 Q. All right. Did you offer to give Staff Sergeant Wheaton  
3 anything from your file at that meeting?

4 A. No, he didn't ask for anything and I -- I didn't -- I didn't  
5 offer, no.

6 Q. Thank you. Now just to take you back in the chronology  
7 of where we are to this point, you've met with Inspector Scott  
8 and Mr. Edwards in Mr. Edwards' office?

9 A. That's what I recollect, sir.

10 Q. Yes. You've now met with Staff Sergeant Wheaton in your office?

11 A. Yes.

12 Q. And he's told you he's on the case. After that meeting, do  
13 you recall a meeting with Inspector Scott and Staff Sergeant  
14 Wheaton at R.C.M.P. headquarters here on Alexandra Street  
15 in Sydney?

16 A. I remember a meeting up there, yes.

17 Q. Do you remember, Chief, them telling you at that meeting that  
18 they had new statements from Chant and Pratico saying they  
19 had lied at the trial?

20 A. They could have, yes. They could have.

21 Q. Do you remember, Chief, saying to them upon hearing about  
22 these new statements from Chant and Pratico that if Patricia  
23 Harriss could be found she'd clear things up or words to  
24 that effect?

25 A. I wouldn't -- I don't think I put it that way, sir. There

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 was no problem to find Patricia Harriss. I think that I  
2 did discuss Patricia Harriss with them.

3 Q. Yes.

4 A. Yeh. There's no --

5 Q. Well --

6 MR. PUGSLEY:

7 I don't mean to interrupt my friend --

8 MR. T. MACDONALD:

9 I'm sorry. No, that's fine.

10 MR. PUGSLEY:

11 -- but it just occurred to me that I take it that there are no  
12 records, written records that Wheaton or Carroll have that have  
13 not been given to this Commission. I mean I'm going to be very  
14 upset if when Wheaton and Carroll get on the stand a notebook is  
15 produced wherein they made notes of meetings they had with my  
16 client that have not been revealed to me or revealed to this  
17 Commission beforehand and I take it that that is not the case.

18 MR. CHAIRMAN:

19 Well, I -- you'll have to ask Commission Counsel to respond to  
20 that. We --

21 MR. MacDONALD:

22 My understanding, My Lord, is that we have turned over all the  
23 documents that we have been given by the R.C.M.P. to -- relating  
24 to this -- this incident with --

25 MR. PUGSLEY:

I wasn't inputting anything to Commission Counsel.

JOHN F. MacINTYRE, by Mr. T. Macdonald (DISCUSSION)

1 I didn't mean that Commission Counsel was holding back on me.  
2 I just assumed that Wheaton and Carroll have divulged all  
3 documents that are in their possession as indeed has my  
4 client, and as far as I know everyone else to this  
5 Commission, so that one has an opportunity of discussing  
6 it with one's clients beforehand. I just hope I'm not going  
7 to be dismayed at the time that Wheaton and Carroll give  
8 evidence of a notebook being produced containing a document  
9 of meetings and alleged comments from my client. That's  
10 all.

11 MR. CHAIRMAN:

12 Mr. Macdonald, what can you tell us about that?

13 MR. T. MACDONALD:

14 My Lord, I can only speak obviously for Staff Sergeant Wheaton.  
15 It's my understanding first and foremost that he has always been  
16 willing to co-operate with the Commission or any other counsel  
17 for that matter provided that questions were put to him through  
18 his solicitors, and it's my understand, My Lord, that a request  
19 had come and Mr. MacDonald may be able to verify this with  
20 respect to perhaps -- not perhaps -- excerpts from Staff Sergeant  
21 Wheaton's notebook which were certainly given to Mr. MacDonald.  
22 I'm not using them, My Lord, and I'm using my own notes and I'm  
23 not looking at those. I'm only asking the Chief for independent  
24 recollections. But there's certainly -- Any request that's  
25 come to Staff Sergeant Wheaton has not been denied by him.

JOHN F. MacINTYRE, by Mr. T. Macdonald (DISCUSSION)

1 MR. CHAIRMAN:

2 You're not really answering the question --

3 MR. T. MACDONALD:

4 Yes. I'm sorry, My Lord.

5 MR. CHAIRMAN:

6 -- the question that was raised and properly so by Mr. Pugsley  
7 because there has -- this Commission and Commission Counsel have  
8 been operating on the premise that those involved make complete  
9 disclosure and anything that's been disclosed to Commission Counsel  
10 as to my understanding; has been made available to all other  
11 counsel. This is not the kind of Commission where surprises will  
12 be tolerated. The question that I ask you is -- that was raised  
13 by Mr. Pugsley is whether or not there were notes kept by your  
14 clients and if such is the case, have they been made available  
15 to Commission Counsel for distribution to all other parties  
16 of interest.

17 MR. T. MACDONALD:

18 My Lord, they were notes kept, they have been made available to  
19 Commission Counsel. There was no (frankly) proviso one way or the  
20 other as to whether, as I understand it, they could not be  
21 distributed or any -- any restraint on their distribution.  
22 Frankly Mr. Outhouse I gather and Mr. MacDonald had the  
23 discussion about the transfer of those notes but it's my understanding,  
24 My Lord, that there was no -- and I'm not saying that Mr. MacDonald  
25 didn't distribute them, I'm just saying that there was never any

JOHN F. MacINTYRE, by Mr. T. Macdonald (DISCUSSION)

1 | question that they weren't going to be fully distributed  
2 | or to take anyone by surprise but there were some -- some  
3 | notes, My Lord, yes.

4 | COMMISSIONER POITRAS:

5 | Well, has Commission Counsel had the benefit of an interview with  
6 | Mr. Wheaton?

7 | MR. MacDONALD:

8 | No, My Lord, Staff Sergeant Wheaton has -- through his counsel  
9 | has not been prepared to meet with Commission Counsel. I know that  
10 | we did request from counsel for the R.C.M.P. that we be provided  
11 | with copies of notes of anybody who has made notes in the R.C.M.P.  
12 | And my understanding is and my hope is that anything we have  
13 | had has been distributed and if it hasn't been it's either been  
14 | an oversight that I'll take responsibility for or it's because  
15 | of some direction that we received from the people who have given  
16 | us notes. I had an embarrassing moment, if you'll  
17 | remember a couple of days ago where I thought something  
18 | had been distributed and it wasn't, so I don't want to tell you  
19 | or tell Mr. Pugsley that I know every piece of paper that's been  
20 | circulated because I obviously demonstrated that I don't, but  
21 | it's been our intention to distribute to all counsel anything that  
22 | we've been given with the permission that it could be distributed.  
23 | Now I can advise my friend Mr. Pugsley that I have a typewritten  
24 | copy of extracts of Mr. -- or Staff Sergeant Wheaton's notebook  
25 | and if that hasn't been distributed then can we perhaps take a



1 break and I'll find it.

2 MR. CHAIRMAN:

3 Well, why don't we wait until the break. You don't need it now.

4 Mr. Pringle.

5 MR. PRINGLE:

6 I just wanted to say -- I think my friend has cleared it up that  
7 a request was made by Mr. MacDonald for copies of the police  
8 notebooks and so on and we passed those letter on to all the  
9 R.C.M. Police counsel for the individual members. We passed that  
10 request on and certain people responded. And one of them that  
11 did was Mr. Outhouse. He sent along the typed copies that my  
12 friend Mr. MacDonald just referred to and we passed those over  
13 to Mr. MacDonald. That was some time ago. Other people had no  
14 notes and some of them didn't -- others had no notes. No one  
15 refused to pass over their notes.

16 MR. PUGSLEY:

17 I think I'm correct in stating, My Lord, that we do not have any  
18 notes relating -- prepared by Sergeant Wheaton. I'm not  
19 throwing blame at --

20 MR. CHAIRMAN:

21 And if they're in the hands of Commission Counsel they will be  
22 made available.

23 MR. PUGSLEY:

24 Thank you.

25 MR. MacDONALD:

They will and they are -- I can get them very quickly. I know where

JOHN F. MacINTYRE, by Mr. T. Macdonald (DISCUSSION)

1 | they are.

2 | MR. CHAIRMAN:

3 | All right. Carry on, Mr. Macdonald.

4 | MR. T. MACDONALD:

5 | All right. Thank you, My Lord.

6 | MR. BARRETT:

7 | Perhaps page 17, Volume 19 may be of -- I see these are notes  
8 | for a period of time involved of Staff Sergeant Wheaton's. I'm  
9 | not sure if that's of any assistance.

10 | MR. CHAIRMAN:

11 | What Volume?

12 | MR. BARRETT:

13 | Volume 19 at page 17.

14 | MR. T. MACDONALD:

15 | I don't think they're the same, My Lord, but --

16 | MR. PUGSLEY:

17 | Yes, we have that.

18 | MR. CHAIRMAN:

19 | Are these the notes you're referring to?

20 | MR. T. MACDONALD:

21 | No, My Lord, that's a report to my understanding in that volume.

22 | No, no, My Lord, they're not.

23 | MR. CHAIRMAN:

24 | All right. Carry on.

25 | MR. T. MACDONALD:

Thank you, My Lord.

10:19 a.m.

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 BY MR. T. MACDONALD:

2 Q. Chief MacIntyre, just to take you back please for a moment to  
3 the meeting at R.C.M.P. headquarters on Alexandra Street that  
4 we were speaking about?

5 A. Yes.

6 Q. At the end of that meeting or during that meeting did you  
7 ever offer to give either Inspector Scott or Staff Sergeant  
8 Wheaton anything -- any other material from your file?

9 A. I was -- I'll have to put it this way to you that I was never  
10 asked for the file, sir, and no, we discussed -- we discussed  
11 people that were involved at those meetings and I remember  
12 also discussing a name that had come up since 1971 and  
13 what I had to say about that person. You know it was a very  
14 open thing. I was discussing my thoughts and what have you  
15 and they were discussing their thoughts and also what people  
16 had said. I thought it was very open at the time.

17 Q. I understand what you're saying Chief MacIntyre and I understand  
18 your evidence to be that you were never asked for the file?

19 A. No. No.

20 Q. But my question is at the meeting, sir, did you ever offer on  
21 your own to give more material from the file at that meeting;  
22 that meeting I'm talking about?

23 A. No, I don't ever recall that. No.

24 Q. Thank you. Now after the meeting at R.C.M.P. headquarters,  
25 Chief MacIntyre, do you recall a meeting in your office with

1 Staff Sergeant Wheaton where he advised you that Patricia  
2 Harriss had been found and -- I'm sorry.

3 A. That -- Yes, I remember that meeting. I remember him  
4 discussing that with me and what he had said and what I  
5 had said, sir.

6 Q. And what was that, Chief; perhaps if you could tell me  
7 what he had said and what you had said?

8 A. Well, he told me that his discussion with Patricia Harriss  
9 and her mother that they -- she was very upset with her  
10 dealings with -- he gave me to understand with me the night  
11 I took the statements with -- from her at the police station.  
12 And he said, "Do you know" -- "Do you know," he said, "they went  
13 to see a lawyer after that"? And I said, "No". And I said,  
14 "Who was the lawyer"? And he told me it was Mr. A.O. Gunn.

15 Q. Yes.

16 A. I answered to that but I never had any dealings or any  
17 letters or phone calls or -- with Mr. Gunn in regard to this  
18 meeting that he had with Ms. Harriss and no correspondence  
19 from him on it, but I said, "I'm..." -- "On the other hand",  
20 I said, "I'm happy that you did seek advice if that's what  
21 you went for". And I said then after that that she appeared  
22 before a preliminary hearing and a Grand Jury and a Judge  
23 with Jury after getting that advice and gave the same evidence  
24 as she gave me in the statement on the particular night that  
25 I took it and that's just about what I recall what I did say.

- 1 Q. Chief MacIntyre?
- 2 A. Yes.
- 3 Q. At that meeting having hearing -- At that meeting having  
4 heard that Patricia Harriss had been found and had given  
5 a new statement saying she was pressured or words to that  
6 effect by you; did you then, sir, at that meeting offer to  
7 give Staff Sergeant Wheaton any more material from your file?
- 8 A. No, it wasn't asked for and I didn't -- I didn't give him  
9 any material, no. I don't recall that.
- 10 Q. Thank you. Thank you. Chief MacIntyre, as I understand your  
11 evidence that you've given this week you do recall a meeting  
12 in your office with Staff Sergeant Wheaton and Corporal  
13 Davies who advised you they were there on behalf or as a result  
14 of an order of the Attorney General of Nova Scotia to take  
15 the file?
- 16 A. I don't recall -- Oh, yeh, I do recall Wheaton coming to my  
17 office with another gentleman. I didn't recall the name  
18 of Davies; but there was another man with him.
- 19 Q. Do you recall, sir, them advising you that the reason they  
20 were there was as a result of an order from the Attorney  
21 General and they were there to take the file?
- 22 A. No, I -- When I got that document from the Attorney General's  
23 office my recollection is that I called the R.C.M.P. and  
24 that as a result of my call that Sergeant Wheaton (And this is  
25 my recollection of it.) and the gentleman that was with him

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 |       came to my office three or four days after I did call. It  
2 |       wasn't the -- that's my recollection of it, sir. And in the  
3 |       meantime I had prepared a list on advise from the City  
4 |       Solicitor to take a list of things that were in that file  
5 |       and -- and so that -- and have them sign for it.

