

1 A. Yes, I was.

2 Q. In what capacity?

3 A. I was a parole service officer.

4 MR. CHAIRMAN

5 What was that again, please?

6 MR. SPICER

7 '71 to '79, My Lord.

8 BY MR. SPICER

9 Q. Can you explain to us in your role as Parole Service Officer  
10 what your functions would have been?

11 A. Generally supervising parolees in the community, conducting  
12 community investigations, doing post-sentence reports for the  
13 institution. That's basically it.

14 Q. You would have been a person responsible for doing  
15 community assessments of, during your tenure with the  
16 Parole Service, or the Correctional Service, rather?

17 A. I did community assessments.

18 Q. And can you explain to us the difference between Correctional  
19 Service of Canada and National Parole Board? How did that  
20 work?

21 A. Well, the Parole Board is responsible for granting paroles.  
22 They're the decision-making body. The Parole Service or  
23 Correctional Service is comprised of the penitentiaries and the  
24 community wing, which is the Parole Service. And we do  
25

1 investigations and make recommendations, but the Parole  
2 Board itself makes the decisions. They grant parole and can  
3 revoke parole.

4 Q. And you, in fact, provide the information that the National  
5 Parole Board make its decisions on.

6 A. Right.

7 Q. And we shouldn't take from the fact that you're called a  
8 "Parole Service Officer" that you worked for the Parole Board,  
9 because you didn't, is that correct?

10 A. I didn't work for the Parole Board.

11 Q. Can you explain to us the scheme of absences from the  
12 institution that an inmate is allowed to take. After he's been  
13 there for a period of time, he starts to get into the process of  
14 getting out again and there are different types of absences to  
15 which he's entitled. Can you explain how an inmate moves  
16 through those different types of absences?

17 A. Well, every inmate doesn't have to move through them. Some  
18 inmates go right out on full parole, but there are different  
19 types of releases. There's an escorted TLA or temporary  
20 leave of absence.

21 Q. Would that be the first type of absence generally that an  
22 inmate would be entitled to?

23 A. I would say a long-term inmate.

24 Q. Let's deal with a person serving a life sentence.  
25

- 1 A. With a life sentence, I would say yes, they would probably go  
2 out on an escorted pass.
- 3 Q. And an escorted pass would be what?
- 4 A. While you're with an officer from the institution at all times.
- 5 Q. An officer from the institution as opposed to, say, for instance,  
6 somebody like yourself?
- 7 A. Right.
- 8 Q. And that would be, for instance, take in Junior Marshall's  
9 case, the sort of pass that he would get to go and play ball  
10 from time to time?
- 11 A. Play ball, play cards, whatever.
- 12 Q. Outside the institution.
- 13 A. Right.
- 14 Q. Is there then a type of pass known as a TLA?
- 15 A. Well, that would be the unescorted TLA.
- 16 Q. Unescorted temporary leave of absence?
- 17 A. Right.
- 18 Q. In the case of a person serving a life sentence, is that the sort  
19 of pass that has to be granted by the Parole Board itself?
- 20 A. At that time, it's my understanding that it would have to be  
21 granted by the Parole Board.
- 22 Q. Would that have been the case with the escorted pass or  
23 could that be done by the institution itself?
- 24 A. I believe that could be done at that time by the institution.  
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Q. And in deciding whether or not an inmate is to be entitled to an unescorted pass, would you from time to time be asked to go out to the community to which that inmate was to be returning and asked whether or not they wanted him there?

A. That's correct.

Q. And would you have done a number of those in respect of various inmates during the years that you worked for Correctional Services?

A. Many.

Q. Many? Is it more than a hundred?

A. Hundreds.

Q. Hundreds? Would you have done those throughout Nova Scotia?

A. Right.

Q. As part of that, would you from time to time go and talk to the police departments in the various cities and towns to which the inmate might be returning?

A. Always.

Q. Always? And would it then be part of your regular duties to go to the police station and sit down and chat with a police officer about his attitudes about whether or not somebody ought be coming back to the community?

A. I usually got the police reaction, what they felt about the person coming back.

1 Q. I show you Exhibit 69. On the fifth page, third, fourth and  
2 fifth pages of that exhibit, there appears to be a document  
3 concerning "Community Assessment in connection with Junior  
4 Marshall"? And then on the last, the third page of that  
5 document, that's you, "Kevin Lynk"?

6 A. That's right.

7 Q. The document which precedes that, "National Parole Service,  
8 Sydney, from Diahann McConkey" indicating what the  
9 community assessment should be. Would you have had that  
10 document before you went and did the community  
11 assessment?

12 A. I would have to have that, yeah.

13 Q. And that document indicates "To NPS", which is what,  
14 National...

15 A. Parole Service.

16 Q. National Parole Service in Sydney. The people that should be  
17 spoken to in this particular case?

18 A. Yeah.

19 Q. And in connection with the community assessment, if you  
20 could turn to page two of the assessment itself, the note that  
21 you spoke with Mr. Rosenblum, who represented Junior  
22 Marshall during the trial. Can you give us, other than what's  
23 in the note, can you give us any indication of the discussion  
24 you had with Mr. Rosenblum?  
25

1  
2 A. Well, it wasn't a very long discussion. He explained that there  
3 wasn't much that could be done with regard to an appeal at  
4 the time. As far as I can recollect, he was of the opinion that  
5 all avenues had been exhausted and that there was nothing  
6 else to talk about with regard to Junior Marshall.

7 Q. Towards the end of the paragraph dealing with Mr.  
8 Rosenblum, you indicate:

9 Mr. Rosenblum indicated that there was  
10 absolutely nothing that can be done and he  
11 is quite frankly sick of hearing Donald  
12 Marhsall's name mentioned.

13 Was that something that he said to you?

14 A. That's right.

15 Q. The next paragraph indicates that you also spoke with Chief  
16 John MacIntyre.

17 A. That's correct.

18 Q. Of the Sydney Police Department. Had you from time to time  
19 gone to the Sydney Police Department in connection with  
20 other cases and spoken to people there?

21 A. Many times.

22 Q. Many times. Would there be a person that you would  
23 normally see when you went to the Sydney Police  
24 Department?

25 A. The majority of the contacts were with Detective Urquhart.

1 Q. And would you be speaking to Detective Urquhart concerning  
2 cases that he had investigated or cases other, cases that would  
3 include...

4 A. All cases.

5 Q. All cases. So that would include ones that he didn't have any  
6 personal involvement with himself?

7 A. Right.

8 Q. On this particular occasion, did you go then to Inspector  
9 Urquhart?

10 A. Yes, I did.

11 Q. What happened?

12 A. He took me into Mr., or Chief MacIntyre's office.

13 Q. Before you got to Chief MacIntyre's office, did you, when you  
14 went to see Mr. Urquhart, what did you say to him?

15 A. I told him that I was doing a community assessment with  
16 regard to Junior Marshall and the possibility of him coming  
17 home for three days and he said, "Well, if you're talking about  
18 Junior Marshall, we go in to see the chief."

19 Q. Did that surprise you?

20 A. Yeah.

21 Q. Why did it surprise you?

22 A. Well, it was the only time I was ever in the chief's office,  
23 really, on any case.  
24  
25

1 Q. So you went in the chief's office. Did Mr. Urquhart stay or did  
2 he leave?

3 A. He left.

4 Q. He left? And tell us what happened when you went in to see  
5 the chief?

6 A. Well, to the best of my recollection, it was a long time ago, but  
7 he was generally against Junior Marshall coming home  
8 basically because he feared reprisals, either against the  
9 witnesses or the black community against Junior Marshall or  
10 whatever. He was just basically against it all the way around.