6 | Q. And you gave them the entire file at that time, Chief, did  
7 |       you?

8 | A. That's what -- what was left of it, yes.

9 | Q. Yes.

10 | A. What was left of it.

11 | Q. Thank you. Chief MacIntyre, prior to the R.C.M.P. investigation  
12 |       in 1982 you had known Inspector Don Scott previously had you  
13 |       not?

14 | A. Oh, yes, I've known Don for quite some time.

15 | Q. You knew --

16 | A. He was Commanding Officer, sir, of the Sydney Detachment  
17 |       for some time and I've known him for some years, yes.

18 | Q. And prior to the R.C.M.P. investigation in 1982 you had  
19 |       known Staff Sergeant Wheaton, had you not?

20 | A. Yeh, I knew of him. I don't think I ever had any cases with  
21 |       him though.

22 | Q. You had known, had you not, Chief MacIntyre, he had been  
23 |       in charge of the drug section here in Sydney for the R.C.M.P.?

24 | A. I had no connection with him along them lines but I knew  
25 |       he was in the area, sir, working and who he was.

- 1 Q. Did you know that he was in charge of the General  
2 Investigation Section here in Sydney, Chief MacIntyre?
- 3 A. When -- In '82 you're talking?
- 4 Q. Yes, sir.
- 5 A. I can't -- I can't say whether I did or not, sir, at that  
6 time because --
- 7 Q. Sure.
- 8 A. -- I wasn't associating too much with those people at that  
9 time. I was Chief of Police.
- 10 Q. Chief MacIntyre, in your meetings with Inspector Scott and  
11 Staff Sergeant Wheaton, whether you were meeting with them  
12 together or meeting with them individually, do you recollect  
13 that they always acted in a cordial manner towards you?
- 14 A. No, I would -- I would say Inspector Scott did.
- 15 Q. Yes.
- 16 A. I would say that Staff Sergeant Wheaton was very shook up when  
17 he came to my office on that morning to take that -- to pick  
18 up that file and that I produced the document for him to sign  
19 and he wanted to know what that was all about and he showed  
20 signs that he in no way liked what I had done.
- 21 Q. Why do you use the words "shook up", Chief MacIntyre? What do  
22 you mean by that?
- 23 A. Well, he -- he -- he wanted to know what this was all about  
24 and why was this -- words to the effect of; why is this being  
25 done? Now as you know I had been up to see the Attorney

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 General's office before that -- just a week before that and  
2 I was complaining -- I had -- complaining about -- about  
3 the rough passage that the Sydney Police were getting in  
4 the media and what-have-you and it was after that that  
5 this document was taken from -- it was sent from Halifax  
6 and I had discussed this with my City Solicitor and it was  
7 on his advice, sir, that I have everything marked down that  
8 was in that file at that time and have it accounted for.

9 Q. Yes. Chief MacIntyre, is it correct, sir, that each time  
10 you met with Staff Sergeant Wheaton or Inspector Scott, they  
11 updated you on their investigation to that particular point in  
12 time?

13 A. I was told by Inspector Scott -- showed by Inspector Scott  
14 to my recollection of two or three statements that were  
15 taken and that the people had -- I found Inspector Scott  
16 very good -- that they had lied at that time. After this  
17 trip to Halifax I seemed to be -- I don't think I had too  
18 much dealings with anybody after that. I seemed to not --  
19 I had asked questions on a couple of occasions and I see  
20 that by Mr. Edwards' book he's got them marked there and  
21 I was to be, in his words more or less cut out of the whole  
22 thing. I didn't -- I didn't bother after that.

23 Q. Well, Chief, with respect I'm not going to ask you about  
24 Crown Prosecutor Edwards' notes. I'm just asking you in  
25 terms of your meetings with Staff Sergeant Wheaton, isn't it



JOHN F. MacINTYRE, by Mr. T. MacDonald

1 true that each time he met with you he updated you on his  
2 investigation to that point?

3 A. The only thing that he updated me on, sir, in his trips  
4 to my office was his dealings as I said before with you  
5 of Pratico and -- and the Harriss girl and I believe it  
6 could be Chant and I don't recall him discussing other  
7 things with me.

8 Q. Sure. Chief MacIntyre, isn't it true that each time you  
9 met with Inspector Scott or Staff Sergeant Wheaton again  
10 whether it was together with the both of them or alone  
11 (singly) that you were asked if you had given them everything  
12 to help their investigation; isn't that true?

13 A. I don't recall. I don't recall, sir, and in my opinion  
14 that statement wasn't made to me that -- them asking me  
15 if I had given them everything because they would know that  
16 I still had part of that file, sir, because I didn't leave  
17 it with Inspector Scott or the Crown Prosecutor. On my  
18 visit to his office I took back that. So when -- I don't  
19 ever remember that question being asked or me answering  
20 it.

21 Q. Do you --

22 A. That is my recollection, sir.

23 Q. Yes. Thank you, Chief. Do you recollect, Chief MacIntyre,  
24 in your meetings with Inspector Scott or Staff Sergeant  
25 Wheaton if they asked you if you had any more material to

JOHN F. MacINTYRE, by Mr. T. Macdonald

1 assist them in their investigation?

2 A. No, sir, I don't recollect that -- happened, no.

3 MR. T. MACDONALD:

4 Thank you, Chief MacIntyre. My Lord, I have no further  
5 questions. Thank you for your patience, Chief MacIntyre.

6 COMMISSIONER EVANS:

7 Mr. Macdonald, at the first meeting on February the 3rd, a meeting  
8 with Scott at the Crown's office with Frank Edwards and Chief  
9 MacIntyre I understand that Inspector Scott took, in the words  
10 of the witness, "what he wanted from the file". Do I understand  
11 that to be that he took it away with him?

12 MR. T. MACDONALD:

13 It's my understanding having heard from what Chief MacIntyre said  
14 and my understanding of Inspector Scott's visit, My Lord, that  
15 some things were left that day at that meeting and that they were  
16 retained, yes, by Inspector Scott and --

17  
18  
19  
20  
21  
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JMB

DISCUSSION BETWEEN COMMISSION AND COUNSEL

1 COMMISSIONER EVANS:

2 And was there any list prepared of what was taken similar to  
3 the one that Chief MacIntyre later had Wheaton sign?

4 MR. MACDONALD:

5 I'm not sure whether there was frankly, My Lord. I don't think  
6 it would be a detailed list like that but certainly Inspector  
7 Scott can be asked that question. I don't mean to be evasive  
8 but I'm just not -- there wasn't, I don't believe, a detailed  
9 list in terms of the one that we saw as exhibit 88, I believe.

10 COMMISSIONER EVANS:

11 And as far as I -- you know then whatever Inspector Scott took  
12 he still has.

13 MR. MACDONALD:

14 Or the R. C. M. P. may have, My Lord.

15 COMMISSIONER EVANS:

16 Or someone.

17 MR. MACDONALD:

18 Yes, yes, not Inspector Scott personally.

19 MR. PUGSLEY:

20 We do have a bit of a glimpse into that, My Lord, in Sergeant  
21 Wheaton's report of late February when there is a list of  
22 documents that are attached to that report.

23 COMMISSIONER EVANS:

24 Of those that were taken by Scott.

25

JOHN F. MacINTYRE, by Mr. Broderick

1 MR. PUGSLEY:

2 Obviously had to be. There are many of the statements that  
3 were in the Chief's file. I don't know whether it is a complete  
4 list of all the things that they took; but it's certainly a  
5 list of things that came from the Chief's file.

6 COMMISSIONER EVANS:

7 Thank you.

8 MR. MACDONALD:

9 Thank you, My Lord.

10 MR. BRODERICK:

11 My Lords.

12 BY MR. BRODERICK:

13 Q. Chief MacIntyre, my name is Chuck Broderick and I represent  
14 Jim Carroll, Sergeant Carroll of the R. C. M. P. in this  
15 matter.

16 A. Yes, sir.

17 Q. Just a few questions, hopefully. In 1971, I believe you  
18 had had by that time, twenty-nine years experience as a  
19 police officer, is that correct?

20 A. In '71, yes.

21 Q. Okay, during the course of your time as a police officer, I  
22 presume you've been involved in may investigations prior to  
23 1971?

24 A. I have been, yes.

25 Q. Would you recall whether or not during the course of that time

JOHN F. MacINTYRE, by Mr. Broderick

1       whether a few, fifty percent or the majority of your  
2       investigations ended in a successful apprehension of  
3       an offender when you were investigating?

4       A. Yes, a great many of them were successful, yes.

5       Q. Would you say then that your record was, in your opinion, a  
6       good one as an investigator?

7       A. I would say so, yes.

8       Q. I see, now in '71 did you do anything different during the  
9       investigation of the Marshall Inquiry that you can recall  
10      was there a marked departure from the normal course of  
11      investigation that you usually used?

12      A. No, I wouldn't say. I -- every investigation was -- was  
13      always a little difference in them in some respects.

14      Q. Okay, but in investigating, I presume as the years go by,  
15      the experience, the knowledge that you pick up you would  
16      use in each subsequent investigation to assist you?

17      A. I would, yes.

18      Q. Now this knowledge as well would be knowledge, let's say  
19      of the Sydney area, and knowledge of particular people  
20      within the boundaries of the City of Sydney, is that  
21      correct?

22      A. Yes, and the outskirts, yes.

23      Q. Pardon me?

24      A. And the outskirts, people we'd deal with, yes.

25      Q. All right, assuming if I may that a particular offense occurred

JOHN F. MacINTYRE, by Mr. Broderick

1 in a part of Sydney that you were aware of and you were also  
2 aware that in that neighborhood from your experience, there  
3 were people normally involved in that type of commission  
4 of an offense, using your experience would you not seek out  
5 that person first among others to determine what involvement,  
6 if any, they might have had?

7 A. Well, you mean in a stabbing offense?

8 Q. I mean in just about any -- we're just looking at your  
9 procedure. We're not looking at Donald Marshall. I'm  
10 looking at an arson and if you know that an arsonist is in  
11 a particular area and there's a house fire, would it not  
12 be logical using your experience to go to the person known  
13 to dabble in that type of offense?

14 A. Well, again you'd have to have evidence, you know --

15 MR. CHAIRMAN:

16 Are you dabbling?

17 MR. BRODERICK:

18 Carefully, My Lord.

19 BY THE WITNESS:

20 A. You'd have to be awful careful again on that because people  
21 that have been convicted of different offences, once they've  
22 served their time, it -- the police would have to have some  
23 justification in order to go after that same person again.  
24 It's not just because he was even charged before with a type  
25 of offence.

10:37 a.m.

JOHN F. MacINTYRE, by Mr. Broderick

1 BY MR. BRODERICK:

2 Q. Are you saying in the course of investigation --

3 A. Yes.

4 Q. -- if you know that a person has previous history of this  
5 type of offense --

6 A. Yes.

7 Q. -- the offense takes place in his area, that you would not  
8 go to him unless you had specific evidence indicating his  
9 involvement?

10 A. I think you would have to have some evidence, sir, before you  
11 would -- before you would disturb that individual. That  
12 would be my evidence.

13 Q. Chief --

14 A. -- as an investigator, sir.

15 Q. Yes, but, Chief, that causes me a bit of a problem because  
16 when you're starting off an investigation --

17 A. Yeh.

18 Q. -- and you have presumably no evidence, presumably no  
19 suspects, how do you begin to question a particular person  
20 without a direct tie into the occurrence?

21 A. Because of information that comes to you if you question  
22 people.

23 Q. All right, then am I correct in assuming that you're saying  
24 that if you know a person has a propensity for a certain  
25 act you would not immediately consider, think about or perhaps

1 talk to that person because there's no other tie-in?

2 A. Well, you can think but I think that, you know, you have  
3 to have -- you have to have leads to lead you to that  
4 particular individual. I don't -- and of course, if that  
5 individual does come to your mind, he would have to come  
6 through some type of evidence.

7 Q. Sure, but now --

8 A. You would know him.

9 Q. I'm sorry.

10 A. But you'd have to have something else besides that, sir, to --

11 Q. Right, but I think something that you said there is you said  
12 you could think -- that you could think that person --

13 A. Well, of course, you're thinking, yes.

14 Q. But before approaching that person, something must be brought  
15 to your attention?

16 A. Well, yes, I would say that, yes.

17 Q. Okay, now the night in question, the night of the stabbing,  
18 you received a phone call, I believe?

19 A. Yes.

20 Q. And you were advised during that phone call that there was  
21 a stabbing in the Park and two people were taken to the  
22 hospital?

23 A. That's correct, yes.

24 Q. I believe also that your testimony is, is that the name  
25 Marshall was mentioned and the name Seale was mentioned?



JOHN F. MacINTYRE, by Mr. Broderick

- 1 A. To my recollection, yes.
- 2 Q. Yes, that's -- that's what you testified. Now did you know  
3 Sandy Seale? Had you heard his name, Sandy's name, not the  
4 father's?
- 5 A. Not to my recollection.
- 6 Q. Fine, now you also mentioned in your testimony that you were  
7 involved, that there was a -- advised there was a third  
8 party involved that night?
- 9 A. Yeh, well, that -- yes.
- 10 Q. Yeh, okay, I'm asking you what you recall of that night? Do you  
11 -- do you recall that telephone call?
- 12 A. Yes. That there was a stabbing and that somebody else had --  
13 had stabbed two people.
- 14 Q. I see, now when you arrived at the station the next morning  
15 MacDonald who had been involved in the investigation, who  
16 called you, was not there, is that correct?
- 17 A. That's right, yes.
- 18 Q. Okay, and you hadn't had an opportunity to speak to him?
- 19 A. No.
- 20 Q. Now you, at that time, knew Donald Marshall by reputation,  
21 did you not?
- 22 A. I knew Donald Marshall, yes. And I -- yes.
- 23 Q. Now I said I added to that by reputation, Chief?
- 24 A. Well, I knew that -- that -- yes, I knew him by reputation  
25 too, yes.

JOHN F. MacINTYRE, by Mr. Broderick

1 Q. And on that morning, if you can recall, in your mind what  
2 was that reputation of Donald Marshall?

3 A. Well, that we had dealings with him. We had and others  
4 did before that.

5 Q. Now, Chief, when you hear the name, based upon your previous  
6 answers, this may not be or it maybe evident already, but  
7 your dealings with Donald Marshall in the past had been  
8 one where he was on the opposite side of the law that you  
9 were, is that not correct?

10 A. Well, he did have problems, yes.

11 Q. And not only did he have problems, but I believe you testified  
12 that he was known, that he was active, are your words, I  
13 believe, in the community in events going on that were of  
14 an unsavory nature, an illegal nature?

15 A. Yes.

16 Q. When you approached Donald Marshall or you went to the  
17 station the next morning, had you at that time made the  
18 transition from thinking of Donald Marshall as a perpetrator  
19 of acts in the past to one of a victim the night before?

20 A. I took him as a victim, sir.

21 Q. Did you -- I'm sorry.

22 A. That's it.

23 Q. Did you then conduct your investigation committed to the fact  
24 that he was a victim?

25 A. At that time.

1 Q. Chief, that causes me a bit of concern. Why I say that is  
2 that you've testified already that if a person is involved  
3 in an act and is known to be involved in these type of acts  
4 and that similar act occurs, then you don't naturally  
5 assume this is the person, you don't talk to that person,  
6 you don't go to that person unless there's a connection,  
7 is that correct?

8 A. Yeh, but Donald Marshall -- Donald Marshall wasn't known  
9 to me as -- as a person who stabbed somebody. You know,  
10 this is a -- there was a stabbing took place.

11 Q. But did you --

12 A. I must --

13 Q. Sorry.

14 A. Excuse me.

15 Q. Sure.

16 A. I must keep an open mind on that. And as I said before,  
17 just because somebody was in trouble before that that I  
18 wasn't to jump to conclusions at that time. I had to work  
19 on the evidence that I had, on the evidence that I would  
20 get to make any definite opinion on the issue at hand.

21 Q. When was it, Chief, that you were made aware, I believe  
22 through testimony or through evidence, through statements, through  
23 questioning by the O'Reilley's, that Donald Marshall  
24 carried a knife in the Park and used to have it with him?

25 A. That was a later date, sir.

JOHN F. MacINTYRE, by Mr. Broderick

1 Q. Yes, when was that?

2 A. Well, it was sometime -- well, whatever the -- when --  
3 around the time that the O'Reilley statements were taken.  
4 And I think that was -- that was, let me see. I can give  
5 you the date of that, I think in my mind, it was somewhere  
6 around the 17th or the 18th of June that I took a statement  
7 from them. I believe it was the 18th, yes. Morning of  
8 the 18th of June I took a statement of Catherine O'Reilley  
9 and Mary O'Reilley, 1971.

10 Q. You, if I may, Chief, if you have close at had volume 32.

11 A. And then -- and then --

12 Q. I'm sorry.

13 A. -- what is it, sir?

14 COMMISSIONER EVANS:

15 What page are you referring to, Mr. Broderick?

16 MR. BRODERICK:

17 5888.

18 BY THE WITNESS:

19 A. 5958, eh.

20 BY MR. BRODERICK:

21 Q. Chief, on the 5888.

22 A. 5888?

23 Q. 5888, yes. If you would read to familiarize yourself, if  
24 you'd like, Chief, from line 8 to 18.

25 A. Line 8 to 18. Yes, what is your --

10:44 a.m.

1 Q. Okay, Chief, that is what we were talking about a moment  
2 ago about the indication that Donald Marshall had been  
3 in the Park carrying -- and he carried a knife on him?

4 A. Yeh, that's down in -- at 21, yes.

5 Q. Yes, but you're talking about '71 -- like question 11  
6 whether you're trying to establish when, in fact, you  
7 found out that Donald Marshall was in the Park and did  
8 carry a knife. That was in '71?

9 A. That's right.

10 Q. Okay, now it goes on to say that:

11 In 1971 I think I have a  
12 statement there, haven't I,  
13 from one of the O'Reilley  
14 girls...

14 Can you recall whether or not that statement that you  
15 referred to there about the knife, was taken from the  
16 O'Reilley girls before or after your second statement  
17 that you took from Chant?

18 A. Oh, that -- this statement would be taken after I took  
19 the second statement from Chant.

20 Q. Okay.

21 A. Chant's statement -- second statement was taken on June the  
22 4th.

23 Q. Okay.

24 A. And this here was June the 18th.

25 Q. When you -- when you questioned Chant and Pratico, did you

JOHN F. MacINTYRE, by Mr. Broderick

1 | have a predisposition, did you have an idea at that time of  
2 | what occurred in the Park, in your own mind of who actually  
3 | stabbed Sandy Seale?

4 | A. No, I didn't have -- I didn't have anybody labelled.

5 | Any individual labelled at that time until the statements  
6 | of June the 4th, '71, were taken.

7 | Q. If you would turn to --

8 | A. I had -- I had things in my mind that I was looking at before  
9 | that and I get back again to the -- to the jacket Marshall  
10 | wore that night and the cut in the arm and interviewing  
11 | Doctor Virick and what have you; but it was the eyewitness  
12 | statements on June the 4th that --

13 | Q. So that -- that jacket then -- if I refer you to 5847 of  
14 | the same volume.

15 | MR. PUGSLEY:

16 | My Lord, with the greatest of respect, I find it difficult to  
17 | understand how this line of questioning is relevant to Corporal  
18 | Carroll's position, except in the broadest of sense.

19 | MR. CHAIRMAN:

20 | Well, I'm at a disadvantage because I'm not sure, I don't know  
21 | what line of testimony you're asking this witness to refer to.  
22 | You're not reading it to us.

23 | MR. BRODERICK:

24 | Well, this part is just dealing with and I'm referring now, My  
25 | Lord, will be dealing with the statement that Chief MacIntyre made

JOHN F. MacINTYRE, by Mr. Broderick (Discussion between Commission and Counsel)

1 | to Mr. MacDonald about the fact that he wasn't getting what he  
2 | wanted from Mr. Chant and that's why he took the second statement  
3 | from him. As far as whether or not what I'm saying right now  
4 | reflects on Sergeant Carroll, I believe that we have standing  
5 | before this Commission and if there's something that causes  
6 | me a bit of a problem in taking the notes that I want for my  
7 | mind and I think may be of assistance to counsel and it is a  
8 | line of questioning that I discussed with Commission Counsel  
9 | and told him I would be proceeding questions to determine a certain  
10 | thing and Commission Counsel --

11 | MR. CHAIRMAN:

12 | No, but, Mr. Broderick, the questions that are put on behalf of  
13 | clients and people with standing must have some relationship --  
14 | bear some relationship to that person. The person to whom  
15 | standing is granted. The Commission doesn't willy nilly grant  
16 | standing to anyone who applies. When application was made for  
17 | standing the people seeking standing indicated to us why and  
18 | the areas of concern, the areas that might infringe upon them,  
19 | that might seriously affect them or adversely affect them  
20 | and based on these representations, standing is granted to  
21 | individuals who have diverse interests. Now I -- you're  
22 | certainly putting a very broad generous interpretation on the  
23 | standing and the reasons for standing that were granted to  
24 | your client when you pursue this line of questioning.

1 MR. MacDONALD:

2 My Lords, as my friend, Mr. Broderick, has indicated, he spoke  
3 to me before he undertook this line of questioning. As I  
4 understand the position of Mr. Carroll or Corporal Carroll and  
5 Wheaton, they have very serious questions about the investigation  
6 -- investigative techniques and what was done in that June 4th  
7 statement, how it was obtained. And that's a key, crucial  
8 interest, I would say, to Mr. Broderick's clients and that's  
9 what he's dealing with. So my reaction when he addressed the  
10 question to me, was yes, that would be proper for you to deal  
11 with that.

12 COMMISSIONER EVANS:

13 I think it would help us if you would tell us --

14 MR. CHAIRMAN:

15 Yes.

16 COMMISSIONER EVANS:

17 -- what those ten lines before -- we don't have that evidence  
18 before us.

19 MR. BRODERICK:

20 The lines on 5847 --

21 COMMISSIONER EVANS:

22 Yes, read them.

23 MR. BRODERICK:

24 -- that you're referring to. In a question by Mr. MacDonald,  
25 he said:



1                   But you told me a moment ago  
2                   that sometimes you would want  
3                   to have a person present, a  
4                   third person depending on who  
5                   the witness is. That's what  
6                   you just said.

7                   The Chief's answer was:

8                   No, well, probably I didn't  
9                   explain it properly. I'll  
10                  give you an example if you want,  
11                  when I was taking a statement  
12                  from Chant and I had already  
13                  taken the statement from him,  
14                  and I went back to take a second  
15                  one and I did request at that  
16                  time that his mother or father  
17                  be present because it was a  
18                  second statement and I wanted  
19                  this -- I didn't think I was  
20                  getting what I wanted to get and  
21                  I wanted them present.

22                  Which --

23                  COMMISSIONER EVANS:

24                  No problem.

25                  MR. CHAIRMAN:

                  I also have no difficulty with that. I have no difficulty now  
                  that I know what it is you're seeking to establish in allowing  
                  you to pursue that line of questioning.

MR. BRODERICK:

                  Thank you, My Lord.

MR. CHAIRMAN:

                  Because as was said by Counsel to the Commission, the real grounds  
                  for your clients being here is that they were called in to  
                  re-investigate and to re-investigate the offense and the method

1 of investigation.

2 MR. BRODERICK:

3 That's correct, My Lord.

4 MR. CHAIRMAN:

5 But if you would not leave us in the dark, it would make it much  
6 easier for us.

7 MR. BRODERICK:

8 It's a bit of a difficult situation sometimes, My Lord, though  
9 to --

10 MR. CHAIRMAN:

11 I appreciate that.

12 MR. BRODERICK:

13 -- to ask the witness a question but preface it with an  
14 explanation of where I'm going previous to the --

15 MR. CHAIRMAN:

16 I know there's a fine line between reasonableness and unnecessary  
17 loquaciousness.

18 MR. BRODERICK:

19 I'll have to take your word for that, My Lord.

20 MR. CHAIRMAN:

21 That's right.

22 BY MR. BRODERICK:

23 Q. Chief, your --

24 MR. CHAIRMAN:

25 You're doing a fine -- you're not subjecting us to that. You're --

JOHN F. MacINTYRE, by Mr. Broderick

1 as of now, you're clean.

2 MR. BRODERICK:

3 Thank you, My Lord.

4 BY MR. BRODERICK:

5 Q. Chief, that statement that I just read to Their Lordships,  
6 were you listening to the --

7 A. Yeh, repeat your question now, sir, if you don't mind.

8 Q. Okay, when you went to speak to Chant the second time,  
9 did you not have in your mind a certain scenario of  
10 events that you were looking for corroboration for?

11 A. Yes, I had -- I thought I should in my mind take a -- take  
12 a second statement from Chant after visiting the scene,  
13 I believe I said in my evidence and after getting the  
14 story that I did get from John Pratico. And that's  
15 why I proceeded to Louisbourg on that particular -- at that  
16 particular time

17 Q. Now am I correct in assuming that at this time there was  
18 an indication in your mind that Donald Marshall may have  
19 stabbed Sandy Seale?

20 A. Yes, if I may I'm looking for the Pratico statement. Is  
21 there any reason why the Pratico statement of June the 4th?

22 MR. MacDONALD:

23 That statements at page 70 I believe in volume 16.

24 BY THE WITNESS:

25 A. Volume 16. Page 70?

JOHN F. MacINTYRE, by Mr. Broderick

1 MR. MacDONALD:

2 Page 41 -- 41.

3 BY THE WITNESS:

4 A. Yes, yes. As a result of a statement taken from John Pratico  
5 that morning at 10:45 p.m. and what I got -- got from that  
6 statement and also from interviewing -- interviewing or  
7 going over the scene of where this was supposed to take  
8 place before June the 4th, I decided it was very important  
9 at the time to interview Chant again.

10 Q. Now that statement, Chief, from Pratico is that when you  
11 first thought that Donald Marshall may have stabbed Sandy  
12 Seale?

13 A. That is the first eyewitness statement that I had on it,  
14 sir.

15 Q. Yes.

16 A. I had thoughts -- I had thoughts as I said before about --  
17 about the jacket and the wound and what have you but this  
18 is the first eyewitness report that I had and at that time  
19 I decided that I would go back and interview Chant to see  
20 if he had anything further to say.

21 Q. Just a few more questions, Chief. Prior to Pratico's  
22 statement you just referred to, you had thought that it  
23 was possible Donald Marshall could have stabbed Sandy Seale,  
24 is that what you just said?