11 Q. How long were you in Chief MacIntyre's office?

12 A. I would say approximately 45 minutes.

13 Q. And during the course of that 45 minutes, did he go through  
14 the original case with you in any detail at all, the trial?

15 A. Yes, he was talked about the case and the inconclusive  
16 evidence that appeared to be there. There was no grounds  
17 for appeal. He had spoken about problems with the Marshall  
18 family, in general, which I don't know if he mentioned  
19 particular names, but...

20 Q. What sorts of things was he indicating to you?

21 A. Well, just that there would be, it wasn't a good move to bring  
22 him back. There'd be trouble. It wasn't a good idea.

23 Q. Did you get a feeling as to what his attitude was toward  
24 Junior Marshall himself?  
25



1 A. I can't remember particular words or conversations, really,  
2 but the attitude was not good.

3 Q. Did he seem particularly keen on getting over to you the  
4 question of the trial and evidence that had been heard at the  
5 trial?

6 A. Yes, he spoke about the trial, which to me, was rather  
7 different because usually after that long a time, you don't go  
8 into the trial. You're more interested in what is happening to  
9 the inmate now or what plans does he have, why is he coming  
10 for three days, that type of thing.

11 Q. Was it a conversation between the two of you or was Mr.  
12 MacIntyre essentially giving you his views?

13 A. Well, it was, I would say, mostly a one-way conversation, him  
14 giving me his views.

15 Q. Did you query him about those views as to why he didn't  
16 think Mr. Marshall should be coming back?

17 A. Well, I did but the types of things that he was saying about  
18 the family or the victim, the witnesses and that type of thing,  
19 I just didn't go into any detail because I wasn't living in the  
20 area at the time of the conviction, I didn't know that much  
21 about the whole thing. I hadn't read any transcripts. I just  
22 didn't, I never heard any talk of any reprisals. I had no  
23 knowledge of anything like that.

24 Q. You didn't know anything at all about Junior Marshall?  
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A. Not really.

Q. At the time?

A. Not really.

Q. Did you, from your experience, did you think it was peculiar that Chief MacIntyre went into the detail that he went into with you?

A. Well, I thought it was very peculiar that I was in his office in the first place and then to go into detail about the airtight case and that type of thing that they had against him. I wasn't really interested in that at that particular point.

Q. Are there circumstances where you would expect in going to speak to a police officer that something about the circumstances of the actual trial or case would be related to you? Is there a time, for instance, if the person has recently been convicted?

A. Oh, very recently. Before I left the Parole Service, we would do a post-sentence report and then we would get very involved in the offence and that type of thing. But not after eight years or whatever. You generally don't discuss the guilt or the offence itself.

Q. Over the years, you would have spoken to Detective Urquhart on other occasions.

A. Yes.

1 Q. And you would have also spoken to other police forces around  
2 the province.

3 A. Right.

4 Q. Was the Sydney Police Department, can you tell us from your  
5 experience, was the Sydney Police Department more prone to  
6 say, "We don't want this person back," than other  
7 departments would be?

8 A. The Sydney Police, the contacts that we had there, the Sydney  
9 Police were, I would say, generally against parole itself. Not  
10 necessarily the particular individual you were talking about  
11 but they were generally more negative than most police that  
12 I've dealt with.

13 Q. After you left Chief MacIntyre's office, did you go back and  
14 see Detective Urquhart on the way out or did you just leave?

15 A. I just left.

16 Q. On the next page of your report in the "Appraisal" section, you  
17 comment:  
18

19 While there appears to be support for  
20 Marhsall in the community and little or no  
21 negative reaction to his case on the  
22 Membertou reserve, there still remains the  
23 problem of Marshall himself denying his  
24 guilt and being supported in this by an  
25 overprotective mother. Time does not  
appear to diminish their feelings in this  
regard but I would suggest it is quite  
important for Marshall to open up and

1 discuss the offence before he is considered  
2 for temporary leaves of absence or parole.

3 Why did you feel that way?

4 A. Well, supervising parolees in the community, I find that if  
5 people are not truthful in the institution, it seems to carry  
6 right through the, to the community and then they're not  
7 truthful when they're under supervision outside the  
8 institution. And it's not my job to second guess the courts.  
9 It's not uncommon to hear somebody say that they're not  
10 guilty, especially in certain types of crimes and I thought at  
11 the time that it was important for him to discuss the offence  
12 and to be honest, which he was being, but I mean I didn't  
13 know this at the time.

14 Q. You didn't know that at the time.

15 A. It just makes for a, and I think he was just eligible for an  
16 unescorted TLA and I felt that this might be a good  
17 opportunity to get him at this point to discuss it.

18 Q. Is it fair to say that your experience, generally, is that it's  
19 easier to work with somebody who you think is come to  
20 terms with their crime and has admitted his guilt than it is  
21 with somebody who doesn't.

22 A. Well, to me I can equate it as far as working with an alcoholic,  
23 you can try to work with an alcoholic but if he doesn't  
24 recognize that he's an alcoholic, then you can't work with him.  
25

1 Q. How would you describe your report, Mr. Lynk, in terms of  
2 whether or not you're supportive of Mr. Marshall or not?

3 A. Well, with the exception of the comments that I made about  
4 that, I feel that it was, it is a positive report. There's, with  
5 the exception of the objection of the police, everybody else  
6 that I contacted was, they were not against the three-day  
7 pass.

8 Q. How seriously would you take the objection of the police?

9 A. I wouldn't take it very seriously.

10 Q. Why not?

11 A. This particular police force, I, these particular individuals, I  
12 would not, I just had too much experience with them. They're  
13 negative too much. If it was another police force where there  
14 was a fair exchange between, you know, if they asked, "How  
15 is the inmate getting along?" Or, "What's he going to do?" Or  
16 whatever, instead of just blanket, "No, we're not interested in  
17 having the guy back here."

18 Q. And was the, "No, we're not interested in having the guy back  
19 here," are you expressing your perception of the attitude of  
20 the Sydney Police Department, generally?

21 A. Generally, and if we put too much emphasis on their opinion,  
22 there would be very few come back to Sydney.

23 Q. I'll just ask you one more question. Within the scheme of,  
24 "No, we don't want somebody back," as you expressed as a  
25

MR. LYNK, EXAM. BY MR. SPICER

1           general attitude of the Sydney Police Department, would you  
2           say that in your interview with Chief MacIntyre that it was  
3           anything more than that?  
4

5           A.    Would you repeat that, please?

6           Q.    Was it anything more than just the general, "Well, we don't  
7           want this person back," in respect of Junior Marshall?

8           A.    I don't know.    Maybe, because he showed such an interest in  
9           the case, there might have been something in particular, but  
10          it's not for me to say, I don't know.

MR. CHAIRMAN

11          Before you leave there, Mr. Spicer, I would be interested in  
12          hearing what effect or the information or the opinion of Mr.  
13          Bernie Francis, who is referred to in some detail   on page two of  
14          his report had upon Mr. Lynk in this?