25 A. Yes, I had thoughts, yes.

1 Q. Okay. Now, at that time when you had those thoughts,  
2 you had Chant who had given you a statement saying, no?

3 A. That's correct.

4 Q. You had Pratico giving you a statement saying, no, prior to  
5 that last statement?

6 A. Yes.

7 Q. All right. We then have a situation where the three main  
8 parties involved at this point being Marshall, Pratico  
9 and Chant, hold one sequence of events on that night in  
10 question and you, another one. Is that correct?

11 A. Different variations in their sequences, you know, yes.

12 Q. And in the person who committed the offense, I would  
13 suggest, which is the most important?

14 A. Well, I had his version on it, yes.

15 Q. But at a point some days later, you, who were the only  
16 one at that point of the four who thought Donald Marshall  
17 could have stabbed Sandy Seale, a few days later two  
18 other people hold the same version, two people who  
19 hadn't until you did; Statement of facts, just  
20 a chronological order. Is that correct?

21 A. It wasn't until June the 4th after taking a statement  
22 from Pratico, that I learned that -- from that statement --  
23 that he was an eyewitness. Yes.

24 Q. Yes, but it's not the eyewitness we're talking about. It's  
25 you in your mind testified a moment ago that prior to Pratico's

11:00 a.m.

1 statement you had thought that Donald Marshall, who  
2 would have been the person who stabbed Sandy Seale.

3 Is that not correct?

4 A. He was -- Put it this way, he was a suspect at that time  
5 and evidence -- the evidence was bothering me at that time.

6 Q. All right. Now, then it did --

7 A. And then, of course, as I've said before in my testimony  
8 I looked over the scene and that bothered me also about  
9 those witnesses.

10 Q. I'm trying to be brief here, Chief, just to get to the  
11 point that that occurred, then there was statements that  
12 agreed with your premise that Donald Marshall could have  
13 stabbed Sandy Seale. Is that not correct?

14 A. That's right.

15 Q. We find out later that those two statements that were  
16 made by Pratico and Chant were false. Now, that's been  
17 decided and, you, in the past have said, Look, the Court  
18 has found it so and so I believe it. So you have found  
19 out that Chatico and Prant -- that Chant and Pratico  
20 have changed their story and now it goes along with yours.  
21 but we find out later that what they say is not true. Is  
22 there an indication there that the only person who held  
23 the view that Donald Marshall may have stabbed Sandy Seale  
24 was yourself, that you did, in fact, question two witnesses  
25 who gave you statements, different statements from the beginning,

1 but statements that went along with your view and subsequently  
2 those statements were found to be fabrications. Now, I'm  
3 not saying that they were intentional on your part but it  
4 gets back to what was discussed yesterday about intimidation  
5 by size, perhaps not by force, not by threats, not by  
6 banging on a desk but do you see the connection where when  
7 one person holds a thought he convinces; or two other people  
8 then obtain the same thought? Now, you have three people  
9 with a version, an exact version, of what occurred that night  
10 and we find out that version is totally wrong. Would you  
11 say that there could have been more input on your part,  
12 based upon your belief of what happened that night, that  
13 might have prompted Chant and Pratico to give the statement  
14 that they did?

15 A. No, I wouldn't say that. In fact, I had thought that  
16 I was getting an honest assessment of what did happen on  
17 that particular night, on June the 4th, 1971 and that  
18 those people that were present at the statement in Louisbourg  
19 were present there and as far as I'm concerned that  
20 statement that I had took, I thought that was the honest  
21 statement of what Chant did see on May the 28th, 1971 and  
22 at this time it -- it is confusing to think that those  
23 people, two chaps who didn't know one another, who lived  
24 thirty-one miles apart and I don't think, in my opinion,  
25 that they had any get-together, from one statement to the other

JOHN F. MacINTYRE, by Mr. Broderick

1           could tell the same story, identify where the people  
2           were standing, unless they weren't in the area.

3           Q. There was only one common denominator then between those  
4           two people, Chief.

5           A. What's that?

6           Q. Was that, the person who took the statements both times.  
7           Yourself.

8           A. That's correct.

9           MR. BRODERICK:

10          I have no further questions.

11          MR. BOUDREAU:

12          My Lord, I feel a bit like I'm pitching the game from the  
13          centre field bleachers back here. Would you have any objection  
14          if I approach the witness a little closer to make --

15          MR. CHAIRMAN:

16          If you want to come to the pitcher's mound, by all means.

17          MR. BOUDREAU:

18          Thank you very much. Perhaps, Mr. MacDonald will share his  
19          mound with me?

20          MR. MacDONALD:

21          Certainly will.

22          COMMISSIONER EVANS:

23          We're bringing in a new player. Could we know who he is?

24          MR. CHAIRMAN:

25          Could you identify yourself, please?



JOHN F. MacINTYRE, by Mr. Boudreau

1 MR. BOUDREAU:

2 I will, My Lord.

3 MR. CHAIRMAN:

4 Thank you.

5 MR. BOUDREAU:

6 Thank you.

7 BY MR. BOUDREAU:

8 Q. My name is Bernie Boudreau, Chief.

9 A. Yes.

10 Q. I'm representing Corporal Herb Davies.

11 A. Yes.

12 MR. CHAIRMAN:

13 Mr. Boudreau? How long do you anticipate you will be Mr. -- Mr.  
14 Boudreau?

15 MR. BOUDREAU:

16 I would anticipate only about fifteen minutes.

17 MR. CHAIRMAN:

18 I think we should break now and then --

19 MR. BOUDREAU:

20 Fine.

21 INQUIRY ADJOURNED: 11:04 a.m.

22 INQUIRY RECONVENED: 11:21 a.m.

23 MR. CHAIRMAN:

24 Yes. Mr. Boudreau.

25

JOHN F. MacINTYRE, by Mr. Boudreau

1 MR. BOUDREAU:

2 Thank you, My Lord.

3 BY MR. BOUDREAU:

4 Q. Chief MacIntyre, at the time of the R.C.M.P. re-investigation  
5 in 1982, how long had you been working as a police officer?

6 A. Forty years.

7 Q. Now, in that forty years of service as a police officer  
8 were you, I take it as a professional, content with your  
9 record as a police officer over those forty years?

10 Personally, I mean?

11 A. Well, I always thought I done the best I could, sir.

12 Q. I see. Had you ever run into the situation in the past  
13 where you had serious disagreements with other police  
14 forces, other professionals in the field with respect  
15 to your cooperation with them at any time over that forty  
16 year period in the past?

17 A. With other police departments?

18 Q. Yes. Did you ever refuse cooperation? Let me be more  
19 specific. Did you ever refuse your cooperation to any  
20 other police force in the past forty years of your service?

21 A. Not that I recall, sir.

22 Q. I see. Had any other police force ever made any complaints  
23 to the Attorney General's office concerning any lack of  
24 cooperation or any problem they encountered with you over  
25 the previous forty years of your service, that you can recall?

JOHN F. MacINTYRE, by Mr. Boudreau

1 Any other police force ever complain about you in forty  
2 years to the Attorney General's Department, I'm talking  
3 about?

4 A. Not that I recall.

5 Q. So, from that evidence I take it then in the forty years  
6 service insofar as any dealings with the Attorney General's  
7 Department was concerned, you had no complaints on your  
8 record by any other police force, that you can recall and  
9 you had no instance where there were any disagreements on  
10 your cooperation with another police force. That's  
11 your evidence?

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

13 Q. Now, I think you gave evidence specifically in relation to  
14 the exhibit, the letter from the Attorney General, the  
15 Honorable Harry W. How, Q.C., dated April the 20th,  
16 1982, the one which comes to you, I think it's exhibit 89.  
17 In any event, it's very short. I'll read it to you.  
18 Perhaps it's easier for me to read to you than for you  
19 to find it.

20 Dear Mr. MacIntyre:  
21 Pursuant to Section 31(2) of the  
22 Police Act I hereby request you  
23 to deliver to Staff Sergeant H.F.  
24 Wheaton of the Sydney Sub-Division  
25 of the R.C.M. (P) Police all  
warrants, papers, exhibits, photographs  
and other information or records  
in your possession or under your  
control dealing with the Donald  
Marshall, Jr. case commencing with  
the initial investigation in 1971.  
Yours very truly, Harry W. How, Q.C.

1 I think you testified in your entire forty year career  
2 to that point you had never gotten a letter such as  
3 that before. That was your testimony, I think, a couple  
4 of days ago. Is that correct?

5 A. That's my recollection, yes.

6 Q. As a matter of fact I would suggest to you that that's  
7 probably quite an unusual letter and in your forty year  
8 service you would not have been aware of anybody else  
9 in the Sydney Police Force ever getting a direction like  
10 that from the Attorney General?

11 A. I couldn't answer that, sir. I don't know.

12 Q. Well, to the --

13 A. Not to my recollection.

14 Q. Well, that's all I'm asking you, Chief.

15 A. Yes.

16 Q. To your recollection, in your forty years of service with the  
17 Sydney Police, nobody ever got a letter like that from the  
18 Attorney General?

19 A. Not that I'm aware of, yeh.

20 Q. And certainly you didn't get one like this before?

21 A. Not that I'm aware of, no.

22 Q. Is it fair to characterize this letter as, in fact, a direct  
23 order to you to turn over your file? Is that the way you  
24 would interpret this letter?

25 A. That's what it says, yes.

1 Q. Sure. Now, I've heard from your testimony today and I've  
2 read in the transcript previously, that it is your testimony  
3 that on, I think, at least three other occasions, I may  
4 have the number wrong, prior to this letter of April  
5 20th you had discussions with the R.C.M.P. investigating  
6 officers. I think you said with Wheaton, I'm not sure  
7 who else, but --

8 A. Yeh.

9 Q. -- in any event you had about three conversations prior  
10 to getting this letter and it is your evidence that on  
11 all three occasions, or however many there were, nobody  
12 ever asked you for the file -- for the whole file?

13 A. That's correct, yes.

14 Q. And that is your evidence. I think you also indicated  
15 in your testimony today, I heard a little earlier, that  
16 a week before getting this letter on April the 20th, you  
17 were actually talking to the Attorney General's Department?

18 A. I was, yes.

19 Q. And as a matter of fact you initiated that discussion, didn't  
20 you? You were the one --

21 A. With the Attorney General's Department?

22 Q. Yes.

23 A. Yeh.

24 Q. And you talked to a number of people involved in the Attorney  
25 General's Department?

JOHN F. MacINTYRE, by Mr. Boudreau

1 A. No, sir. I talked to one person.

2 Q. Okay. You talked to one person. Did he ask you at that  
3 point to give the file to Harry Wheaton?

4 A. No, sir.

5 Q. He did not. So, your evidence then is, as a police officer  
6 with a forty year record of cooperation with other police  
7 forces, you were not asked by the R.C.M.P. investigating  
8 for your file, you were not asked a week prior by the  
9 Attorney General's Department for your file and then  
10 on April 20th this letter lands on your desk. Is that  
11 your evidence?

12 A. That's my evidence.

13 MR. PUGSLEY:

14 The letter is dated April 20th.

15 MR. BOUDREAU:

16 Or -- Pardon me. You're quite correct.

17 BY MR. BOUDREAU:

18 Q. The letter dated April 20th lands on your desk?

19 A. That's right.

20 Q. Did it come as a surprise to you?

21 A. Yes, I -- It did but I would -- I got that, sir, and I seen  
22 that they got the file.

23 Q. I would suggest that such a letter would come as certainly  
24 a very real surprise and a shock to you.

25 A. I was -- Yes, it did.

JOHN F. MacINTYRE, by Mr. Boudreau

1 Q. And you've never refused anybody any files according  
2 to your evidence?

3 A. No, sir.

4 Q. In the past?

5 A. No, sir.

6 Q. Why would they feel it necessary to take this kind of measure?

7 MR. PUGSLEY:

8 Well, I guess that's a matter of argument that --

9 BY MR. BOUDREAU:

10 Q. In your view at the time, did you question anyone as to  
11 why it was necessary to use this sort of a measure --

12 A. No, I didn't.

13 Q. -- to obtain the files?

14 A. No.

15 Q. Chief MacIntyre, you're a man, I think, who's known to  
16 hold very firm opinions on many items and not to be afraid  
17 to speak your mind. Did you, in fact, enter any complaint  
18 with anyone -- with anyone in the Attorney General's Department,  
19 that they would write such a letter to you on April the  
20 20th, 1982, ordering you to turn over files when they hadn't  
21 asked you to? Did you register a complaint with anyone  
22 in the Attorney General's Department?