MR. SPICER

15          Q.    Do you see the reference to your contact with Bernie Francis  
16          on    second page?  
17

18          A.    Right.

19          Q.    Mr. Chairman is asking you what effect Mr. Francis' opinion  
20          would have had on you?  
21

22          A.    Well, two different effects.    He, at the time, seemed convinced  
23          that Marshall was guilty.    But then, again, from a security  
24          point of view, Mr. Francis didn't foresee any problems with  
25          Marhsall going to the reserve.    So I tried to be, in this report,

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I think as far as possible. He was welcomed on the reserve.  
There wasn't a, he didn't appear to be a security risk there.

Q. Did you know Mr. Francis before you carried out this particular assessment?

A. Yes, I did.

Q. Was he a person whose views you respected?

A. Definitely.

Q. Can you give us any reason why that was?

A. Well, he was a court worker with the, I believe he was working with Union of Nova Scotia Indians, and he's a well respected person in the community.

Q. And you had no reason to second guess his views.

A. Not really.

MR. SPICER

Thank you.

11:00 a.m. INQUIRY RECESSED.

MR. LYNK, EXAM. BY MS. DERRICKINQUIRY RESUMES - 11:17 a.m.EXAMINATION BY MS. DERRICK

1  
2  
3 Q Mr. Lynk, my name is Anne Derrick and I represent Donald  
4 Marshall, Jr.. You have Exhibit 69 in front of you, do you?

5 A. Right.

6 Q The covering document, you would have received that in  
7 advance of going into the community to do your assessment,  
8 is that correct?

9 A. I must have.

10 Q And that indicates on page 2 in paragraph 5 in the sentence  
11 referring to, "Chief MacIntyre recently expressed strong  
12 opposition to the possibility of Marshall returning home for  
13 his grandmother's funeral." Do you recollect that being the  
14 reason why Mr. Marshall desired a temporary leave of  
15 absence from the institution?

16 A. I don't recollect why he wanted, at this point in time, why he  
17 wanted to come back, no.

18 Q That would be a common reason, visiting one's family for a  
19 reason like that would be a common purpose for a temporary  
20 leave of absence in your experience.

21 A. Yes, common, yes.

22 Q And this would have been an escorted leave, is that correct?

23 A. I don't know what it was now. I'd have to...this is the first  
24 time I've seen that in how many years, ten years.

25 Q And you don't recollect when you were doing the community



MR. LYNK, EXAM. BY MS. DERRICK

1 assessment whether you were doing one with respect to a  
2 leave that would have been escorted?

3 A. My understanding would be unescorted, but I could have  
4 been wrong, I don't know.

5 Q. At the time you did the community assessment back in 1978  
6 you would have known that then which kind it would have  
7 been.

8 A. I would have read this letter.

9 Q. Yes, I see.

10 A. And it should say in this letter.

11 Q. Now, in the conclusion of your report...the conclusion of your  
12 report which is page 3, actually page 5 in that exhibit, it  
13 would seem to indicate that Mr. Marshall wasn't considered a  
14 security risk for the purpose of this leave. You refer to Alex  
15 Christmas and to Bernie Francis and Mr. Rosenblum, none of  
16 who expressed any concern about Mr. Marshall harming  
17 anybody if he was released.

18 A. That's correct.

19 Q. Is that correct?

20 A. That's correct.

21 Q. So, is it accurate to say then that the principal concern in your  
22 report was not security but the fact that Mr. Marshall refused  
23 to admit his guilt?

24 A. True.

25 Q. And you've said, I think, that's it not uncommon for people to

MR. LYNK, EXAM. BY MS. DERRICK

1 say that they're not guilty, in your experience.

2 A. Not uncommon.

3 Q. Pretty uncommon for someone to maintain their innocence  
4 after seven years, wouldn't you agree with that?

5 A. Yeah, I haven't had too much experience with people going on  
6 that long with it, no.

7 Q. Any experience at all other than this case if you can recollect?

8 A. Not that I can recollect, no.

9 Q. Now, if you didn't take the police objection very seriously or  
10 that objection of not wanting Mr. Marshall back in the  
11 community for this purpose, because you felt that they were  
12 negative too much, why didn't you say so in your report?

13 A. Well, I guess, the fact that I didn't say it was probably  
14 conspicuous in it's absence. I mean I didn't put much ...in my  
15 appraisal didn't...I didn't mention their objections or give it  
16 much strength. It was already mentioned, I guess, in the  
17 request. It was a foregone conclusion that the, apparently,  
18 that the Chief of Police in Sydney would be against his  
19 release.

20 Q. That's true, and you indicate what Mr. MacIntyre's views  
21 were on that, but you don't say anywhere in your report what  
22 sort of weight you would attach to that view.

23 A. No. I leave that up to the people granting the pass to  
24 determine themselves what weight, because they have his  
25 views.

MR. LYNK, EXAM. BY MS. DERRICK

1 Q. But you're the one with the experience in doing community  
2 assessments.

3 A. Right.

4 Q. Why wouldn't you have been the one to indicate that in your  
5 experience the Sydney Police were very negative, more  
6 negative than other police forces?

7 A. Well, like I say, I think it's just a foregone conclusion. I know  
8 that I prepared an awful lot of cases and they don't, I know  
9 that they don't...I wouldn't have to put that in there, they  
10 know that the Sydney police, or whatever police, they know  
11 the different police departments and I think that they...that's  
12 not a determining factor anyway whether the police are  
13 against it. It doesn't make it or break it.

14 Q. So, what made it or broke in this circumstance was that Mr.  
15 Marshall wasn't prepared to admit his guilt?

MR. BISSELL

17 Objection. He has no idea what made it or didn't make it.

MS. DERRICK

19 Well, he seems to express an opinion now that it wasn't the  
20 police opinion that made it or didn't make it.

MR. LYNK

22 Well, see I wasn't there. I didn't grant it or deny it. I just  
23 give them information from the community.

MR. CHAIRMAN

25 Your responsibility is to provide information and based on

MR. LYNK, EXAM. BY MS. DERRICK

1 that information then the parole board makes its decision.

2 MR. LYNK

3 That's correct.

4 MR. CHAIRMAN

5 And reach certain conclusions.

6 MR. LYNK

7 That's correct.

8 MS. DERRICK

9 Q. So, it wouldn't be common for you to put in your view that  
10 the police took a negative view of these sorts of things, these  
11 types of release. That wouldn't be the kind of information  
12 you'd include in a report like this.

13 A. I did include it. They are against this...

14 Q. No, I know, but you've already said that you didn't put much  
15 weight in that yourself, their objection, because you felt that  
16 they would just predispose to feeling negative anyway. And,  
17 what I'm asking you is was it not your practise then to put  
18 that assessment on your part into your report?

19 A. No, I didn't feel that it was necessary, no.

20 Q. I see. So, you knew in your heart or in your experience that  
21 the police were negative and that would explain their  
22 reaction, but you didn't typically reflect that in your reports.  
23 Is that your answer?

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

25 Q. Now, in the preparation of this report you didn't speak to Mr.

MR. LYNK, EXAM. BY MS. DERRICK

1 Marshall, Sr., is that correct?

2 A. That's correct.

3 Q. Had you had contact with him before, because you're saying...

4 A. No.

5 Q. Not you personally.

6 A. Not me personally.

7 Q. You knew him to be the honorary Chief of the MicMac tribe in  
8 the province.

9 A. Uh-hum.

10 Q. Which is what you've said here. And you knew him to be a  
11 well-respected individual, is that correct?

12 A. That's true. That's right.

13 Q. Now, you do emphasize in your report that the Marshall  
14 family, Mr. and Mrs. Marshall did not accept their son's  
15 conviction. Did it not occur to you that their refusal to accept  
16 his conviction might be a genuine expression that an injustice  
17 had been done?

18 A. It didn't occur to me.

19 Q. So, you assumed that it was simply an inability to come to  
20 grips with the reality and that in Mr. Marshall's case that if he  
21 didn't genuinely believe it then he was being dominated by  
22 his wife, which is the sort of thing you say in your report.

23 A. That's what I thought at the time.

24 Q. Did Mr. Rosenblun or anyone else discuss any of the case's  
25 weaknesses with you?

MR. LYNK, EXAM. BY MS. DERRICK

1 A. The case.

2 Q. Yeah, the actually...he discusses the trial referring to the two  
3 eyewitnesses and saying...

4 A. No, they did not.

5 Q. So, there were no discussions of the fact that one of the  
6 eyewitnesses was very drunk on the night of the incident.

7 A. I wasn't into discussing the case anyway. I wouldn't have.

8 Q. No, I appreciate that. It's just that you...

9 A. No, they did not, no.

10 Q. You refer to the fact that Mr. Rosenblum told you about the  
11 two eyewitnesses and I was wondering if he gave you any  
12 detail about them.

13 A. No, he didn't. Not that I can recall at this time anyway, no.

14 Q. So, you don't recall Mr. Rosenblum telling you that one of  
15 them recanted during the trial.

16 A. No.

17 Q. You also refer on page 2 to Chief MacIntyre stating that the  
18 case was proven conclusively in court, I'm looking at the third  
19 paragraph, with two eyewitnesses, "And also conclusive  
20 evidence from the identification section of the Royal Canadian  
21 Mounted Police." Do you remember what that was? Did he  
22 tell you what that identification evidence was?

23 A. No, because I wasn't interested in discussing the case. I  
24 wasn't after that. So, he was more or less talking at me, and I  
25 wasn't interested in going into the details or the, you know, it

MR. LYNK, EXAM. BY MS. DERRICK

1 was a long time ago and it wasn't my mission to go into that  
2 case again. So, I...

3 Q. So, but information provided to you about the case was just  
4 provided voluntarily by them and you didn't explore it in  
5 any...to any degree.

6 A. No.

7 Q. Now, in your section on Mr. Francis you indicate that, "Mr.  
8 Francis sees no point in his..." Junior Marshall's, "...returning to  
9 the reserve proclaiming his innocence and he agrees that he  
10 should not be released from the institution until he comes to  
11 grips with reality and admits the murder. Was that, the fact  
12 that Mr. Francis felt that way, very influential to your  
13 appraisal at the end of your report?

14 A. No, I wouldn't say.

15 Q. So you had already come to that conclusion yourself and Mr.  
16 Francis simply happened to agree with it.

17 A. No, I hadn't come to any conclusions because Mr. Francis was  
18 only one step in the invest...in my community assessment.

19 Q. I see, but...so you came to a conclusion independently then of  
20 Mr. Francis. It just happened to be the same conclusion.

21 A. And the file, the file or the covering letter that...whatever  
22 information I had at the time, they send me the file and what  
23 I read and the people I talk to.

24 Q. In your training for your job as a parole service officer, were  
25 you given any formal instruction in preparing these kinds of

MR. LYNK, EXAM. BY MS. DERRICK

1 reports?

2 A. Yes.

3 Q. And what did that involve? How were you...in essence how  
4 were you trained to prepare these reports?

5 A. Mostly through experience with a supervisor. I had quite a  
6 few years of experience before coming to the parole service.  
7 I was a probation officer for a good number of years before  
8 this, so I was provided with an outline of types of things we'd  
9 be looking for, and through constant supervision in the  
10 preparing of the reports.

11 Q. So, someone reviewing a report you prepared and making  
12 comments on what it should contain or should have contained  
13 or...

14 A. That's right.

15 Q. ...what it might include. Was there a format that you would  
16 have followed?

17 A. Yes, there was.

18 Q. Can you recollect what that involved?

19 A. Yes, I can.

20 Q. Could you describe it for us?

21 A. It was a very general format because each case is different.  
22 We would prepare a community assessment for some inmates  
23 who are not from the particular area at all. So there would be  
24 no parents to contact for example. Potential employers.  
25 Sometimes the guy would be going to work. You'd have to



MR. LYNK, EXAM. BY MS. DERRICK

1 contact them. Each case was different so that the general  
2 outline you would have to look at and pick from that what  
3 would apply in this particular case and follow it as closely as  
4 you could.

5 Q. So, the general outline would identify the types of people you  
6 would go and speak with, is that correct?

7 A. Types of people and, also, we followed whoever...what they  
8 asked for in the request for a community, purpose for it.  
9 They would ask us to contact particular people or look into  
10 certain situations.

11 Q. And would there be anything in addition to what's included in  
12 this memorandum on the first page, as to what you should  
13 look for from the individuals you are going to go and talk to?  
14 Any direction on how to approach them, how to interview  
15 them and what information to get from them for your report.

16 A. No. Basically we'd go by what the institution wants, the  
17 purpose of the community assessment, and then you'd use  
18 your common sense as to what types things, with regard to  
19 the offence, the inmate, the family, what you're going to give  
20 back.

21 Q. What sorts of things you felt would be relevant.

22 A. Right.

23 Q. To your mandate. And were these reports intended to be  
24 objective?

25 A. Objective.

MR. LYNK, EXAM. BY MS. DERRICK

- 1 Q. Yes. Was that a goal that you were to try and achieve in  
2 preparing them?
- 3 A. No, I wouldn't say.
- 4 Q. So, in fact, they were intended to be subjective.
- 5 A. No, I don't think they were intended to be either. I think  
6 some people might write a more subjective report than  
7 others.
- 8 Q. And...
- 9 A. Yeah, it's not really like a pre-sentence report, you know.
- 10 Q. And so whether it was to be objective or subjective wasn't  
11 laid down anywhere as being the proper way to prepare...
- 12 A. Not to my knowledge.
- 13 Q. And what was...what was your understanding of what these  
14 reports should be? When you prepared them did you  
15 consider you were preparing an objective-type report or a  
16 subjective report?
- 17 A. I would say I'm more objective, except for the guilt, my  
18 opinion that he should...that could be considered subjective, I  
19 guess.
- 20 Q. Your opinion that he should accept his guilt.
- 21 A. Yeah, that's probably a subjective thing on my part, but I  
22 would say that the rest of the report to me is a good report.  
23 It's up to the people that are granting the TLA to make that  
24 decision.
- 25 Q. Would you ever be called in by them once you prepared this..

MR. LYNK, EXAM. BY MS. DERRICK

1 A. No.

2 Q. ...and they were reviewing it, to discuss it any further?

3 A. No.

4 Q. So nobody would contact you once you had completed it to  
5 say, "Well, what did you mean by that, or where did you get  
6 that information or why do you think that's relevant?"

7 A. No.

8 Q. I see. So, it went out of your hands and that was then end.

9 A. It went back to Moncton or Truro office and that's basically it,  
10 unless I left something out and they would call to follow up  
11 on something.