23 A. I didn't register a complaint to anyone, no.

24 Q. You did not?

25 A. Not to my recollection, no.

JOHN F. MacINTYRE, by Mr. Boudreau

- 1 Q. Did you register a complaint with anyone at the City  
2 Administration, with the City Solicitor?
- 3 A. The City Solicitor would know about that.
- 4 Q. Yes, but did you register a complaint with him and  
5 say, "What's the idea? Why are -- Why is the Attorney  
6 General resorting to this sort of a tactic when they  
7 haven't even asked me for the files yet?"
- 8 A. You'd have to ask them, sir. I have no idea.
- 9 Q. No. I'm not asking you --
- 10 A. I --
- 11 Q. What I'm asking you, Chief, --
- 12 A. Yes.
- 13 Q. -- is did you register a complaint --
- 14 A. I was --
- 15 Q. -- with anyone --
- 16 A. No, I --
- 17 Q. -- with regard to this particular approach?
- 18 A. No, I discussed that with the City Solicitor.
- 19 Q. You did. When did you have this discussion with the  
20 City Solicitor wherein you complained about this tactic  
21 that the Attorney General's Office had taken?
- 22 A. Just shortly after I got it.
- 23 Q. Shortly after you got it?
- 24 A. Yeh.
- 25 Q. Did you register this complaint with the City Solicitor prior



JOHN F. MacINTYRE, by Mr. Boudreau

1 to making the telephone call to the R.C.M.P to arrange the  
2 meeting?

3 MR. PUGSLEY:

4 Just a moment. It's you who's suggested it was a complaint.  
5 The witness has said that he had a discussion with the City  
6 Solicitor, not register a complaint.

7 MR. BOUDREAU:

8 My question to him originally was, I think, quite clear on that  
9 point.

10 MR. CHAIRMAN:

11 Your question was, yes. Did you make -- Did you complain?

12 MR. BOUDREAU:

13 Yes.

14 MR. CHAIRMAN:

15 His answer was, he discussed it with the City Solicitor.

16 MR. BOUDREAU:

17 Yes.

18 MR. CHAIRMAN:

19 Now, --

20 BY MR. BOUDREAU:

21 Q. Now, do you mean by that -- Did you indicate to the  
22 City Solicitor that you were unhappy with this sort of  
23 a tactic, this sort of a letter?

24 A. No, I don't think I -- I don't think I did.

25 Q. You didn't.

- 1 | A. I showed him the letter, sir, and asked him -- and as  
2 | a result of us chatting at that time, I think, he told  
3 | me to make sure everything that was in the file that  
4 | I was handing over and any documents, to document them  
5 | which I had done and --
- 6 | Q. We'll get to that in a moment witness. I'm more concerned  
7 | with whether or not at the time you brought it up with  
8 | the City Solicitor you indicated to him that you were unhappy  
9 | with this tactic that the Attorney General took in ordering  
10 | you to turn over the file when, in fact, nobody had asked  
11 | you for it? Is that --
- 12 | A. Well, I was surprised. I don't know if you're going to the -
- 13 | Q. Okay.
- 14 | A. Yeh.
- 15 | Q. Did you indicate to him in that conversation you had that  
16 | you were unhappy first?
- 17 | A. I don't recall just what -- everything I said in that  
18 | conversation but it would be very short and I was looking  
19 | for advise at the time which he gave me.
- 20 | Q. You don't know whether you indicated to him you were  
21 | either unhappy or surprised?
- 22 | A. There was no problem -- There was no problem. I got that  
23 | letter, sir, and I was ordered to do something and I was  
24 | doing it and I did take it to the attention of the City  
25 | Solicitor and the only thing that I can tell you, at this time,

JOHN F. MacINTYRE, by Mr. Boudreau

1 is that he told me what to do and I done it, sir, and then  
2 I called -- I called the R.C.M.P and told them to -- that  
3 I did get that --this is what I think I said -- that I  
4 did get that letter and that the file was here.

5 Q. Okay, let's look --

6 A. And I --

7 Q. Pardon me. I didn't mean to interrupt you.

8 A. And I also think it was several days before that file was  
9 picked up after they were notified.

10 Q. Your evidence was that three or four days after you got the  
11 letter you called the R.C.M.P. to make arrangements to have  
12 the file turned over. Is that correct?

13 A. I don't -- No, I don't recall saying three or four days  
14 after.

15 Q. I thought I made that note when you were giving testimony  
16 earlier today?

17 A. No, I --

18 MR. PUGSLEY:

19 He said three or four days after he made the call to the  
20 R.C.M.P.

21 MR. BOUDREAU:

22 Ah, yes. Pardon me. I misunderstand.

23 BY MR. BOUDREAU:

24 Q. Okay. Do you recall when you made the call to the R.C.M.P?  
25 How long after getting the letter?

JOHN F. MacINTYRE, by Mr. Boudreau

1 A. I would say it was very very short because I had a document  
2 there from the Attorney General to turn the file over and  
3 discussed it with Mike Whalley, he gave me my instructions  
4 and that's what I done.

5 Q. Did you -- Can we suggest to you that you made that call  
6 within a day or two after receiving the letter?

7 A. I would --

8 Q. Is that a reasonable suggestion?

9 A. I would say in that time.

10 Q. Okay. And then three or four days after you made the  
11 call it's your recollection that the R.C.M.P. came for the  
12 meeting?

13 A. Called at the office, yes.

14 Q. So, if Corporal Herb Davies places the meeting at which  
15 'the file turning over ceremony' took place, if I can  
16 call it that, if he places that at the 26th of April, 1982,  
17 that's not inconsistent with your recollection? I'm  
18 not suggesting that you can confirm. Confirm it if you  
19 can.

20 A. What is the date on the --

21 Q. April 26th, 1982.

22 COMMISSIONER EVANS:

23 What's the date on that?

24 MR. BOUDREAU:

25 The date on the letter is April 20th.

JOHN F. MacINTYRE, by Mr. Boudreau

1 BY MR. BOUDREAU:

2 Q. And --

3 A. As I said there was three or four days in between there.

4 I think it was around that time.

5 Q. Okay. Thank you.

6 A. I have nothing to look at, at this time, to say what day  
7 it was but that's my recollection.

8 Q. You got the letter from the Attorney General, this letter  
9 dated April the 20th?

10 A. Yes.

11 Q. You got the letter from the Attorney General on April the  
12 20th and you say within --

13 A. Excuse me. Was that mailed on April the 20th?

14 Q. Well, it -- the date of the letter was April the 20th. You  
15 got--

16 A. Well, that had to come from Halifax after that.

17 Q. Yes, whenever, a day or two later. And within a day or  
18 so of getting it you contacted the R.C.M.P to arrange 'the  
19 turning over ceremony'?

20 A. Well, just to tell them that I had the letter, sir, and they  
21 were to come and get it.

22 Q. Who did you speak to?

23 A. I can't recall.

24 Q. You can't recall?

25 A. No.

JOHN F. MacINTYRE, by Mr. Boudreau

1 Q. Did you -- Who did you ask for? Do you recall that?

2 A. I imagine it would be Staff Sergeant Wheaton.

3 Q. I see.

4 A. But I'm not saying that I talked to him, sir. I conveyed  
5 my message on that day to whoever I was talking to.

6 Q. I see. And the message was?

7 A. The message was that -- to come to the station and pick  
8 up the file.

9 Q. I see. And --

10 A. Words to that effect, sir.

11 Q. When you made this contact, did you make any complaint to  
12 any member of the R.C.M.P. about the method they had -- that  
13 had been employed to get the file delivered to them?

14 A. I --

15 Q. About the fact that you -- this -- that you got a letter  
16 from the Attorney General's Department?

17 A. I didn't know. I didn't know at that time whose method it  
18 was, sir. I got a letter from the Attorney General of the  
19 province, Chief Law Enforcement Officer, to turn over those --  
20 that document and I don't know who was responsible for  
21 getting it or why it came.

22 Q. Did you ever, having gotten the letter on April -- or shortly  
23 after April the 20th, say to the R.C.M.P., whoever it was  
24 that you spoke to when you called or to either of the R.C.M.P.  
25 officers who appeared at your office to obtain the file,

JOHN F. MacINTYRE, by Mr. Boudreau

- 1 did you say to either of them, "Why didn't you ask  
2 me for the file instead of going this route?"
- 3 A. No. No, I don't recall any discussion with them about  
4 why.
- 5 Q. I see.
- 6 A. No.
- 7 Q. You weren't upset that they would -- that the Attorney  
8 General would have given you this order rather than  
9 having taken a more direct route?
- 10 A. I couldn't say at that time why the order was sent, sir, and  
11 -- or who requested it. So I would have no -- I would  
12 have -- I didn't have the answer at that time.
- 13 Q. Did you ever inquire of anyone why the order was sent?
- 14 A. Not that I recall.
- 15 Q. You don't -- You never asked anyone about it? Why they  
16 would have done it that way?
- 17 A. Not that I recall.
- 18 Q. No? Okay. Now, I want to deal specifically with the meeting  
19 which took place on the date we've -- I've suggested to  
20 you was April the 26th, that it was some days after the --  
21 you had received the letter from the Attorney General, I  
22 think we agree on that, with respect to -- Who showed up  
23 at your office to pick up the file?
- 24 A. Staff Sergeant Wheaton and there was another gentleman with  
25 him.

11:37 a.m.

JOHN F. MacINTYRE, by Mr. Boudreau

1 Q. When you say there was another gentleman with him, did  
2 he identify himself to you then or do you remember?

3 A. No, I don't recall. I -- Staff Sergeant Wheaton could  
4 have identified him by name but I didn't know the other  
5 chap.

6 Q. Was he a member of the R.C.M.P.?

7 A. I would say -- I would have to say to that that I took  
8 it that he must have been.

9 Q. Do you know Corporal Herb Davies?

10 A. No. In fact, I met the gentleman in the hall here out --  
11 here yesterday. He spoke to me and I asked him who he  
12 was and he told me so I still didn't know him then.

13 Q. So --

14 A. Well, --

15 Q. From your meeting with him in the hall yesterday --

16 A. I don't recall. No, I don't recall, you know, that  
17 particular man being with --

18 Q. You don't recall whether or not you had seen him.

19 A. No, I can't recall him as being in my office on that date.

20 Q. Do you recall any dealings that you may have had with the  
21 man you met in the hall and who identified himself as  
22 Corporal Davies prior to this meeting we're going to talk  
23 about?

24 A. No.

25 Q. In your -- In the course of your police work --



JOHN F. MacINTYRE, by Mr. Boudreau

- 1 A. No, I don't recall, sir.
- 2 Q. You never had anything else to do, with regards to him, Chief?
- 3 A. Yeh.
- 4 Q. Now, I recognized in reading the transcript that other  
5 peoples recollections have been suggested to you for  
6 your comment concerning that meeting and I'd ask you  
7 to direct your mind to that meeting because I want  
8 to ask you what you're recollections are of that particular  
9 meeting. It took place in your office?
- 10 A. Yes, sir.
- 11 Q. And how many people were present during the meeting?
- 12 A. I would say three.
- 13 Q. And the three people you refer to are yourself, Sergeant  
14 Wheaton and the other R.C.M.P. officer --
- 15 A. That's correct, yeh.
- 16 Q. -- who remains to be identified?
- 17 A. That's right.
- 18 Q. At any point in the meeting was there anyone else join  
19 you or did either any of those three leave for any significant  
20 period of time while the meeting took place?
- 21 A. Not to my knowledge, no.
- 22 Q. Okay. Were you taking notes of the meeting?
- 23 A. No.
- 24 Q. Was anyone taking notes at the meeting that you observed?
- 25 A. No.

JOHN F. MacINTYRE, by Mr. Boudreau

1 Q. This took place in your office, were you seated behind  
2 your desk when the discussion took place and 'the  
3 turning over ceremony' if I can refer to it as that,  
4 took place?

5 A. My recollection of that meeting -- My recollection is that  
6 I offered Staff Sergeant Wheaton my chair because he was  
7 going to be doing some writing and that the documents  
8 were there and he was checking them out and marking them.

9 Q. He was going to be doing some writing. You testified  
10 earlier to an index that you had prepared. Did you hand  
11 this to Sergeant Wheaton at the commencement of the  
12 meeting?

13 A. That was there, that document, yeh.

14 Q. And what was his responsibility with respect to that index?

15 A. He seemed to be -- He seemed to be worked up to the point  
16 that he didn't know why this was necessary or who was  
17 -- why was this -- why was that document there and I told  
18 him that I had -- words to that effect, now, sir -- and  
19 that I had instructions to have that prepared and have  
20 him sign for the documents that he was taking.

21 Q. So he had the index in his hand and his job at that point  
22 was to sign for the documents that he was receiving?

23 A. That's what --

24 Q. Was he checking them off as he signed -- as he received them?

25 A. Yes. He was checking.

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Q. Now, let's go back. He was sitting -- you're saying in your chair behind your desk?

A. Yes.

Q. Where were you sitting?

A. I don't know if I was sitting. I think I might have been standing at the side of the desk. It wasn't a very big office, you know.

Q. No, I realize that. And do you recall where the other R.C.M.P. officer was?

A. He was sitting on a chair over by the wall. I had two or three chairs there.

Q. To your left or to your right?

A. I would say that it would be to my left.

Q. To your left?

A. Yeh, to the left if you were sitting down in my office.

Q. Yes. No, to the left in relation to where you were --

A. On the opposite side to the wall the door would be on, coming in to enter the office or leave it.

Q. In relation to you, though, where was he in relation to you? As I take it, Sergeant Wheaton was on one side of the desk seated in your seat, you were standing on the other side of the desk?

A. That's what I recollect where I'd be, yeh.

*JmR*

JOHN F. MacINTYRE, by Mr. Boudreau

1 Q. And the other R.C.M.P. officer was seated off to one side next  
2 to the wall?

3 A. That would be my recollection.

4 Q. To your right or to your left?

5 A. To the left. On the left wall, yeh.

6 Q. Just out of curiosity, are you right handed or left handed,  
7 Chief?

8 A. What? Am I -- I'm left handed.

9 Q. You're left handed. Okay. Now, if I may go back for a moment,  
10 you had given to Sergeant Wheaton the checklist. He had the  
11 list of documents. I presume you had the file, did you?

12 A. The file was on the desk there.

13 Q. The file was on the desk.

14 A. On the desk, yeh.

15 Q. Now, were you delivering in documents one at a time as he  
16 checked them off? Is that how it went?

17 A. I could've been assisting him. I was there and he was there,  
18 and he was marking them off. Everything was on the desk  
19 there.

20 Q. I see.

21 A. Yeh.

22 Q. So it's possible that you were in fact handing him the documents  
23 one at a time?

24 A. Well, I could've -- I'm not sure.

25 Q. Yeh. Well, is it possible that the other R.C.M.P. was doing

- 1 | it -- the other R.C.M.P. officer was doing it if he was sitting  
2 | against the wall?
- 3 | A. I wouldn't say he had anything to do with the documents, no.
- 4 | Q. No. Okay. And you received a receipt or a receipted copy, I  
5 | suppose, of this list that Sergeant Wheaton was checking off  
6 | as he went along?
- 7 | A. Yes, I was -- Well, I would say so.
- 8 | Q. Did you -- The documents, I take it, were in a file -- in a  
9 | folder.
- 10 | A. Yes.
- 11 | Q. Did you retain the folder that they were in as each document  
12 | was passed to him and presumably the last document passed?
- 13 | A. I couldn't say. He'd have to be giving those -- The documents  
14 | would have to go in something. I imagine the file went with  
15 | it. I'm not sure.
- 16 | Q. You don't remember whether you gave him the file or retained  
17 | it?
- 18 | A. I'm not sure, no, but I think, you know, that he'd need something  
19 | to put those documents in. I would say that the file was turned  
20 | over -- the document file to him.
- 21 | Q. I see.
- 22 | A. Because I was to hand over everything according to that letter there.
- 23 | Q. Yes. Do you recall at any point in the conversation Sergeant  
24 | Wheaton asking you for a document that was on the floor?
- 25 | A. No, sir.

1 Q. He -- Your testimony is he did not at any time during the  
2 conversation in your office, or another conversation which took  
3 place shortly thereafter, ask you for a document from the  
4 floor of your office?

5 A. No, sir.

6 Q. He did not?

7 A. No, sir.

8 Q. Do you recall Sergeant Wheaton and the other R.C.M.P. officer,  
9 whoever he will subsequently be identified as, leaving your  
10 office and then almost immediately returning to your office  
11 seeking further documentation from you?

12 A. No, sir.

13 Q. Are you -- You're -- Are you saying that they did not do that?

14 A. I'm saying no, sir, to that.

15 Q. You're saying they did not do it? And you're also saying they  
16 did not ask you for a document on the floor?

17 A. A document on the floor?

18 Q. You are testifying that they did not ask you to give them a  
19 document which you retrieved from the floor?

20 A. No.

21 Q. Well, I think the question was--you are saying. Then you're,  
22 in fact, denying that they did ask you to retrieve a document  
23 from the floor? Let's be clear on that. I --

24 A. I'd like to be -- you to be a little more clear on what you're  
25 talking about there.

JOHN F. MacINTYRE, by Mr. Boudreau

1 MR. CHAIRMAN:

2 Why don't you go back; number one. Ask --

3 MR. BOUDREAU:

4 Okay.

5 MR. CHAIRMAN:

6 -- him -- this witness if he saw -- if there was a document on the  
7 floor.

8 BY MR. BOUDREAU:

9 Q. Did you see, in the course of this interview, in the course  
10 of this process of turning over information, did you at any  
11 time notice a document on the floor yourself?

12 A. No. No, sir.

13 Q. Did you at any time pick up a document from the floor that --  
14 which was pointed out to you by either of the other gentlemen?

15 A. No, sir.

16 Q. Do you -- You indicated in your evidence earlier today that  
17 you had relatively little to do, I believe, with Sergeant  
18 Wheaton before this investigation in 1982. Is that correct?

19 A. I can't recall, you know, having anything to do with him. I --  
20 unless you got something there, sir, that you want to give  
21 me.

22 Q. No.

23 A. I can't recall. I knew Sergeant Wheaton, but I don't recall --

24 Q. You certainly don't have any vivid memories of any difficulties  
25 you had with Sergeant Wheaton in a professional or personal

JOHN F. MacINTYRE, by Mr. Boudreau, by Mr. Ross

1 sense prior to 1982?

2 A. No, I couldn't say that, no.

3 Q. Let me ask you the same question about Constable -- or Corporal  
4 Herb Davies. Do you have any recollection of any personal or  
5 professional difficulties that you had with him?

6 A. No, I didn't know Constable Davies, sir, to merit --

7 Q. Prior to 1982.

8 A. I can't -- No.

9 Q. Can you offer the Commission any assistance in determining what  
10 motive these two officers might have if they indicated that they  
11 requested and received from you a document which you retrieved  
12 from the floor of your office on the occasion which we're speak-  
13 ing of? Can you offer the Commission any assistance as to what  
14 their motive might be for fabricating such a story?

15 A. No, I'll leave that to the Commission.

16 Q. I see.

17 MR. BOUDREAU:

18 Thank you. That's all the questions.

19 MR. CHAIRMAN:

20 Mr. Ross.

21 MR. ROSS:

22 Thank you, My Lord.

23 BY MR. ROSS:

24 Q. For the record, Chief, my name is Anthony Ross.

25 A. Yes, sir.



- 1 Q. And there are one or two questions I'd like to ask you. As I  
2 review the documents, it appears as though you became involved  
3 in this matter on Saturday, the 29th of May, 1971 and had, for  
4 all intents 'n purposes, concluded sufficient of your investi-  
5 gation by June the 4th, to turn the matter over to the  
6 Prosecutor so that charges could be laid. Am I correct?
- 7 A. Right, sir.
- 8 Q. Yeh. Now, is it fair to say that in you twenty-nine years  
9 as a police officer up to and including May of 1971, you had  
10 had no difficulty whatsoever with the Seale family?
- 11 A. No, sir.
- 12 Q. Is it also fair to say, Chief, that you had had very little,  
13 if any difficulty, with members of the Black community?
- 14 A. Yes, very little.
- 15 Q. Okay. And you've been here. You've sat through the evidence.  
16 Quite a few persons gave evidence to the fact that the Black  
17 community was, for all intensive purposes, non-problematic  
18 and law abiding. Would you agree with that?
- 19 A. Yes, the majority of them were, sir.
- 20 Q. And -- But is it correct as a general statement that as far  
21 as the community itself was concerned, you could classify it  
22 as a non-problematic, fairly law-abiding group?
- 23 A. The majority of them, yes. A big majority, I'm saying.
- 24 Q. A very vast majority.
- 25 A. In every community you have problems, sir, and you have -- but

1 | it was very good.

2 | Q. Sure. And as a matter of fact, if there were any troublemakers  
3 | among that group, they would be known to the police quite  
4 | quickly, wouldn't they?

5 | A. That's correct.

6 | Q. Yeh. Did you share that view up until you retired that for  
7 | all intents 'n purposes you had a -- quite a good Black community?

8 | A. I did sir, yeh.

9 | Q. And then -- If that was so, why would you in 1978 be expressing  
10 | a view that there might have been reprisals out at the Reserve?

11 | A. Well, it was my -- It just my view at that time that anything  
12 | could happen.

13 | Q. In nineteen seventy --

14 | A. You can't -- Well, you never know. You can't -- In life, you  
15 | guarantee anything, and something could happen. Somebody  
16 | could -- happen.

17 | Q. Sure.

18 | A. But I'd had no -- As I said, I had no proof that anything was  
19 | going to happen, and nobody told me.

20 | Q. As a matter of fact, it was quite a lot of speculation, wasn't  
21 | it?

22 | A. Well, sure. And sometimes speculation works out as I'd given  
23 | an example yesterday.

24 | Q. Sometimes --

25 | A. But at the same time, it was just a -- Yeh.

- 1 Q. I see. Would you -- Would you say, Chief, that if it was  
2 a White person that had been stabbed and killed that you  
3 would have expected reprisals from the White community?
- 4 A. One would never know.
- 5 Q. I understand one would never know.
- 6 A. That's right.
- 7 Q. But I'm becoming a little more specific than that. I'm asking  
8 about your expectations as Chief of Police of Sydney, would  
9 you have expected reprisals in 1978 for something which  
10 happened --
- 11 A. I would hope there would be nothing but I could never -- I  
12 could never say that -- that nothing would happen.
- 13 Q. I guess that's the best answer that you --
- 14 A. That's about the best answer I could give, sir.
- 15 Q. Sure.
- 16 A. Yes.
- 17 Q. I see. Perhaps we'll try something a little more specific.  
18 Do you recall the evidence of Al Marshall to the extent that  
19 having received instructions from Wardrop to determine if  
20 there was any substance to the statement of Jimmy MacNeil  
21 he did certain things and he also said that prior to preparing  
22 his report he went over the case with MacIntyre and McKinley.  
23 Do you recall him giving that evidence?
- 24 A. MacIntyre and McKinley?
- 25 Q. And McKinley. He said prior to preparing his report he went over

JOHN F. MacINTYRE, by Mr. Ross

1 | the case with MacIntyre and McKinley. Do you recall that?

2 | A. Oh, he could have. I -- Yes, as I said already I could have  
3 | discussed --

4 | Q. Sure. And tell me about --

5 | A. -- but I don't know that I did.

6 | Q. Tell me about --

7 | A. No doubt I did.

8 | Q. Sorry.

9 | A. No doubt I did discuss it.

10 | Q. Sure.

11 | MR. PUGSLEY:

12 | Could you be a little more clear, Mr. Ross, as to whether or not  
13 | you meant when Mr. -- when Inspector Marshall first arrived or  
14 | do you mean after he completed his re-investigation.

15 | MR. ROSS:

16 | From my understanding of his evidence, Mr. Pugsley, that after he  
17 | was finished was but before --

18 | MR. PUGSLEY:

19 | I see. Thank you.

20 | MR. ROSS:

21 | -- filing a report he went over the matter with MacIntyre and  
22 | McKinley.

23 | MR. PRINGLE:

24 | Perhaps my friend could indicate the relevance of this to his  
25 | client. I'm not quite sure what it is.

JOHN F. MacINTYRE, by Mr. Ross

1 MR. CHAIRMAN:

2 Anyway I think you're just tidying up a loose string as I understand,

3 Mr. --

4 MR. ROSS:

5 Well, if he wants to I can give him a very long answer to that and  
6 we'll be here until Wednesday.

7

8

9 BY MR. ROSS:

10 Q. Perhaps you can tell me something, what was -- what was your  
11 general relationship with McKinley, was he stationed in the  
12 Sydney area?

13 A. Yes, he was in charge of the Sydney area at that time of the  
14 G.I.S. section.

15 Q. And perhaps you could tell me -- Perhaps you can tell me then,  
16 did he have any specific involvement in the Marshall Inquiry --  
17 in the re-inquiry of 1971?

18 A. Well, according to my recollection as I said before that I  
19 seen him with Marshall and according to what Marshall said,  
20 he did.

21 Q. Sure. And further in Marshall's evidence he indicated and  
22 these were produced in his conclusion that in your view the  
23 cut on Junior Marshall's arm was self-inflicted. Do you  
24 recall that?

25 A. What's that again? I'm not getting you, sir.

1 Q. In Marshall's report he indicated that it was your view, the  
2 view of Chief MacIntyre that the cut on Marshall's arm was  
3 self-inflicted. That was his end report in 1971. Do you  
4 recall that?

5 A. I could have discussed that with him and also told him -- I  
6 would also told him that it was my -- that it was my --

7 Q. Sure. Also in the same report there was suggestion that  
8 Sandy Seale was involved in the robbery of Ebsary and MacNeil.  
9 Do you recall that being in the report, in the R.C.M.P. report?

10 A. Yes. Yes. That wasn't said by me.

11 Q. Oh, it wasn't said by you?

12 A. No.

13 Q. I take it then that you'd have had no evidence whatsoever,  
14 no basis whatsoever to suggest that Sandy Seale was involved  
15 in any robbery or any criminal activity whatsoever?

16 A. Not -- Not in the early investigation, no.

17 Q. What about later? You said not in the early investigation.

18 A. No. No. Well, that's the one I had the doings with.

19 Q. Sure. And as far as you're concerned, Chief --

20 A. And nothing said by Marshall about a robbery, sir.

21 Q. Sure. But as far as Sandy Seale is concerned, can you say  
22 today that in all of your experience on any investigation  
23 that you've done; you've turned up nothing to suggest that  
24 Sandy Seale was involved in a robbery or any kind of  
25 criminal activity?