12 Q. So that would sometimes happen that there would be a piece  
13 missing that they wanted pursued further.

14 A. Seldom.

15 Q. Seldom. Okay. Thank-you, Mr. Lynk.

16 11:32 a.m.

EXAMINATION BY MR. PUGSLEY

17  
18 Q. Mr. Lynk, my name is Ron Pugsley. I'm appearing for John  
19 MacIntyre. Did you say in response to a question from my  
20 friend a moment ago that you thought this was a good report?

21 A. Did...do I think it's a good report?

22 Q. Yes.

23 A. It's not one of my best, but it's not bad.

24 Q. Not one of your best. I see. In what way is it delinquent or  
25 deficient?

MR. LYNK, EXAM. BY MR. PUGSLEY

1 A. I have no idea.

2 Q. I see. But you say it's not one of your best. Is that what you  
3 said?

4 A. I guess I said that.

5 Q. How old are you now?

6 A. How old am I?

7 Q. Yes.

8 A. Forty-three I think.

9 Q. And what do you do now?

10 A. I own my own business.

11 Q. And where is that?

12 A. In Sydney.

13 Q. And what kind of a business is that?

14 A. Restaurant business.

15 Q. And how long have you been in that business?

16 A. Since I left the parole service.

17 Q. And when was that?

18 A. In 1979.

19 Q. Some of us have been in Sydney for awhile. What restaurant  
20 is it?

21 A. Burger King.

22 Q. Pardon.

23 A. Burger King.

24 Q. Burger King, right. How long had you been with the service  
25 before 1971?

MR. LYNK, EXAM. BY MR. PUGSLEY

1 A. How long was I with the service before '71?

2 Q. Yes.

3 A. I wasn't.

4 Q. I'm sorry. When did you join the service?

5 A. 1971.

6 Q. Yes. The communication that you received from Diahann  
7 McConkey, this was the only communication you had with  
8 respect to this particular case, I take it. This was the only  
9 instruction you received with respect to this particular case.

10 A. Yeah.

11 Q. Yes.

12 A. Well, there probably was a file with it.

13 Q. I beg your pardon.

14 A. There probably was a file with this covering letter.

15 Q. I see. But as far as instructions were concerned these would  
16 be the only instructions?

17 A. That's right.

18 Q. Yes. And the only response that you would make would be  
19 the written response, that is your three-page report?

20 A. That's all the response there would be, yeah.

21 Q. Yes. You were living in Sydney at the time, were you?

22 A. Yeah.

23 Q. So, it wasn't difficult for you to contact the people that are  
24 referred by Miss McConkey in the first two pages of her...of  
25 her instruction. It's not difficult for you to see these people.

MR. LYNK, EXAM. BY MR. PUGSLEY

1 A. It wasn't.

2 Q. No, you lived in the same city. But the fact is you didn't see  
3 them all, did you?

4 A. Who didn't I see? I don't know. I never saw this letter in ten  
5 years. I don't know. Can you...

6 Q. Well, let's take a look. Presumably Miss McConkey would  
7 expect you to go to see these people and interview them  
8 personally, I take it.

9 A. Well, who did...who didn't I see?

10 Q. Well, no. Just answer my question. I take it that Miss  
11 McConkey would expect that you would go to see these people  
12 to discuss these matters with them, would she?

13 A. She asked me to contact them.

14 Q. Well...

15 A. "In conducting a community assessment contact should be  
16 made with..."

17 Q. What do you take that to mean?

18 A. Contact.

19 Q. You mean to see them personally, interview them.

20 A. Well, who didn't I see?

21 Q. Did you anticipate that her instruction was for you to see  
22 these people personally?

23 A. No.

24 Q. I see. You thought that a telephone interview would have  
25 been good enough.

MR. LYNK, EXAM. BY MR. PUGSLEY

- 1 A. Who did I have the telephone interview with?
- 2 Q. We'll get to that in a moment. But my...you lived in Sydney, a  
3 request is made to you to contact people. Miss McConkey, I  
4 take it, does not live in Sydney. Where does she live?
- 5 A. I have no idea.
- 6 Q. I see. But in any event, since you lived in Sydney one would  
7 anticipate that if a request is made for you to contact people  
8 you are to go see them. Did you not take...
- 9 A. Not necessarily.
- 10 Q. Not necessarily. Okay. Well, there's a total of six different  
11 points that you should check and since there's two in number  
12 1 there's a total of seven people you were to contact. Now,  
13 how many of those people did you see?
- 14 A. Okay. The first one, I spoke with...I went to the home and I  
15 spoke with Mrs. Marshall.
- 16 Q. Right. You saw her. Okay. That's one out of two. You didn't  
17 see Mr. Marshall. Did you see Chief Alex Christmas.
- 18 A. I spoke to him on the telephone.
- 19 Q. Telephone. So you didn't see him.
- 20 A. I wasn't asked to see him.
- 21 Q. I see.
- 22 A. I was asked to contact him.
- 23 Q. All right. Okay. And you...and you defined that as being  
24 either a telephone call or seeing him.
- 25 A. Yeah, I do.

MR. LYNK, EXAM. BY MR. PUGSLEY

1 Q. Okay. All right. You didn't see Rosenblum.

2 A. No.

3 Q. Just talked to him on the phone. You didn't see Murphy. You  
4 didn't even contact Murphy.

5 A. Who is Murphy?

6 Q. Well, look at the top of page 2.

7 A. And who is he?

8 Q. I have no idea.

9 A. Neither do I.

10 Q. Okay. Did you make any effort to find out?

11 A. Yeah.

12 Q. And what did you find out?

13 A. Nothing.

14 Q. You found nothing, I see.

15 MR. CHAIRMAN

16 Referred to at the bottom of page 2, was he?

17 MR. PUGSLEY

18 At the bottom of page. Of his report, My Lord, or, I beg your  
19 pardon.

20 MR. CHAIRMAN

21 "The lawyer mentioned in the request for a community  
22 assessment, Mr. Murphy could not be contacted."

23 MR. PUGSLEY

24 I see.

25 MR. CHAIRMAN



MR. LYNK, EXAM. BY MR. PUGSLEY

1 "No one seemed to be aware of such a person."

2 MR. PUGSLEY

3 Thank-you. I'm sorry. I missed that point.

4 Q. Did you make any attempt to find out whether or not a  
5 lawyer was acting for Marshall?

6 A. Was acting for him?

7 Q. Yes.

8 A. No, I didn't.

9 Q. Okay. How many parolees in the Sydney area had been  
10 charged with murder and had been convicted of that offence  
11 or an offence almost as significant as that, apart from Donald  
12 Marshall?

13 A. How should I know?

14 Q. Well, I guess my question is were there any and would this  
15 perhaps have been one of the reasons why you saw Chief  
16 MacIntyre was because of the serious nature of this offence?

17 A. Could be.

18 Q. I see. MacIntyre discussed the case with you and Rosenblum  
19 did as well.

20 A. Uh-hum.

21 Q. Correct.

22 A. That's right.

23 Q. Yes. And the reason that MacIntyre offered...the reason that  
24 you have in your report is that there might be some reprisals  
25 from the black community.

MR. LYNK, EXAM. BY MR. PUGSLEY

1 A. If that's what it says in my report.

2 Q. Yes. Did you think this was a significant reason, and  
3 important reason?

4 A. No.

5 Q. You did not. You did not think there would be any reprisals  
6 from the black community.

7 A. I had no reason to think that there would be.

8 Q. Did you cause any investigation to determine whether or not  
9 there would be?

10 A. No, I didn't.

11 Q. Didn't interview anyone?

12 A. If I did they'd be in the report.

13 Q. We can take it you interviewed no one then. Although you  
14 felt...you must have felt there was some significance in  
15 MacIntyre's remark because you write, "During my house  
16 visit at the Marshall home Pius recalled that he had to sit in  
17 the upstairs window alone with a shotgun while his family  
18 resided in Whycomomagh." What's that all about?

19 A. Just about what it says.

20 Q. Does that indicate the fear of reprisals from the black  
21 community?

22 A. Eight years ago.

23 Q. Yes. But in any event it was related to you.

24 A. Yeah, and I put it in the report.

25 Q. By Pius Marshall.

MR. LYNK, EXAM. BY MR. PUGSLEY

1 A. Yeah.

2 Q. And you not only put it in the report, you put it in  
3 immediately after Chief MacIntyre's comments about his fear  
4 of reprisals. So you presumably felt there was some  
5 significance in Pius' remark.

6 A. Or I wouldn't have put it in there.

7 Q. Yes. There's nothing in your report to indicate that you felt  
8 that this was an unreasonable concern on the part of the  
9 police chief.

10 A. No.

11 Q. Did you feel that it was an unreasonable concern?

12 A. No, I wouldn't say it was unreasonable, but I didn't put too  
13 much emphasis on it.

14 Q. You didn't say that, did you, didn't say that anywhere?

15 A. Well, my saying nothing I didn't put much emphasis on it.

16 Q. I see.

17 A. But I did mention it.

18 Q. Yes. How long had you known Mr. Francis?

19 A. Oh, probably since 1975.

20 Q. Yes. Had a great deal of respect for him.

21 A. That's true.

22 Q. And toward his opinions.

23 A. Yeah.

24 Q. Yes. Okay. Your comment about two-thirds of the way down  
25 the page, "Mr. Francis recalls Marshall as being an excellent

MR. LYNK, EXAM. BY MR. PUGSLEY

1 liar and is able to convince almost anyone of his innocence."

2 The comment that Francis recalls Marshall as being an  
3 excellent liar relates, does it, to a knowledge of Marshall over  
4 a lengthy period of time?

5 A. Well, apparently Bernie Francis and Junior knew each other  
6 for years.

7 Q. For years, yes. And was Francis' opinion not an isolated  
8 opinion with respect to this particular occurrence, but an  
9 opinion obtained over knowing Marshall for his life?

10 A. I understood it was over a number of years he formed that  
11 opinion.

1 11:42 a.m.

2 MR. PUGSLEY

3 Thank you.

4 EXAMINATION BY MR. MURRAY

5 Q. Mr. Lynk my name is Donald Murray, I represent William  
6 Urquhart. At the time you were working in Sydney with the  
7 Parole Service between 1971 and was it '77?

8 A. '71 to '79.

9 Q. '71 to '79. The National Parole Service had an office in  
10 Sydney, did they?

11 A. Yes, they did.

12 Q. And how many people were working in that office?

13 A. Which year?

14 Q. At the time this report was prepared, '78.

15 A. I don't know. Maybe four.

16 Q. And that would be four people doing the same kind of  
17 community assessments that you did?

18 A. Well, I think there was a Director and three parole officers,  
19 yeah.

20 Q. And by parole officers you mean people such as yourself.

21 A. Yeah.

22 Q. Would the Director do any assessments?

23 A. No.

24 Q. With respect to particular files each parole officer, I take it,  
25 would go down and deal with the police individually?

1 A. Yeah.

2 Q. So with respect to the community assessments that were done  
3 by other parole officers, you can't say that the police attitude  
4 was the same as what you experienced.

5 A. Not on their particular cases, no.

6 Q. You stated in your direct evidence that your main contact  
7 throughout your years there was with William Urquhart.

8 A. He was the designated contact.

9 Q. Would you call him beforehand and make an appointment or  
10 would you just go down on an informal basis and if he had  
11 time you'd have a discussion.

12 A. Sometimes I would call him.

13 Q. Sometimes you'd drop in?

14 A. Sometimes I'd drop down.

15 Q. So it's not invariable that he knew you were coming.

16 A. Not invariable.

17 Q. Yeah. He would not always know that you were on your way  
18 down.

19 A. No.

20 Q. Do you recall specifically whether he knew you were coming  
21 on this particular occasion for the preparation of this report.

22 A. I can't recall. I can't recall.

23 Q. In your discussions with him generally, and I take it you  
24 contacted him on hundreds of these cases...

25 A. No, not hundreds. I've done hundreds but they weren't all

1 with him. They weren't all in Sydney.

2 Q. What was your area?

3 A. Which years?

4 Q. What areas did you cover between '71 and '79?

5 A. Pictou County, Colchester County, Cumberland County,  
6 Antigonish County, Guysborough County, Inverness County,  
7 Victoria County, Richmond County, Cape Breton County.

8 Q. And was your work in Cape Breton County restricted to any  
9 particular years?

10 A. Yes. '75 to '79, I was in Cape Breton.

11 Q. Now between 1975 and '79, then, when you were dealing,  
12 you'd be dealing with William Urquhart during that time.

13 A. For cases in Sydney.

14 Q. And I take it that you expected him to be candid with you  
15 when you came in?

16 A. That's right.

17 Q. And he was.

18 A. Candid?

19 Q. Yes. Gave you his reasons for his feelings.

20 A. That's right.

21 Q. And he was sincere?

22 A. I don't know about that.

23 Q. What was your impression?

24 A. My impressions were that he wasn't always sincere.

25 Q. He was not always sincere. Is that what you're saying?

MR. LYNK, EXAM. BY MR. MURRAY

1 A. That was my impression. You asked me for my impression  
2 and...

3 Q. Yes. And why was that, sir?

4 A. Why?

5 Q. Yes.

6 A. Well in one case I took an ex-inmate down for a taxi driving  
7 license and Mr. Urquhart, the guy hadn't been in trouble for  
8 quite some time and Mr. Urquhart told me that he would not  
9 get a taxi driving license in Sydney ever. So I didn't really  
10 think he had the interests of some of these offenders....

11 Q. Is that part of your duties as a parole officer or was this  
12 something you were doing...

13 A. Was that in my job description?

14 Q. Yeah.

15 A. No.

16 MR. MURRAY

17 I have no further questions.

18 VOICE

19 No questions, My Lord.

20 VOICE

21 We have no questions for Mr. Lynk.

22 11:47 a.m.

23

24

25



EXAMINATION BY MR. ROSS

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Q Mr. Lynk, my name is Anthony Ross and I'd like to ask you one or two questions with respect to your discussions with Chief MacIntyre and the home visit at the Marshall family. Before I get into that, did you grow up in Sydney, Mr. Lynk?

A. No, I didn't.

Q Where did you grow up?

A. Outside Sydney. Dominion.

Q I see. I take it that you would be quite familiar with the City of Sydney, in any event.

A. Now I am.

Q And you were working in Sydney from '71 to '79.

A. No, '75 to '79. I was in Truro before that.

Q I see. '75 to '79. Now in your experience in Sydney, could you rationalize the opinion of John MacIntyre that if Junior Marshall was brought back to the community there would be reprisals from the Black community?