JOHN F. MacINTYRE, by Mr. Ross

- 1 A. No. I didn't have the evidence on that.
- 2 Q. Sure. In his evidence, Marshall also indicated that he took  
3 the material you had given to him back to Halifax to rehash  
4 in the quietness of his office. Do you recall him saying  
5 that?
- 6 A. Yes.
- 7 Q. And it was as a result of this rehashing that he elected  
8 to see about calling in a polygraph expert. Do you recall that  
9 also?
- 10 A. Yes.
- 11 Q. Did he at any time get back to you asking for any more  
12 information; offer any explanations whatsoever as it related  
13 to the material which you had given him?
- 14 A. I don't recall that.
- 15 Q. You don't recall him asking you any questions?
- 16 A. No, no. No, no. No.
- 17 Q. Okay. Further Al Marshall indicates that before MacNeil  
18 arrived for the polygraph test that Inspector Gardiner of  
19 the Halifax detachment dropped in at the motel and was  
20 advised. Do you recall that --
- 21 A. He was the Inspector, sir, of the Sydney Detachment of the  
22 R.C.M.P., Scotty Gardiner.
- 23 Q. So --
- 24 A. Yes, I had nothing to do with him, sir. I didn't see him  
25 and I wasn't near the hotel. I wasn't at the hotel or at

1 | any meetings.

2 | Q. I understand that. Did Scotty Gardiner discuss this matter  
3 | with you?

4 | A. Not that I recall, no.

5 | Q. Chief, in Volume 16, page 97, and it's -- I'm not going to  
6 | ask you to read much. I just want to draw your attention to  
7 | something. There was reference to Tim Lynch and to  
8 | Wayne Nichols. Do you recall those names?

9 | A. Yes, I've seen them written down there. Yes.

10 | Q. Yes.

11 | A. I don't recall. I don't recall.

12 | Q. So you don't recall whether or not these people were ever  
13 | interviewed?

14 | A. No, I can't say. Probably by somebody else but not by  
15 | me anyway.

16 | Q. And in the event that they were interviewed by somebody else,  
17 | you have no recollection at this time?

18 | A. I have no recollection at this time, no.

19 | Q. The evidence that we've received so far has indicated that  
20 | there was a standard police practice of completing occurrence  
21 | reports or crime reports by officers on duty at the end of  
22 | their shifts. Do you recall that evidence?

23 | A. Yes.

24 | Q. And was this consistent with your understanding of the standard  
25 | practice back in 1971?

12:00 noon



JOHN F. MacINTYRE, by Mr. Ross

- 1 A. Yes, sir.
- 2 Q. Is there any reason then why if there was blockade out at  
3 the Membertou Reserve that this wouldn't appear on an  
4 occurrence report somewhere?
- 5 A. That could have been directed through the Chief's office,  
6 sir, at that time, you know.
- 7 Q. But you should have ever been -- it should have appeared on  
8 a report, shouldn't it?
- 9 A. Well, the Chief wouldn't making occurrence reports.
- 10 Q. Pardon me?
- 11 A. The Chief wouldn't be making occurrence reports. That would  
12 be something that would originate in his office. We're  
13 talking about the patrolmen and the men out in the car and  
14 what-have-you.
- 15 Q. Sure, but I understand that the people over at the Reserve  
16 were Walsh and Ambrose MacDonald. They were fairly junior  
17 at that time, weren't they?
- 18 A. Yes.
- 19 Q. And they would be required to fill out an occurrence report,  
20 wouldn't they?
- 21 A. Well, it wasn't -- I don't even know who gave them the  
22 directive to be honest with you, sir.
- 23 Q. Well, regardless to who gave them the directions --
- 24 A. Yeh.
- 25 Q. -- their evidence, as I recall, was that they were at the

- 1 Reserve?
- 2 A. I -- yes, they were. That's according to their evidence,  
3 sir.
- 4 Q. Yes.
- 5 A. But as I said I didn't know they were out there.
- 6 Q. I see, and no occurrence report was filled that you got a chance  
7 to read?
- 8 A. Not that I -- not that I seen.
- 9 Q. In November of 1971, Chief, after MacNeil had come forward  
10 and given a statement and there was the R. C. M. P.  
11 investigation, in the conclusions, as I recall it, Al  
12 Marshall was indicating that there was an attempted robbery  
13 by Seale and Marshall of Ebsary and MacNeil. And after  
14 that there was an altercation between Seale and Marshall  
15 and as a result of which there was a stabbing. Do you recall  
16 that evidence?
- 17 A. Yes, I recall seeing that in the letter, yes.
- 18 Q. Sure, well wasn't robbery a crime at that time in Sydney?
- 19 A. It was, yes.
- 20 Q. Well, why wasn't the robbery investigated?
- 21 A. I didn't have any copies of that re-investigation.
- 22 Q. I see, you just turned it over completely to the R. C. M. P.  
23 and that was the end of it?
- 24 A. That's -- well, that's -- they followed it up from there.
- 25 Q. But if it was that the R. C. M. P. were alerted to the fact --

1 A. Then it would -- then it would be brought to the attention  
2 of the Crown at the time.

3 Q. Yes, but if the R. C. M. P. was alerted to the fact that  
4 there might have been a robbery and later on a stabbing,  
5 you would expect them to investigate both situations,  
6 wouldn't you?

7 A. Well, that should have been looked into, yes, sir.

8 Q. Chief, I am still concerned about this statement on exhibit  
9 69 the fourth page, which reads:

10 That he (meaning you) feels that  
11 there's still -- that there might  
12 still be some reprisals from the  
13 Black community.

14 Now what would be the basis for you making a statement like  
15 that, "that there could be reprisals from the Black  
16 community."?

17 A. I suppose it was just a thought at that time.

18 Q. A thought seven years after the incident?

19 A. Well, I mean it was at that time that I made it, sir, so --

20 Q. And that's just the --

21 A. I didn't know whether there would be any -- that's -- that's  
22 what I thought at the time, sir.

23 Q. You prejudged the Black community?

24 A. Well, I suppose you could say that I did.

25 Q. I see, you expected them to just go and take the law into  
their own hands?

- 1 A. And I also -- no -- I also as I said in my -- I thought  
2 of both sides and I also thought that of Marshall's -- of  
3 Marshall's benefit.
- 4 Q. Have you ever in your experience as a police officer, had  
5 a situation in which somebody was convicted and incarcerated  
6 for a crime and years later there were reprisals?
- 7 A. I -- one doesn't know what somebody might do.
- 8 Q. I appreciate that, Chief.
- 9 A. Yeh, and I've --
- 10 Q. I'm talking about you --
- 11 A. -- I've had that experience with people that were let out  
12 and something did happen. So, you know, it's just a remark  
13 I made at the time, Mr. -- yeh.
- 14 Q. Would you agree, Chief that this quick acceptance by you  
15 that there would be lawless behaviour from the Black  
16 people, was indicative of your racial bias?
- 17 A. No, sir.
- 18 Q. Not at all?
- 19 A. No, sir, no.
- 20 Q. But else could it be based on? Good police practice?
- 21 A. Having -- having in mind the public which I served, it was  
22 just a thought as I told you before, Mr. Ross. I had good  
23 relations with the Black community over the years.
- 24 Q. Do they know that?
- 25 A. What's that?

1 Q. Do they know that?

2 A. Well, I would -- you'd have to ask them that, sir.

3 Q. I see.

4 A. That's my opinion, sir; very good relations.

5 Q. So you -- are you --

6 A. I've had -- I've had problems to which I looked after there  
7 the same as anywhere else; but they were few and far  
8 between, sir.

9 Q. And tell me when you -- in during your time as Chief, why  
10 didn't you recruit Black police force? What if anything --

11 A. I took on a constable, sir. I did, yes.

12 Q. I see.

13 A. Constable Best.

14 Q. I see, was there a second one taken on?

15 A. One, I believe, one before me. There's two on.

16 Q. And are you satisfied that that is -- that's a good quota?

17 A. I would -- I would say this that I would prepare -- be  
18 prepared at any time going by the regulations which I had  
19 to go by, the training that was required, no matter whether  
20 it be Black, Indian or what the case might be, that had  
21 the training, sir, there would be room for them on the  
22 police department. And I'd --

23 Q. sure.

24 A. -- be glad to hire them, sir.

25 Q. Wouldn't you agree though that it would be -- it would be a

1 | good idea to actively recruit members of minority groups if  
2 | you are serving a mixed community?

3 | A. I would say it would be good, yes.

4 | Q. And I am asking was anything done actively by you to recruit  
5 | membership?

6 | A. Not, no, not actively, no. I did help out one as I said in  
7 | my evidence here today, one Indian constable to see that  
8 | he got further training in Halifax.

9 | Q. Sure, but that's pursuant to a contractual relationship  
10 | between the Band Council and the --

11 | A. Yeh.

12 | Q. -- and the City of Sydney, isn't it?

13 | A. Yes.

14 | Q. Yes.

15 | A. What was that -- what's that?

16 | Q. Pursuant to a contractual --

17 | A. No.

18 | Q. -- relationship --

19 | A. Between the constable and me.

20 | Q. I see, but --

21 | A. It was between the constable and me, sir.

22 | Q. Yes, I hear you Chief.

23 | A. Yeh.

24 | Q. But I'm going to still ask; the relationship between the  
25 | Sydney Police Force and policing on the Membertou Reserve --

1 A. Yeh.

2 Q. -- is governed by a written contract between the Band Council  
3 of the Reserve and the City of Sydney?

4 A. That's correct, sir.

5 Q. Yes. So they would look after providing the recruits --  
6 they'd look after recruiting?

7 A. Oh, yes.

8 Q. And what I'm asking then is whether or not there's any  
9 active recruiting done as far as the Black community is  
10 concerned?

11 A. No, those -- how that comes about is -- is people -- is  
12 men -- young men or women that are interested in police  
13 work. They would call and we'd tell them what they had  
14 to do. Initial things that they would have to do and  
15 then they'd have to be accepted at those places of learning  
16 as far as police work was concerned. And then after they  
17 were through, then it was up to us to try and employ them.

18 Q. Yes.

19 A. Yeh.

20 Q. I take it you were here when Ambrose MacDonald gave his  
21 evidence?

22 A. Yes.

23 Q. I take it that you heard his evidence of derogatory terms  
24 to which he had referred to Black people and Indian people?

25 A. Yes, I heard -- I heard some of that.

JOHN F. MacINTYRE, by Mr. Ross

1 | Q. Do you think that's appropriate as a police practice?

2 | A. To say those things?

3 | Q. Yes.

4 | A. No, I -- no, I'm not in favour of any of that, no.

5 | Q. Do you know whether or not anything was done as a result  
6 | of MacDonald making such statements?

7 | A. I'm not aware of it, sir, no.

8 | Q. Is it fair to say that nothing was done?

9 | A. I -- I didn't hear of anything being done, no.

10 | Q. Thank you very much, Chief, those are my questions.

11 | A. Thank you.

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*Jmr*



JOHN F. MacINTYRE, by Mr. Pugsley

1 MR. CHAIRMAN:

2 Mr. Pugsley.

3 MR. PUGSLEY:

4 My Lords, I have three volumes of documents that are simply  
5 letters of commendation that the Chief has received throughout his  
6 career, upon appointments that he has received; that kind of  
7 thing. I think I have shown them to my friends pretty well. I  
8 don't know whether Mr. Boudreau has seen them but I don't think  
9 anyone has any objection to me introducing those through the  
10 Chief. I'll just have these marked as the next exhibit, number  
11 91-A, 91-B, and 91-C.

12 MR. MacDONALD:

13 Just so that Your Lordships are aware, I have had marked as  
14 exhibit 90, and not yet spoken to it, but the typewritten copy of  
15 Sergeant Wheaton's notes that I had indicated I had in my  
16 possession.

17 MR. CHAIRMAN:

18 They've been circulated, too.

19 MR. MacDONALD:

20 They've been circulated to counsel. They now have been marked as  
21 exhibit 90.

22 COMMISSIONER EVANS:

23 This is 91-A, B, and C.

24 MR. PUGSLEY:

25 91-A, B, and C.

1 BY MR. PUGSLEY:

2 Q. Chief, I'm going to show you three books. Just what are  
3 they? Those are marked 91-A, B, and C.

4 A. Yeh, those are -- those are letters attesting to my ability  
5 and years of service from different individuals when I was  
6 looking for the promotion to Chief of Police of the City  
7 of Sydney.

8 Q. And things of that nature are in them?

9 A. And things of that nature.

10 Q. They have to do with your career as a police officer.

11 A. My career and my -- and president of different -- The Nova  
12 Scotia Chiefs of Police, the Maritime Chiefs of Police,  
13 on the Board of the Canadian Association of Chiefs of Police,  
14 credit union and what have you.

15 Q. Thank you, Chief. That's all the questions I have.

16 A. Thank you.

17 BY COMMISSIONER EVANS:

18 Q. I have one I'd like to ask. When you're recruiting for  
19 police officers, do you advertise in the newspaper anybody  
20 who wants to apply to make an application -- fill out an  
21 application?

22 A. Yes. Yes, but the stipulation is put in there at this time  
23 what is required.

24 Q. Right.

25 A. The training that's required and they state that it's either

1 from the Holland Police College or from another recognized  
2 university with the same standards or from a former police  
3 officer with the training equivalent to what they would  
4 have --

5 Q. But anybody can make an application.

6 A. Anybody but they should have to have those qualifications.  
7 It states the qualifications.

8 Q. Well, do they have the qualifications before they make the  
9 application?

10 A. Oh, no. They make the --

11 Q. They make the application.

12 A. They make the application., yes, but that --

13 Q. And then they're told that you have to have this certain  
14 requirement.

15 A. That's right, yeh.

16 Q. So anybody can apply?

17 A. Really I think--I think, My Lord, if I'm not mistaken, that  
18 there's time that the qualifications are put in the -- are  
19 put in the ad.