A. No, I couldn't.

Q And in truth and in fact that appeared to be a sort of a far-fetched knowing the Black community, wouldn't that be correct?

A. Well, I had no direct knowledge of any possibility of any reprisals or, I hadn't heard of anything and I thought it was a little far-fetched.

1 Q. Sure. And when you visited the Marshall home, did you  
2 spend much time speaking with Pius, Pius Marshall?

3 A. Not too much time.

4 Q. Now where he indicates that he had to spend, he had to sit up  
5 in the upstairs window alone with a shotgun while the family  
6 resided in Whycomomagh, I guess you got this information  
7 from him.

8 A. I guess I did.

9 Q. Yes. Did you follow it up to find out whether or not he was  
10 the only person on the, in the Membertou area who was  
11 armed, and for whatever reason, attempting to protect the  
12 reserve or...

13 A. No, I didn't follow it up.

14 Q. You didn't follow it up. Did you, yourself, have any reason  
15 from your experience as a Parole Services officer to believe  
16 that under any circumstances any group would want reprisals  
17 as indicated by Chief MacIntyre?

18 A. No.

19 Q. Did you form any opinion as to why Chief MacIntyre would  
20 make such a statement?

21 A. No, I didn't form any opinion of it at the time, no.

22 Q. I see. I guess he just gave you the statement, you accepted it  
23 and reported it, but in your view it was inconsistent with  
24 what you would have expected personally.

25 A. That's right.

MR. LYNK, EXAM. BY MR. WILDSMITHMR. ROSS

Very good. Thank you kindly, sir.

11:50 a.m.EXAMINATION BY MR. WILDSMITH

Q. Mr. Lynk, my name's Bruce Wildsmith, I'm here for the Union of Nova Scotia Indians. I'm wondering about what other things you did as a Parole Service officer. I have the impression now that you were stationed in Truro and stationed in Sydney. Are those the only two locations?

A. Yes.

Q. And that operating out of those offices you prepared reports like this for various inmates of both federal and provincial institutions or just federal?

A. That's right.

Q. What other kinds of things would you do that might put you into contact with prisoners in federal penitentiaries?

A. Well for a time in Truro we would have to go and interview the inmates at Springhill.

Q. Interview for what purpose?

A. Parole.

Q. Is it fair to say that all of your work was directed towards the granting , or the questions of granting parole or questions of granting leaves of absence?

A. All of my work?

Q. Yes. Is that the kind of thing that you primarily...

MR. LYNK, EXAM. BY MR. WILDSMITH

1 A. No, I had a caseload to supervise besides doing these.

2 Q. People who were on parole?

3 A. Yeah.

4 Q. I see.

5 A. And mandatory supervision.

6 Q. Are you at all familiar with what happened within  
7 penitentiaries? Inmates lives in penitentiaries and the  
8 institutional structure in penitentiaries?

9 A. Yeah.

10 Q. For example, I've seen a reference in documents to something  
11 called the Office of Correctional Investigator. Do you know  
12 anything about that?

13 A. The Office of Correctional Investigator?

14 Q. Yes. I assume it's some kind of ombudsman kind of...

15 A. I've heard of the ombudsman but I...

16 Q. Within a penitentiary?

17 A. Within the penitentiary system?

18 Q. Yes. What are they supposed to do?

19 A. I have no idea.

20 Q. That's not something....

21 MR. BISSELL

22 I don't know how this witness...

23 CHAIRMAN

24 You've never heard of the Office of Correctional...

25 A. No, I've heard of an ombudsman but I don't know that much

MR. LYNK, EXAM. BY MR. WILDSMITH

1 about it.

2 Q. Okay. I take it you're not a native person yourself.

3 A. That's right.

4 Q. Are there native people employed, to your knowledge, within  
5 Nova Scotia doing the same kind of work you are?

6 A. In restaurants?

7 Q. No, in the, in connection with parole.

8 A. Not to my knowledge.

9 Q. And weren't, in the years 1971 through '79, when you were  
10 so-employed?

11 A. You mean working for the Federal Government.

12 Q. Working in preparing assessments like this on inmates for  
13 parole or release purposes.

14 MR. BISSELL

15 I don't know what relevance these types of questions have to  
16 something that's within the scope of this inquiry.

17 CHAIRMAN

18 Relevancy, as it relates to Mr. Wildsmith's clients have been  
19 stretched that far because they're granted standing on a  
20 different basis than others so it's a, you know, I'm not saying  
21 that it is the kind of question that would be appropriate by  
22 some of the other parties, counsel for some of the other  
23 parties who have standing, but in this, I think the question is  
24 does he know, I presume you mean Nova Scotia ...

25 MR. WILDSMITH

MR. LYNK, EXAM. BY MR. WILDSMITH

1 Yes.

2 CHAIRMAN

3 During your period did you know any native, whether any  
4 natives were employed in Nova Scotia?

5 A. Not that I can think of. Not that I can think of.

6 CHAIRMAN

7 Well that's the answer to that question.

8 Q. All right. And your reports were directed towards the  
9 National Parole Board, I take it, in many instances.

10 A. Right.

11 Q. And do you know whether other people on the receiving end  
12 of these reports would have been of native ancestry in any  
13 way?

14 A. Yes, I think there was one.

15 Q. Yes.

16 A. From BC.

17 Q. And, that was in British Columbia.

18 A. I think so.

19 Q. Thank you. Nobody from Nova Scotia.

20 A. Not that I know of.

21 Q. With respect to your background in writing these reports, did  
22 you receive any form of cross-cultural training?

23 A. No, I didn't.

24 Q. And by that I mean any training with respect to dealing with  
25 people of native ancestry and their particular cultural

MR. LYNK, EXAM. BY MR. WILDSMITH

1 background.

2 A. No, I had no training in that, no.

3 Q. Okay. But I do take it that you have some experience in  
4 dealing with at least one Indian reserve, the Membertou  
5 Reserve in Sydney?

6 A. All of them.

7 Q. All of the reserves in the province?

8 A. Almost, yeah.

9 Q. Yes. Okay. Are you aware of any special programs with  
10 respect to native offenders that would relate at all to your  
11 work?

12 A. Well that's how I became familiar with Bernie Francis. At  
13 that time he was a native court worker.

14 Q. Any services that were provided to be of assistance to you in  
15 preparing these reports?

16 A. Yes. MicMac Friendship Center.

17 Q. And court workers like Bernie Francis.

18 A. I'm talking... pardon me?

19 Q. And court workers like Bernie Francis.

20 A. Yes.

21 Q. I'm particularly referring to programs that might have been  
22 created by Corrections Canada.

23 MR. BISSELL

24 The services of Correctional, Corrections Canada, I don't...

25 CHAIRMAN

MR. LYNK, EXAM. BY MR. WILDSMITH

1 I agree. Look, you didn't have to, that is not a relevant  
2 question. It's so far beyond our mandate that I can't allow it.  
3 This witness can only give us evidence as to what he knows in  
4 his line of work at that time and...

MR. WILDSMITH

5  
6 Perhaps I could get some clarification from the Chairman or  
7 from Commission counsel on what the Commission sees its  
8 role as being in relation to these matters of Corrections  
9 Canada, National Parole Board and activities with  
10 penitentiaries. And of course from the standpoint of an  
11 offender, these jurisdictional questions are...

CHAIRMAN

12  
13 Well we could argue for a week on the Constitutional, where  
14 the lines, Constitutional lines overlap. My understanding is  
15 that at the request of Commission counsel, and as Commission  
16 counsel are aware, that we are interested in hearing of the  
17 Correctional Service as it applies to our mandate and that the  
18 counsel for the Correctional Service have undertaken to bring  
19 before this Commission a person or persons who have the  
20 expertise who can give us the information we required. And  
21 I don't think that Mr., that this witness falls into that  
22 category. And if we follow the best evidence rule we want to  
23 hear from the people who have that expertise and they're  
24 coming. Am I correct, and Commission counsel can tell me  
25 that but I...



MR. LYNK, EXAM. BY MR. WILDSMITHMR. G. MacDONALD

1  
2 Lest there be any confusion, My Lord, we are going to be  
3 dealing, by agreement, with one policy applied by the the  
4 National Parole Services or the Correctional Services and I'm  
5 not quite sure what the distinction is myself but, and that is  
6 the policy that is applied, which we understand, whether it's a  
7 policy or a principle or whatever, that inmates are required  
8 to, or for want of a better word, required to admit their guilt  
9 before they are then eligible or considered for parole. And  
10 we are having someone who is going to attend to speak to  
11 that policy, the requirement for the policy or the perceived  
12 requirement for the policy. We will not be getting into, in  
13 general, services of the National Parole Board or the  
14 Correctional Services of Canada for very good reasons and  
15 that has to do with Constitutional issues as you will  
16 appreciate. That has been done by agreement with counsel  
17 and, for the Correctional Services. We considered that that  
18 policy had direct relevance and impact on Mr. Marshall.  
19 Whether or not the parole board of the correctional services  
20 have native workers or treat natives differently or whether  
21 there's more blacks and natives in the penal system than  
22 otherwise are not to be dealt with by this Commission. We  
23 thought it completely outside of your mandate. That is a  
24 federal jurisdiction, nothing to do with the administration of  
25 justice in Nova Scotia. At least to the extent that we could see

MR. LYNK, EXAM. BY MR. WILDSMITH

1 and to avoid a clash in the courts, going up and spending  
2 three years or so trying to get an answer on that from the  
3 Supreme Court of Canada. So there's the limit that we intend  
4 to go with those two services by agreement.

CHAIRMAN

5  
6 But we as a Commission are having research carried out by  
7 skilled people in these areas which is not part of viva voce  
8 evidence and a lot of that knowledge, I suspect, is already the  
9 subject matter of publication.

MR. G. MacDONALD

10  
11 Much of that information is statistical information that  
12 obviously can be obtained and put before the Commission,  
13 you're correct.

CHAIRMAN

14  
15 Fine. Mr. Wildsmith.

MR. WILDSMITH

16  
17 I'm still kind of collecting my thoughts about this.

CHAIRMAN

18  
19 I'm sure none of us want, I take judicial note of Mr.  
20 MacDonald's comment that the last thing this Commission can  
21 afford, and I'm sure the last thing that the taxpayers of Nova  
22 Scotia can afford is for this Commission to have to sit around  
23 for two or three years waiting for some Constitutional issues  
24 to be, to work its way through the system. So we will  
25 assiduously avoid that kind of argument if we can. And

MR. LYNK, EXAM. BY MR. WILDSMITH

1           anyway, it's obvious that our mandate deals with the justice  
2           system in Nova Scotia. We'll leave some other generation and,  
3           or body to look at the whole justice system of Canada.

MR. WILDSMITH

4           I guess what I'm trying to reflect on is what is the relevance  
5           of anything that this man has said today or of his report that...

CHAIRMAN

6           Well it is relevant. His report is, indeed, relevant because it  
7           deals with Donald Marshall, Jr. and that is a very relevant  
8           piece of evidence and his testimony as to how he prepared  
9           the report and the conclusions he reached, we've heard that  
10          now in some details and it's evidence that I'm sure the  
11          Commission wanted to hear and will consider. But when we  
12          get into the question of policy of a federal institution, I don't  
13          think this is the witness that could give us acceptable and  
14          credible evidence. He's told us that there were no native  
15          workers in the Province of Nova Scotia with his department  
16          during his period of employment. That's as far as he can go.  
17          What he knows about Saskatchewan or British Columbia, I  
18          doubt if it would be very acceptable or credible. Now where  
19          were we?  
20          were we?

MR. WILDSMITH

21          I have no further questions then, My Lord.

22          12:02 p.m.

EXAMINATION BY MR. BISSELL

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Q. Mr. Lynk, I just have a couple of questions to ask you on behalf of the Correctional Service of Canada and the National Parole Board. You indicated that there were various types of absences or leaves that could be granted and you described the escorted TLA and the unescorted TLA. And are you aware of any time limitation that existed back in the timeframe that we're talking about, in the 70's, by regulation that determined when a person sentenced to a period of life imprisonment first became eligible for what you called the "unescorted TLAs"?

A. I believe it was seven years, but I'm not positive.

Q. And so the, when you prepared your report in June of 1978, that was at about the seven-year mark, is that correct, from the time that Mr. Marshall was sentenced?

A. That was (inaudible) ...

Q. You described, as well, the attitude that you felt the Sydney Police Department presented when you were preparing this particular community assessment and other community assessments, and you compared that with the assessment, or the attitude of other police forces. Did you interview other police forces around the province in the various counties that you listed off to one of my learned friends at few moments ago?

A. Everywhere.

MR. LYNK, EXAM. BY MR. BISSELL

1 Q. Everywhere. Did, how did the attitude compare or contrast  
2 with those other police forces to that of the Sydney Police  
3 Department?

4 A. Well the attitude towards parole I think, in general, of the  
5 Sydney Police Department was very negative with relation to  
6 many other police departments.

7 Q. So more...

8 A. They seemed to be more negative and opinionated against  
9 early release.

10 Q. Than other police departments.

11 A. Than other police departments.

12 Q. And when you say other police departments do those other  
13 police departments include the RCMP?

14 A. Yes.

15 Q. When you were talking to John MacIntyre in preparing your  
16 community assessment, did he indicate to you when he was  
17 telling you about the evidence that an eye witness had come  
18 forward following Mr. Marshall's conviction?

19 A. No, he didn't mention that.

20 Q. You also, in some questions from my learned friend, Ms.  
21 Derrick, indicated you didn't feel it was necessary, I believe,  
22 to make your observations about the Sydney Police  
23 Department. Did you feel that the people to whom you were  
24 reporting knew from their own experience about the attitude  
25 of that particular police department?

MR. LYNK, EXAM. BY MR. BISSELL

1 A. I had a feeling that they, they get many, many reports and  
2 after while they get to know the different people in the  
3 different police departments and I think, in particular, the  
4 Sydney Police, they know that they're quite negative on many  
5 cases anyway.

6 Q. And just one further question. How many years has it been  
7 now since you were last associated with the Correctional  
8 Service of Canada?

9 A. 1979.

10 Q. So it's been about 9 years.

MR. BISSELL

12 Thank you, sir, those are all the questions that I have.

CHAIRMAN

14 Thank you, Mr. Lynk.

MR. SPICER

16 My Lord, the next witness and, indeed, the last witness for  
17 today is Mr. Archie Walsh.  
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