20 Q. Yes.

21 A. Yes.

22 BY MR. MacDONALD:

23 Q. Just one area, Chief. It has to do with the turn-over of  
24 files. Mr. Justice Evans asked you a question. When you  
25 met with Frank Edwards and Inspector Scott the first day,

1 and you said -- that is in -- on February 3rd, 1982, and  
2 you had your file with you and Mr. Justice Evans asked if  
3 you had turned over materials to him or to them.

4 A. Yes.

5 Q. Were copies made at that time?

6 A. No.

7 Q. Exhibit 88, which was the list that you had prepared on  
8 April the 26th, 1982, when -- You remember when Sergeant  
9 Wheaton was there taking the materials?

10 A. Yes.

11 Q. And he was initialling materials?

12 A. Yes.

13 Q. That list would indicate that, I suggest to you, that everything  
14 was still in your file. Yes?

15 A. No.

16 Q. If he has initialled getting all of the typewritten copies  
17 of statements -- Do you see that on page one? He has initialled  
18 receiving typewritten copies of the Maynard Chant statement?

19 A. Yes, that's right.

20 Q. Pratico, and all the others. So those were still in your  
21 file on April the 26th of 1982?

22 A. Yes.

23 Q. Yes, and on the last page of that document, he has initialled  
24 getting all of the original statement with the exception  
25 of an original statements of Patricia Harriss. It says one

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 statement had been given to him already; the statement of  
2 -- the original statement of Junior Marshall was not present.  
3 That was introduced as an exhibit at his trial, was it not?
- 4 A. I don't --
- 5 Q. Well, in any event, it wasn't present.
- 6 A. No, but there were several statements in that file and some  
7 typewritten copies. There was some stuff -- material taken,  
8 and if you recall there somewhere I seen in the evidence  
9 where Inspector Scott thought that they had all the material  
10 at hand, that they needed -- that there was no need of picking  
11 up this other -- this file.
- 12 Q. Well when you went out to see Scott and Edwards, what did  
13 you have, a file that had copies -- three or four copies  
14 of two --
- 15 A. There would be -- there would be copies in the file, yes.
- 16 Q. Of everything? Would there have been two copies of everything  
17 in the files?
- 18 A. I can't tell you, Mr. MacDonald, at this time because I  
19 didn't take a copy of what was kept that day.
- 20 Q. But we do know this. Chief, we do know this, don't we,  
21 that on April the 26th, 1982, you had been ordered to turn  
22 over to the R.C.M.P. your complete file and that you then  
23 had somebody prepare a typewritten list of everything that  
24 was in your file.
- 25 A. That's right, yes. Every document, yeh, in the file.

1 MR. PUGSLEY:

2 Just for the purpose of clarification, (I'm not trying to  
3 interfere with my friend.) it is patently obvious that Wheaton and  
4 Edwards had a bundle of material as is evidenced from Volume 19,  
5 page 32, which contains a list of attachments to Wheaton's report.

6 COMMISSIONER EVANS:

7 Exhibit 88 only refers to typewritten copies of statements.

8 MR. PUGSLEY:

9 Yes. Wheaton's report is dated the -- February the 25th, '82,  
10 long before the April meeting and you can see that he's got  
11 statements of Alanna Dixon, Keith Beaver, Patricia Harriss, Robert  
12 MacKay, Chant, Pratico, and others. So there's no question that  
13 they had these documents long before the April meeting.

14 MR. MacDONALD:

15 I'm not suggesting they didn't.

16 MR. SAUNDERS:

17 My Lord, my friend said "Wheaton and Edwards"; I think he meant to  
18 say "Wheaton and Scott".

19 MR. PUGSLEY:

20 Yes, that's right.

21 BY MR. MacDONALD:

22 Q. The point, Chief, as I understand it, that whatever Scott and  
23 Edwards obtained on February the 3rd of 1982, whatever they  
24 obtained, you kept a copy in your file.  
25

- 1 A. There would be extra copies is what I'm trying to say of  
2 different statements and different things in that file at that  
3 time.
- 4 Q. Would there have been extra copies of everything in the file?
- 5 A. This I can't say, sir, for sure.
- 6 Q. Why would there only be extra copies of selected things?
- 7 A. I wouldn't say there'd be selected things, but I say that  
8 there'd be copies of several items that'd be in the file, and  
9 I imagine they were -- I can't say everything in the file,  
10 sir.
- 11 Q. Could I suggest to you that what -- when you went out to see  
12 Edwards and Scott, that you had extra copies of at least some  
13 of the things that were in your file?
- 14 A. That could've been.
- 15 Q. Yeh. What made you determine what extra copies -- which state-  
16 ments or documents you would have extra copies of?
- 17 A. I can't tell you at this time.
- 18 Q. And isn't it a fact that all you turned over at that day is  
19 whatever extra copies you had?
- 20 A. No, I'm not saying that either. I'd -- It was a question of  
21 keeping this or -- and keeping that or taking this and taking  
22 that; so I don't know.
- 23 Q. But, Chief, you told me there were no copies made at Edwards'  
24 office.
- 25 A. No, there was no copies made there, but I --

12:19 p.m.

1 Q. So the only --

2 A. Yeh.

3 Q. The only thing that they could have taken that day is something  
4 that you had an extra copy of in your file?

5 A. There'd be a copy of the material that would be in the file.  
6 If there was a copy there, it'd be the copy of the material,  
7 sir.

8 Q. You determined before you went out to have a couple of copies --

9 A. Pardon me, sir --

10 Q. -- of certain material?

11 A. Pardon me, sir, I didn't determine anything before I went out.  
12 I took my file up to the office. What was in it was in it.

13 Q. All right.

14 A. Yeh.

15 Q. We do know that on April 26th of 1982, that's a couple of  
16 months later, that your file is still virtually complete.

17 A. It's not complete when others took statements from the file  
18 before that, sir.

19 Q. But we know that you --

20 A. Or -- Either that or they got a copy of them because they had  
21 taken statement -- material from this file before that.

22 Q. They got a copy of them, but they didn't get a copy of them at  
23 Edwards' office. You've just told me that twice.

24 A. The meeting we had the first day is when the copies were taken.  
25 I don't know what Mr. Edwards thought. I thought the R.C.M.P.



- 1        were going to investigate this and --
- 2    Q.    I don't care, Chief. I'm not trying to find out what you
- 3        thought there.
- 4    A.    No. And --
- 5    Q.    I'm trying to find out where they got the copies that they took
- 6        that day?
- 7    A.    Anything they got that day was out of the file there.
- 8    Q.    Out of the file?
- 9    A.    Sure.
- 10   Q.    That's the point.
- 11   A.    Yeh.
- 12   Q.    So that in the file -- Would you agree with this? In the file,
- 13        there must've been at least two copies of certain materials?
- 14   A.    There could be. Could be, sir.
- 15   Q.    Would have to be, Chief, not could be.
- 16   A.    Yeh.
- 17   Q.    There would have to be.
- 18   A.    There might've been more than two copies. I'm not sure.
- 19   Q.    What I'm trying --
- 20   A.    Yeh.
- 21   Q.    -- to determine, sir, is, was there two copies of everything?
- 22   A.    I couldn't say, sir. I couldn't say, sir, at this time.
- 23   Q.    Would you agree with this, that if there -- if the R.C.M.P.,
- 24        Scott, and Edwards got copies of your complete file on February
- 25        3rd, 1982, that there must've been two copies of everything?

- 1 A. I wouldn't say they got copies of the complete file in 1982  
2 at that time, sir.
- 3 Q. Let me come back to one other point. When Inspector Wheaton  
4 came to see you after your meeting with Edwards and Scott, --  
5 That would be within a couple of days, within a day, very  
6 shortly thereafter.
- 7 A. I haven't got the date, sir.
- 8 Q. Pardon?
- 9 A. I haven't got the date. It wouldn't be long --
- 10 Q. I don't care.
- 11 A. It wouldn't be long.
- 12 Q. Wouldn't be long?
- 13 A. No. No.
- 14 Q. Didn't he not come in to you and say, "I'm here to re-investi-  
15 gate the Junior Marshall case."? Did -- He had to tell you  
16 some reason he was there.
- 17 A. Oh, I would know why he was there. Sure.
- 18 Q. Yeh. And that's what Al Marshall told you back in 1971?  
19 "Chief, I'm here to do a re-investigation of the Marshall  
20 case."?
- 21 A. I don't know just what his words were, but I knew what he was  
22 there for, veh.
- 23 Q. Two or three times, you've told us that you gave Marshall the  
24 entire file, but you didn't give it to Wheaton because there  
25 was a difference. I want to know, what was the difference?

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Marshall asked for the -- asked for it, and he was given it.

2 Q. That's the only difference then. Marshall came in and said,

3 "Give me your file."?

4 A. The R.C.M.P. in '82 never asked for the complete file.

5 Q. Listen to my question.

6 A. Yeh.

7 Q. When you said there was a difference --

8 A. Yes.

9 Q. -- the only difference that you can relate to me is that  
10 Marshall came in and said, "Give me your file," but Wheaton  
11 didn't say that?

12 A. Well, that'd be -- Yes, that'd be --

13 Q. In fact, the only --

14 A. I think that'd be fair to say.

15 Q. Thank you.

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JOHN F. MacINTYRE, by Commissioner Poitras

1 MR. MacDONALD:

2 That's all I have. Thank you.

3 BY COMMISSIONER POITRAS:

4 Q. I just have one question, Mr. MacIntyre.

5 A. Yes.

6 Q. When you handed over your files to Monsieur Wheaton on  
7 April 26th, 1982, did you retain a copy of each of those docu-  
8 ments for yourself?

9 A. Yes.

10 Q. Thank you.

11 COMMISSIONER POITRAS:

12 That's all.

13 THE WITNESS:

14 Thank you.

15 MR. CHAIRMAN:

16 That's all. Thank you, Mr. MacIntyre.

17 (WITNESS WITHDREW)

18 MR. CHAIRMAN:

19 This concludes this phase of the sittings of the Commission in  
20 Sydney, Nova Scotia. It's been a lengthy session, which I'm sure  
21 has been burdensome on counsel and staff and witnesses.

22 While sitting in Sydney, we have heard testimony from sixty-one  
23 witnesses whose evidence has been transcribed on 6731 pages of  
24 evidence and our sitting days in Sydney have been thirty-six in all.

25 The Commission is indeed grateful to Reverend Thomas Whent of

MR. CHAIRMAN, concluding comments

1 St. Andrew's United Church, Sydney, and the staff of the church  
2 for their understanding and splendid cooperation. This church  
3 hall is superbly suited to accommodate hearings of this kind. The  
4 church secretary, Debbie Glabay, and the church engineer and  
5 caretaker, Everett Watt, have been so patient when willingly  
6 dealing with our requests and we thank both of them.

7 Malcolm Williston, who has acted as Registrar, had done a  
8 highly professional job in maintaining the exhibits and in  
9 enforcing punctuality on the tardy.

10 Wilfred Smith, a man of many talents, has insured that the  
11 large number of persons who have come to the hall were comfortably  
12 accommodated and that the unreasonable needs of the Commissioners  
13 were promptly met.

14 The professionalism of the Sydney Discovery Services in  
15 transcribing the evidence and having it ready every morning has  
16 earned the respect and gratitude of the Commission and all  
17 counsel. Those employed with that official court reporting  
18 service are very skilled and most dependable.

19 We thank the United Church Women of St. Andrew's Church for  
20 providing such tasty breads and cakes in reckless disregard of the  
21 disastrous effect this delicious cooking has already had on our  
22 already ample waistlines.

23 All of these proceedings have been carried live on Seaside  
24 Cable Television which serves Glace Bay, New Waterford, and  
25 points in between. To our viewing audience, who I know will

MR. CHAIRMAN, concluding comments

1 | return to the regular television programs with regret and sadness,  
2 | please do not be too vociferous in your condemnation should we  
3 | fail to win an Emmy Award next year.

4 |       The press have assiduously reported these proceedings with  
5 | accuracy sprinkled with the occasional editorial comment that was  
6 | sometimes meritorious. We commend them for their prudent exercise  
7 | of their professional responsibility.

8 |       I close with the immortal words of our poet-laureate Bob Wall:

9 |               These three men judicially are  
10 |                come to Sydney travelling far;  
11 |                budget-keeping,  
12 |                never sleeping,  
13 |                see them again next year.

14 |       We wish you all a Merry Christmas.

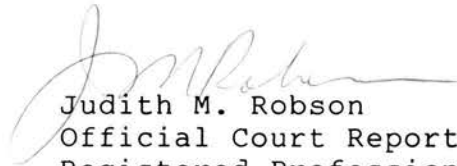
15 |       This sitting stands adjourned until Monday, January 11th,  
16 | 1988, at nine-thirty a.m. at the meeting room in the Lord Nelson  
17 | Hotel, Halifax, Nova Scotia.

18 |  
19 | INQUIRY ADJOURNED at 12:28 o'clock in the afternoon on the 11th  
20 | day of December, A.D., 1987.

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COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript of evidence hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 11th day of December, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia, taken by way of recording and reduced to typewritten copy.



Judith M. Robson  
Official Court Reporter  
Registered Professional Reporter

**Sydney Discovery Services**

December 11, 1987